

CITY OF NANAIMO

BYLAW NO. 7122

A BYLAW TO AUTHORIZE A HOUSING AGREEMENT

WHEREAS Section 905 of the *Local Government Act* provides that Council may enter into a Housing Agreement with an owner which may include terms and conditions agreed to regarding the occupancy of the housing units identified in the Agreement; and

WHEREAS the Council wishes to enter into such an Agreement with respect to certain housing units located in the City of Nanaimo;

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "HOUSING AGREEMENT BYLAW 2011 NO. 7122".
2. The Council of the City of Nanaimo hereby authorizes the Mayor and Manager of Legislative Services to enter into an Agreement, on behalf of the City of Nanaimo, in substantially the form attached hereto as Schedule A, which sets out the terms and conditions of the occupancy of the housing units identified in the Agreement. The land identified in the Agreement is legally described as "LOT A, BLOCK 2, SECTION 1, NANAIMO DISTRICT, PLAN VIP88789".
3. Upon execution of the Agreement by the Mayor and Manager of Legislative Services and application of the seal of the City of Nanaimo, this Agreement shall be validly entered into as authorized by this Bylaw.

PASSED FIRST READING 2011-APR-11
PASSED SECOND READING 2011-APR-11
PASSED THIRD READING 2011-APR-11
ADOPTED 2011-MAY-02

J. R. RUTTAN
MAYOR

J. E. HARRISON
MANAGER
LEGISLATIVE SERVICES

Address: 440 Wakesiah Avenue

SCHEDULE A

STUDENT HOUSING AGREEMENT

THIS AGREEMENT made this day of , 2011

BETWEEN:

CITY OF NANAIMO
455 Wallace Street
Nanaimo, BC V9R 5J6

(the "**City**")

OF THE FIRST PART

AND:

GREAT-WEST DEVELOPMENTS LTD.
440 Wakesiah Avenue
Nanaimo, BC V9R 3K8

(the "**Owner**")

OF THE SECOND PART

WHEREAS:

- A. The City may, by agreement under section 905 of the *Local Government Act*, enter into a housing agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 905(2) of the *Local Government Act*;
- B. The Owner is the registered owner in fee-simple of the lands described as:

PID: 002-167-093
LOT 5, BLOCK 2, SECTION 1, NANAIMO DISTRICT, PLAN 1325

and

PID: 002-167-085
LOT 6, BLOCK 2, SECTION 1, NANAIMO DISTRICT, PLAN 1325

(the "**Lands**");
- C. The Owner wishes to develop a student housing project on the Lands with 25 dwelling units and a total of 37 beds intended for occupancy by student tenants (the "**Housing Units**");

- D. The City and the Owner wish to enter into this agreement (the “**Agreement**”) to establish terms and conditions regarding the occupancy of the Housing Units identified in the Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to section 905 of the *Local Government Act* and in consideration of the premises and covenants contained in this Agreement, the parties hereto covenant and agree with the other as follows:

1.0 INTERPRETATION

- 1.1 In this Agreement, unless otherwise defined words have the same meanings as in the Zoning Bylaw, and the following words have the following meanings:

“**Student**” means a person who is enrolled on a full-time or part-time basis as a post-secondary student at a college, university or trade school accredited as such by the Ministry of Advanced Education and Labour Market Development and located within the City of Nanaimo;

“**Zoning Bylaw**” means the City’s Zoning Bylaw No. 4000, 1993, as amended from time to time, and any enactment that may replace it.

2.0 OCCUPANCY OF HOUSING UNITS

- 2.1 The Owner covenants and agrees that the Lands and any building thereon may be occupied only by students.
- 2.2 All dwelling units on the Lands must be available for rent by students.
- 2.3 The Owner must provide a resident manager or caretaker to manage the residents and maintenance of the Lands and Housing Units.
- 2.4 As an exception to sections 2.1 and 2.2, one (1) dwelling unit on the Lands may be occupied by a resident manager or caretaker.
- 2.5 A management plan for operation and management of the Housing Units must be prepared by the Owner and approved by the City in writing prior to the issuance of an occupancy permit for the Housing Units. A sample management plan is attached for reference purposes only as Schedule “A”.
- 2.6 Once the management plan required under section 2.5 has been approved by the City, the Owner must operate and manage the Housing Units in accordance with the management plan, and must not amend or modify the management plan without the prior written consent of the City.

3.0 PARKING EVALUATION

- 3.1 The Owner further covenants and agrees that it will, commencing on the first anniversary of the date an occupancy permit is issued for the building on the Lands, and

on that anniversary date for two consecutive years, provide to the City a report in writing confirming:

- (a) The total number of residents occupying the development versus the total number of residents who own or possess a vehicle, for the entire year.
- (b) The total number of parking spaces that were utilized each semester (Sep-Dec; Jan-Apr; May-Aug).
- (c) The total number of residents on a wait list for parking spaces each semester (Sep-Dec; Jan-Apr; May-Aug).

4.0 BINDING EFFECT

- 4.1 This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, administrators and permitted assignees

5.0 ENFORCEMENT AND WAIVER

- 5.1 Nothing contained or implied herein shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner. The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing failure, whether similar or dissimilar.
- 5.2 The parties agree that the City is not obligated to inspect the Lands or to otherwise ensure compliance with this Agreement, nor is the City obligated to remedy any default of this Agreement. A failure by the City to enforce this Agreement shall not constitute a waiver of any of the City's rights hereunder.
- 5.3 No remedy under this Agreement is deemed to be exclusive but will, where possible, be cumulative with all other remedies available at law or in equity.
- 5.4 The Owner covenants and agrees that, in addition to any remedies that are available under this Agreement or at law, the City is entitled to all equitable remedies, including specific performance, injunction and declarative relief to enforce its rights under this Agreement. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

6.0 NOTICE TO BE REGISTERED IN LAND TITLE OFFICE

- 6.1 Notice of this Agreement shall be registered in the *Land Title Act* by the City at the cost of the Owner in accordance with section 905 of the *Local Government Act*, and this Agreement shall be binding on all persons who acquire an interest in the Land after registration of this notice.

7.0 TERMINOLOGY

7.1 Wherever the singular, masculine or neuter are used throughout this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic as the context requires.

8.0 BC LAWS GOVERN

8.1 This Agreement shall be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

9.0 SEVERABILITY

9.1 If any part of this Agreement is found to be illegal or unenforceable by a court of competent jurisdiction, that part shall be considered separate and severable and the remaining parts shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.

EXECUTED BY THE CITY at _____, British Columbia, this ____ day of _____, 2011.

CITY OF NANAIMO by its)
authorized signatories)
)
_____)
)
_____)
)

EXECUTED BY THE OWNER at _____, British Columbia, this ____ day of _____, 2011.

GREAT-WEST DEVELOPMENTS)
LTD. by its authorized signatories)
)
_____)
)
_____)
)

SCHEDULE "A"

Sample Outline for a Student Housing Management Plan

The Student Housing Management Plan will provide a clear understanding of student and management rights and responsibilities in order for the student housing to operate fairly and successfully. The following outline includes examples of the type of information that could be contained within the student housing management plan.

Philosophy and Guiding Principles

- Student tenant rights
- Management will provide fair and consistent service and clear student housing standards
- Overall the housing environment is to be conducive to sleep and study

Housing Standards (Rules)

- Cleaning and Maintenance
- Guests
- Noise
- Laundry Room
- Communal Areas

Enforcement of Housing Standards & Behaviour Management

- Outline of behaviours considered inappropriate and which could result in sanctions
- Process for managing student behavior for example, verbal/written warning; on notice; probation; and termination of agreement

Parking Allocation and Bicycle Parking

- Allocation of parking spaces and a register that documents allocation of the spaces
- Allocation of bicycle parking spaces

Safety and Emergency Procedures

- Fire Safety
- Evacuation procedures
- Location of safety devices, i.e. fire extinguishers, first aid kits etc.

Location of Management Plan

- Permanent display of the House Rules in a common area

This schedule is not a student housing management plan.