

CITY OF NANAIMO

BYLAW NO. 7115

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 2010 NO. 7115".
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 "THE SOUTHERLY 1/2 OF LOT 9, BLOCK 8, SECTION 1, NANAIMO DISTRICT, PLAN 584".
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 2010-OCT-04
PASSED SECOND READING 2010-OCT-04
PASSED THIRD READING 2010-OCT-04
ADOPTED 2010-NOV-08

J. R. RUTTAN
MAYOR

J. E. HARRISON
MANAGER
LEGISLATIVE SERVICES

File: DP000637
Address: 13 Haliburton Street
Applicant: Michael J. Parker

SCHEDULE A

HOUSING AGREEMENT

THIS AGREEMENT made this day of , 2010

BETWEEN:

CITY OF NANAIMO

455 Wallace Street
Nanaimo, BC
V9R 5J6

(the “**City**”)

OF THE FIRST PART

AND:

MICHAEL JOHN PARKER

2147 Caledonia Avenue
Nanaimo, BC
V9R 1X3

(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: 008-827-729
The southerly 1/2 of Lot 9, Block 8, Section 1, Nanaimo District, Plan 584.
(the “**Lands**”);
- C. The Owner wishes to develop a housing project on the Lands with six (6) dwelling units, three (3) of which are intended for occupancy by tenants.
- D. The City wishes to enter into this agreement (the “**Agreement**”) to establish terms and conditions regarding the occupancy of the Housing Units identified in the Agreement and the Owner has agreed.

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 The City and the Owner agree that the definitions in the City of Nanaimo's Zoning Bylaw 1993 No. 4000, as amended from time to time, apply to the interpretation of the terms in this Agreement.

2.0 OCCUPANCY OF HOUSING UNITS

2.1 The Owner covenants and agrees with the City that a minimum of three (3) of the Housing Units be occupied by persons without an ownership interest in the Lands for a period of five (5) years following issuance of an Occupancy Permit.

3.0 ANNUAL REPORT

3.1 The Owner further covenants and agrees that during the term of this Agreement, 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 annually thereafter, provide to the City's General Manager of Community Safety & Development a report in writing confirming:

- (a) that the Housing Units continue to be occupied as required under this Agreement; and
- (b) identification by suite number of the Housing Units that are being rented to tenants who qualify under Part 2 of this Agreement.

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.

EXECUTED BY THE CITY at Nanaimo, British Columbia, this ____ day of _____, 2010.

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

EXECUTED BY THE OWNER at Nanaimo, British Columbia, this ____ day of _____, 2010.