

# Report to Council



Date: August 24, 2012  
File: 0505-35-00  
To: City Manager  
From: Theresa Eichler, Community Planning Manager and  
Lauren Sanbrooks, Planner  
Subject: Housing Agreements

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## **Recommendation:**

THAT Council direct that staff, with respect to development applications submitted after September 10, 2012, to discontinue the use of housing agreements for the following:

- affordable ownership housing secured in association with new development;
- affordable individual rental housing units within a larger building secured in association with new development;
- special needs housing agreements for new group living homes, minor; and
- non-market housing when the provincial and/or federal governments are partners;

AND THAT Council direct staff to prepare text amendments to the Zoning Bylaw to delete Section 6.9 and remove the density bonuses available in return for housing agreements from the RM2, RM3, RM4, RM5, RM6 and C4 zones;

AND THAT Council rescind Council Policy 344 - Affordable Housing or Cash-in-Lieu of Affordable Housing - Interim Policy for Zoning Bylaw Bonuses For Affordable Housing;

AND THAT Council direct staff to offer alternatives for in stream housing agreement-related applications that will ensure delivery of affordable housing commitments;

AND FURTHER THAT Council direct staff to forward for future Council consideration a report rescinding Bylaw No 8802, being "Housing Agreement Authorization Bylaw - Provincial Rental Housing Corporation - Caramillo Court and Bylaw No. 8891 being "Housing Agreement Authorization Bylaw - Okanagan Families Society - Cadder.

## **Purpose:**

The purpose of this report is to provide Council with recommendations regarding the City's use of housing agreements.

## **Background:**

On July 23, 2012 Council held a workshop to obtain an overview of the City's historical use of housing agreements. The following resolution was passed:

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**COUNCIL RESOLUTION FROM THE JULY 23, 2012 A.M. REGULAR MEETING:**

THAT staff report back to Council with recommendations to discontinue the use of ownership Housing Agreements;

AND THAT staff report back to Council with respect to Housing Agreements relative to purpose-built rental housing, including estimates of how much purpose built-rental housing the City can anticipate in the next year or so.

The most common use of Housing Agreements has been to secure affordable housing that has been committed to the City through application approval processes. Housing Agreements are built on the premise of a “win-win” arrangement - a developer gains the ability to build more units on a site than would otherwise be possible and in return, the city obtains affordable rental, non-market or special needs housing.

There have been a total of 27 Housing Agreements approved by By-law, resulting in the creation of 56 affordable units.

***Ownership Housing Agreements:***

Eight active ownership housing agreements are in place today. Three housing agreements that propose some affordable ownership dwellings are in the process of being negotiated.

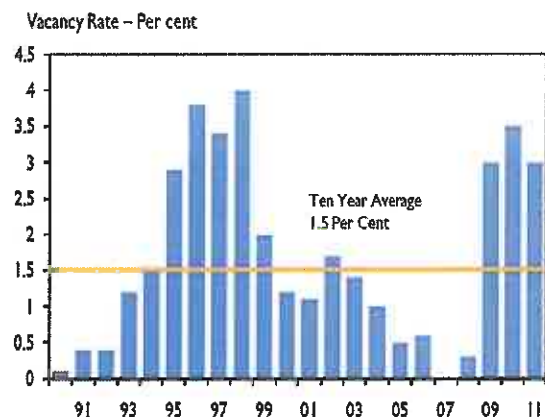
Ownership Housing Agreements have resulted in the creation of 27 units that meet the City’s “affordable housing” definition. The City went down the path of pursuing Housing Agreements because they were one of the few tools available to municipalities to increase the supply of affordable housing, without significantly impacting city budgets. After working with the affordable owner housing agreements for six years, issues are emerging that suggest that this tool is not administratively practical nor is it totally embraced by development applicants or housing occupants. Limited resources challenge compliance monitoring and enforcement of Housing Agreements.

Staff recommend that negotiation of new ownership housing agreements be discontinued in favour of other, less unwieldy approaches to increasing the supply of affordable housing.

***Rental Housing:***

Rental housing can best address affordability issues. In spite of recent spikes in the rental vacancy rate, the long term need for more rental housing is likely to remain. The average vacancy rate over the last ten years has been 1.5%. Most (60-70%) of Kelowna’s rental housing stock is either temporary, costly, or in buildings that could be redeveloped or converted to ownership housing or other uses.

***Purpose Built Rental Buildings (supported by Rental Housing Grants):***



Source: CMHC.

Purpose-built rental buildings are buildings with five or more rental dwellings.<sup>1</sup> They are accepted as affordable housing because rent increases are controlled by the Province. Also, they will not be economically viable if the rents are too high to respond to the market. The 2011 Housing Strategy recognized opportunities to increase the long term supply of rental housing in the conventional housing market by partnering with developers and builders.

The City is assisting developers' delivery of purpose-built rental buildings by ensuring a stream-lined development process and by fronting Development Cost Charge payments (through grants applied for through the Rental Housing Grant program). In return for the City's contributions, developers sign housing agreements to secure buildings as rental for at least ten years. Should the developer want to cancel the housing agreement after a ten year period, a repayment of City assistance would be directed to the Housing Opportunities Reserve Fund. This approach applies to purpose-built rental housing (five or more dwellings in one building).

Applications for rental grants for purpose-built rental housing are due on September 30<sup>th</sup>, 2012. Those applications will confirm the number of dwellings under consideration and the corresponding available funding. Staff will then, in response to Council's direction on July 23<sup>rd</sup>, 2012 report back to Council regarding how much purpose built-rental housing the City can anticipate in the next year or so. Those buildings confirmed as eligible for funding will require a housing agreement.

Staff recommends the continued use of Housing Agreements to secure rental buildings where projects have been provided support through the Rental Housing Grant program.

*Affordable Rental Housing Agreements:*

Affordable rental housing agreements have been used to secure some affordable rental dwellings as part of a larger development, similar to affordable ownership agreements. These have been situated within stratified and/or rental buildings. A total of 18 affordable rental dwellings as part of conventional development applications have been secured in this manner. The process is cumbersome for relatively little return of affordable housing. Staff is recommending that affordable rental housing agreements not be used for new developments.

*Special Needs Housing Agreements:*

"Special needs housing" is defined in both the City's Housing Agreements and the Zoning Bylaw. At present, the definitions used in the two documents are not the same. It is recommended that future Housing Agreements relating to "special needs housing" use the definition contained in the Zoning Bylaw -- a definition that addresses income. The use of special needs housing agreements for recognizing minor group living homes appears to be superfluous. Minor group living homes<sup>2</sup>, as land uses, are technically exempt from municipal zoning under Section 20 of the Community Care and Assisted Living Act (CCALA). Similarly, the City's housing agreement cannot restrict the use of the home more than the CCALA does.

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<sup>1</sup> This is the City's definition.

<sup>2</sup> A minor group living home is a single detached house that provides licensed residential health care to no more than six residents with no more than ten people residing in the home, including staff.

In terms of the City's ability to ensure that minor group living homes are compatible with the surrounding neighbourhood, this is limited to the regulations that provide siting, building size and height regulations. Restriction of the use is not within the City's control if an IHA licence is in effect for a minor group living home.

Two active special needs housing agreements are for minor group living homes. One, at 620 Cadder Ave., no longer exists and the property has been rezoned to P2 - **Education and Minor Institutional** to better meet the needs of the agency that occupies the house. There is a clause in the agreement that allows the property to be used in compliance with its zoning, but the agreement is no longer needed. The second is for a licensed group living home on Caramillo Crt.

It is recommended that housing agreements not be used for minor group living homes that have a licence under the Community Care and Assisted Living Act, but that instead, regulations respecting the provisions of the CCALA be introduced in the Zoning Bylaw.

It is also recommended that Council rescind Bylaws 8802 and 8891 authorizing housing agreements for group living homes, minor, and authorize staff to lift the notice of the existing housing agreements from the property title of the two affected properties

*Non-Market Housing Agreements:*

Non-market housing usually requires public assistance from the provincial, federal as well as municipal governments. The City has provided land, exempted property taxes, lowered DCCs and/or provided rental housing grants when it is able to partner with the other levels of government. In these situations, there is usually an agreement between the Province and the housing provider<sup>3</sup>, or a lease agreement with the City, or similar ways to secure the affordable housing. A housing agreement with the City is then superfluous to these other mechanisms. Federal and Provincial government agencies, including BC Housing and Canada Mortgage and Housing have resisted housing agreements because they affect the property title.

It is recommended that the City not pursue housing agreements for non-market housing when the provincial and/or federal governments are partners.

*Transitioning:*

Staff recommends that the City not enter into any new housing agreements (other than those associated with Rental Housing Grants).

This will require removal of references to housing agreements in the RM2, RM3, RM4, RM5, RM6 and C4 zones and Section 6.9 of the Zoning Bylaw. Similarly, [Council Policy 344](#)<sup>4</sup> that outlines cash-in-lieu of affordable housing provisions for the bonuses currently provided in the Zoning Bylaw would no longer apply and should be rescinded.

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<sup>3</sup> Usually a non-profit agency.

<sup>4</sup> Council Policy 344 is titled: "Affordable Housing or Cash-in-Lieu of Affordable Housing - Interim Policy for Zoning Bylaw Bonuses For Affordable Housing".

Staff also recommends that the City not initiate dissolution of adopted housing agreements, but that the City instead work to find alternatives to Housing Agreements where *unit occupants or developers* wish to dissolve the agreements. Given the highly variable circumstances surrounding each project, it is recommended that such requests be dealt with on a case-by case basis, with reports back to Council.

With respect to three in-stream applications, it is recommended that these be dealt with similarly to Council's recent (August 20, 2012) decision with respect to units in the Mode development. That decision allowed those occupying affordable ownership units to either own the units or rent them for the ten year period over which their agreements applied. Alternatively, there would be the option of negotiating cash in lieu contributions to the Housing Opportunities Reserve Fund.

To summarize, this report recommends minimizing the use of housing agreements to secure affordable housing. It is recommended that the sole use of these agreements going forward would be in association with rental housing grants. Existing agreements and in-stream developments can either be "grandfathered" or be provided with alternative options for securing affordable housing.

**Internal Circulation:**

City Clerk  
Director of Land Use Management  
Manager, Urban Land Use  
GM, Community Sustainability

**Legal/Statutory Authority:**

Local Government Act Section 905

A housing agreement under section 905 of the Local Government Act (LGA) is the only tool available to the City to ensure that affordable housing commitments are kept. Under Section 905(2) of the LGA: "*A housing agreement may include terms and conditions agreed to by the local government and the owner regarding the occupancy of the housing units identified in the agreement...*"

**Zoning By-law:**

Section 2 - Interpretation provides the following definition:

**SPECIAL NEEDS HOUSING** means housing for households that meet the criteria for a core need for housing in the Official Community Plan and includes seniors or persons with or without children who lack safe and secure housing or are leaving an abusive relationship, single parents and children who are at risk, street youth or homeless persons, or people with mental or physical disabilities, illnesses, or dependencies.

There is a cash-in-lieu policy for the minor density bonuses available in return for affordable housing in the Zoning Bylaw. This policy would apply if a development seeks the bonuses but cannot deliver the housing on site ([Council Policy 344](#)).

**Existing Policy:**

Official Community Plan

Objective 5.9 - Support the creation of affordable and safe rental, non-market and/or special needs housing.

Chapter 17 - Definitions  
Affordability Benchmarks (Housing)  
Core Needs Housing  
Purpose Built Rental Housing

**External Agency/Public Comments:**

There have been several requests for changes to housing agreements in 2012. Changes to two housing agreements were authorized for individual occupants August 20, 2012.

Developments currently in stream that have affordable housing requirements are negotiating with the City for changes to the form of the City's housing agreements.

**Communications Comments:**

Owners of the two properties that have agreements that are recommended for removal would receive written notice of this action. It would not affect the use or value of the properties other than to remove the notice from the property title.


**Considerations not applicable to this report:**

Financial/Budgetary Considerations:

Personnel Implications:

Alternate Recommendation:

Submitted by:



T. Eichler, Community Planning Manager

Approved for inclusion:

Signe K. Bagh, MCIP  
Director, Policy and Planning



cc:

City Clerk  
Director of Land Use Management  
Manager, Urban Land Use  
GM, Community Sustainability