

*A Bylaw to enable the City to enter into a Rental Housing Agreement.*

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*The Council of the Corporation of the City of Port Coquitlam enacts as follows:*

**Citation**

1. This Bylaw may be cited for all purposes as "Rental Housing Agreement Bylaw, 2017, No. 4009".

**Administration**

2. The Mayor and the Corporate Officer are authorized to execute the Housing Agreement substantially in the form of the document attached to and forming part of this Bylaw as Schedule "A", between the City of Port Coquitlam and Quantum Properties Montrose Inc.
3. The Agreement is in respect to housing units located on the lands with the civic addresses 2380, 2382, 2384 and 2390 Mary Hill Road and legally described as:

**2380 Mary Hill Road:** Lot 1 Except: The Westerly 10.5 Feet; District Lot 289 Group 1 New Westminster District Plan 1959;

**2382 Mary Hill Road:** Lot 4 Except: Part on Plan 37752; Block "C" District Lot 289 Group 1 New Westminster District Plan 1954; and Lot 3 Except: Part on Plan with Bylaw Filed 6287; Block "C" District Lot 289 Group 1 New Westminster District Plan 1954;

**2384 Mary Hill Road:** Lot 2 Except: Part on Plan with Bylaw Filed 6287, Block "C" District Lot 289 Group 1 New Westminster District Plan 1954; and

**2390 Mary Hill Road:** Lot 1 Except: Part Dedicated Road on Plan 80566; Block "C" District Lot 289 Group 1 New Westminster District Plan 1954;

all of which are to be consolidated.

*Read a first time by the Municipal Council this 8<sup>th</sup> day of May, 2017.*

*Read a second time by the Municipal Council this 8<sup>th</sup> day of May, 2017.*

*Read a third time by the Municipal Council this 8<sup>th</sup> day of May, 2017.*

*Adopted by the Municipal Council of the Corporation of the City of Port Coquitlam this 23<sup>rd</sup> day of May, 2017.*

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Mayor

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Assistant Corporate Officer

**SCHEDULE "A" TO BYLAW NO. 4009, 2017**

**RENTAL HOUSING AGREEMENT**

THIS AGREEMENT dated for reference \_\_\_\_\_, 2017 affects:

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:**

Parcel Identifier: \_\_\_\_\_

**("Land")**

AND IS BETWEEN:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**("Owner")**

AND:

**CORPORATION OF THE CITY OF PORT COQUITLAM**, a municipal corporation under the *Community Charter*, SBC 2003, c. 26 and the *Local Government Act*, RSBC 2015, c. 1 and having offices at 2580 Shaughnessy Street, Port Coquitlam, British Columbia, V3C 2A8

**("City")**

AND:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**("Chargeholder")**

GIVEN THAT:

- A. The Owner is the registered owner of the Land and has applied to the City for rezoning of the Land to permit the construction of a multiple unit residential development, and has consented to the designation of certain lands for Rental Housing Apartment Units as more particularly described in this Agreement;
- B. The City may, pursuant to Section 483(1) of the *Local Government Act* enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, availability of Dwellings, as well as regarding rents and lease, sale or share prices that may be charged, and the rates at which these may be increased over time;
- C. The Owner and the City wish to enter into this Agreement to provide for housing on the terms and conditions set out in this Agreement, and this Agreement is both a covenant under Section 219 of the *Land Title Act* and a housing agreement under Section 483 of the *Local Government Act*;
- D. The Council of the City of Port Coquitlam has enacted a bylaw under section 483 of the *Local Government Act* to enter into this Agreement;
- E. The Chargeholder is the holder of the Bank Charges described in section 10.1 of this Agreement;

In consideration of good and valuable consideration (the receipt and sufficiency of which is acknowledged by both parties), and in consideration of the promises exchanged below, the Owner and the City covenant and agree as follows:

**ARTICLE 1  
DEFINITIONS AND INTERPRETATION**

**1.1** Definitions - In this Agreement the following words have the following meanings:

- (a) “**Agreement**” means these standard charge terms together with the General Instrument (hereinafter defined);
- (b) “**Apartment Unit**” means a Rental Housing Dwelling designated as such in accordance with Article 2 herein to be used, occupied and transferred only in accordance with this Agreement;
- (c) “**Bank Charges**” means the Bank Charges described in section 10.1 of this Agreement, if any;
- (d) “**Chargeholder**” means the party identified in section 10.1 of this Agreement;

- (e) “**Dwelling**” has the meaning given in the City’s Zoning Bylaw, as amended;
- (f) “**General Instrument**” means the Form C under the Land Title (Transfer Forms) Regulations, as amended, and all schedules and addenda to the Form C charging the Land and citing these Standard Charge Terms;
- (g) “**Lands**” means the lands described in the General Instrument, namely those lands legally described as Parcel Identifier: \_\_\_\_\_;
- (h) “**LTO**” means the Land Title Office in Vancouver/New Westminister, British Columbia or its successor;
- (i) “**Owner**” means the Transferor described in the General Instrument, namely \_\_\_\_\_ and any permitted successor or assign, and includes any future or subsequent owner of the Lands or an Apartment Unit;
- (j) “**Permitted Encumbrances**” means exceptions and reservations contained in the original Crown grant and any statutory rights of way or other encumbrances in favour of the City;
- (k) “**Priority Agreement**” means the Priority Agreement detailed in Article 10 of this Agreement;
- (l) “**Rental Housing**” means an Apartment Unit restricted to residence, occupancy and use only by a tenant;
- (m) “**Subdivide**” means to divide, apportion, consolidate or subdivide the Land, or the ownership or right to possession or occupation of the Land into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization or development of "cooperative units" or "shared interests in land" as defined in the *Real Estate Act*; and
- (n) “**City**” means the City of Port Coquitlam or any employee, contractor, agent, delegate or assignee designated by City Council to act on its behalf with respect to this Agreement or any rights or powers granted to the City hereunder.

**1.2** Interpretation - In this Agreement: \_

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;

- (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) the provisions of Section 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (g) time is of the essence;
- (h) all provisions are to be interpreted as always speaking;
- (i) reference to a “party” is a reference to a party to this Agreement and to that party’s respective successors, assigns, trustees, administrators and receivers. Wherever the context so requires, reference to a “party” also includes Eligible Tenants, agents, officers and invitees of the party;
- (j) reference to a “day”, “month”, “quarter” or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
- (k) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.

**1.3** Purpose of Agreement - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by restricting occupancy of any building on the Lands to Rental Housing;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City will be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner and to legal costs on a solicitor and client basis.

**ARTICLE 2**  
**LAND USE RESTRICTIONS**

**2.2** Land Use Restrictions – The Owner covenants and agrees with the City that:

- (a) the Lands must be used only in accordance with this Agreement;
- (b) the Owner will at all times ensure that the Lands are used and occupied in compliance with all statutes, laws, regulations, and orders of any authority having jurisdiction and without limiting the generality of the foregoing all bylaws of the

City and all federal, provincial, municipal or local laws, statutes or regulations relating to environmental matters, including all rules, regulations, policies, guidelines, criteria or the like promulgated under or pursuant to any such laws;

- (c) the Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement will be registered against title to the Lands and that a notice under Section 483(5) of the *Local Government Act* will be filed on the title to the Lands at the LTO;
- (d) the Owner will not apply for a building permit for any construction or development on the Lands unless and until the Owner complies with the requirements of this Agreement;
- (e) despite any other provision of this Agreement or any City enactment, a building in which an Apartment Unit for Rental Housing is located shall not be Subdivided or strata titled under the *Strata Property Act*.

**ARTICLE 3**  
**OWNERSHIP DWELLINGS**  
**OCCUPATION AND TRANSFER RESTRICTIONS**

**3.1** Occupation and Transfer Restrictions – The City and the Owner agree as follows:

- (a) Notification of this Agreement – The Owner of the parcel of land on which the required Rental Housing Apartment Units are located must disclose in every purchase and sale agreement the existence of this Agreement and the restrictions applicable to the parcel and the Apartment Unit.

**3.2** Mortgages and Mortgage Insurers – In the event that a building containing Rental Housing Apartment Unit is subject to a mortgage or charge in favour of a lender insured by a mortgage insurer, as further defined in Appendix 1, then the following provisions shall apply:

- (a) the Owner of the building shall fully comply with all terms and obligations of the mortgage or charge, subject to the terms of this Agreement;
- (b) the Owner shall immediately provide the City with written notice if the Owner is in default of any of the terms of the mortgage or charge; and
- (c) the terms of Appendix 1 shall govern.

**3.3** Application of Agreement - The Owner acknowledges and agrees that this Agreement will apply to the entire Lands where the building containing Apartment Units is located.

**3.4** Owner's Duty to Comply – The City may provide written notice to the Owner of any matter involving a failure by the Owner to comply with this Agreement and upon receipt of such notice, the Owner shall take all necessary steps at its own expense to bring itself

back into compliance with this Agreement. Any failure or inability by the Owner to comply with this Agreement within thirty (30) days of receiving notice from the City shall constitute a default of this Agreement and shall entitle the City to exercise any of its rights in respect such default under this Agreement, including its rights under Article 6.

**ARTICLE 4  
ADMINISTRATION OF THIS AGREEMENT**

- 4.1** City to Administer - Except as otherwise provided in this Agreement, the City may monitor, administer, enforce and implement the terms of this Agreement.
- 4.2** City Inquiries - The Owner hereby irrevocably authorizes the City to make such inquiries as it considers necessary with the Owner, any permitted strata corporation or otherwise in order to confirm that the Owner and any occupiers of any part of the Lands are complying with this Agreement, and irrevocably authorizes and directs the recipient of the request for information from the City to provide such information to the City.

**ARTICLE 5  
INTENTIONALLY DELETED**

**ARTICLE 6  
DEFAULT AND REMEDIES**

- 6.1** Specific Performance - The Owner and all subsequent Owners acknowledge that in the event of a breach of this Agreement, in addition to any damages that may have occurred as a result of the breach, the City is entitled to an order for specific performance of one or more of the obligations set out in the Agreement and shall also be entitled to its legal costs on a solicitor and client basis.

**ARTICLE 7  
INTENTIONALLY DELETED**

**ARTICLE 8  
SECTION 219 COVENANT**

- 8.1** Agreement constitutes Section 219 Covenant - The Owner agrees, pursuant to section 219 of the *Land Title Act*, that:
- (a) the terms and conditions of this Agreement constitute a covenant in respect of the use of the Lands and annexed to and running with the Lands; and
  - (b) the City may register this Agreement in the Land Title Office against title to the Lands or any Apartment Unit as a covenant pursuant to section 219 of the *Land Title Act*.

**ARTICLE 9**  
**MISCELLANEOUS**

- 9.1** Housing Agreement - The Owner acknowledges and agrees that:
- (a) this Agreement constitutes a Housing Agreement entered into under Section 483 of the *Local Government Act*; and
  - (b) the City may register a notice of Housing Agreement under Section 483 of the *Local Government Act* in the LTO against title to the Lands or any Housing Unit.
- 9.2** Modification - This Agreement may be modified or amended from time to time, by bylaw duly passed by the Council of the City, and provided the amended Agreement is signed by the City and the Owner.
- 9.3** Indemnity - The Owner will indemnify and save harmless the City and each of its elected officials, officers, directors, and agents, and their heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, actions, loss, damage, costs and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of:
- (a) any act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
  - (b) the Owner's construction, maintenance, ownership, lease, operation, management or financing of the Lands or any Apartment Unit;
  - (c) without limitation, any legal or equitable wrong on the part of the Owner or any breach of this Agreement by the Owner.
- 9.4** Release - The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, and agents, and its and their heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of or which would or could not occur but for the:
- (a) ownership, lease, operation or management of the Lands or any Apartment Unit under this Agreement; and
  - (b) the exercise by the City of any of its rights under this Agreement or an enactment.
- 9.5** Municipalities Powers Unaffected - This Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Lands;
- (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
- (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.

**9.6** Agreement for Benefit of City only - The Owner and the City agree that:

- (a) this Agreement is entered into only for the benefit of the City;
- (b) this Agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or use of the Lands, the Apartment Unit or any portion thereof;
- (c) the City may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so and without obtaining the consent of the Owner.
- (d) Upon expiry of this Agreement, the City at the written request of the owner, will execute a release and discharge of the agreement at the cost of the City.

**9.7** No Public Law Duty - Where the City is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the City is under no public law duty of fairness or natural justice in that regard and agrees that the City may do any of those things in the same manner as if it were a private party and not a public body.

**9.8** Notice - Any notice required to be served or given to a party herein pursuant to this Agreement will be sufficiently served or given if delivered, to the postal address of Owner set out in the records at the LTO, and in the case of the City addressed:

To: City of Port Coquitlam, Corporate Officer  
 2580 Shaughnessy Street,  
 Port Coquitlam, British Columbia V3C 2A8

And to: the Owner:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

or to the most recent postal address provided in a written notice given by each of the parties to the other or recorded on title at the LTO. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery.

- 9.9** Enuring Effect - This Agreement will extend to and be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
- 9.10** Severability - If any provision of this Agreement is found to be invalid or unenforceable such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.
- 9.11** Waiver - All remedies of the City will be cumulative and may be exercised by the City in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the City exercising any or all remedies will not prevent the later exercise of any remedy for the same breach of any similar or different breach.
- 9.12** Sole Agreement - This Agreement, and any documents signed by the Owners contemplated by this Agreement, represent the whole agreement between the City and the Owner respecting the use and occupation of the Housing Units, and there are no warranties, representations, conditions or collateral agreements made by the City except as set forth in this Agreement.
- 9.13** Further Assurance - Upon request by the City the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the City to give effect to this Agreement.
- 9.14** Covenant Runs with the Lands - This Agreement burdens and runs with the Lands and every parcel into which it is Subdivided. All of the covenants and agreements contained in this Agreement are made by the Owner for itself, its personal administrators, successors and assigns, and all persons who after the date of this Agreement, acquire an Interest in the Lands.
- 9.15** Limitation on Owner's Obligations - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.
- 9.16** Equitable Remedies - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 9.17** No Joint Venture - Nothing in this Agreement will constitute the Owner as the agent, joint venture, or partner of the City or give the Owner any authority to bind the City in any way.

- 9.18** Applicable Law - Unless the context otherwise requires, the laws of British Columbia will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia.
- 9.19** Deed and Contract - By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.
- 9.20** Real Estate Services Act – For greater certainty, nothing in this Agreement prevents the Owner from retaining a real estate service provider licensed under the *Real Estate Services Act* in respect of a building containing Rental Housing.

**ARTICLE 10**  
**PRIORITY AGREEMENT**

- 10.1** The Bank Charges - The parties acknowledge and agree that the Chargeholder is the holder of a mortgage encumbering the Lands which was registered in the LTO under number \_\_\_\_\_ and an Assignment of Rents which was registered in the LTO under number \_\_\_\_\_ (collectively, the “**Bank Charges**”).
- 10.2** Priority Agreement - The Chargeholder, being the holder of the Bank Charges, by signing the Form C General Instrument attached hereto as Part I, in consideration of the payment of Ten Dollars (\$10.00) and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder) hereby consents to the granting of this Agreement including the Housing Agreement and Section 219 Covenant, and subject to section 9.20 above, hereby covenants that this Agreement shall bind the Chargeholder with respect to the Lands and shall rank in priority upon the Lands over the Bank Charges as if the Agreement had been registered prior to the Bank Charges and prior to the advance of any monies pursuant to the Bank Charges. The grant of priority is irrevocable, unqualified and without reservation or limitation.

IN WITNESS WHEREOF, the parties hereby affixed their signatures on the day and year first above written.

**THE CORPORATION OF  
THE CITY OF PORT COQUITLAM** by its  
authorized signatories:

\_\_\_\_\_  
Mayor:

\_\_\_\_\_  
Corporate Officer:

\_\_\_\_\_  
\_\_\_\_\_, by its  
authorized signatories:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_, by its  
authorized signatories:

\_\_\_\_\_  
\_\_\_\_\_