

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 6315

A BY-LAW to authorize the granting of a lease of certain municipally-owned lands to BURNABY ASSOCIATION FOR THE MENTALLY RETARDED.

The Council of The Corporation of the District of Burnaby ENACTS as follows:

1. This By-law may be cited as "BURNABY LEASE AUTHORIZATION BY-LAW NO. 6, 1973".
2. The Council is hereby authorized and empowered to demise and lease unto the Burnaby Association for the Mentally Retarded, upon the terms, covenants and conditions more particularly set forth in the form of lease hereunto attached and marked Schedule "A", those municipally-owned lands and premises more particularly described as ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Municipality of Burnaby, in the Province of British Columbia, and more particularly known and described as Lot One Hundred Thirty-Three (133) of District Lot Seventy-Four (74), Group One (1), Plan 39624, New Westminster District.
3. The Mayor and Clerk are hereby authorized and empowered to execute the said lease, signing the same and affixing the corporate seal thereto.

Read a first time this 4th day of September, 1973.

Read a second time this 4th day of September, 1973.

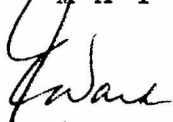
Read a third time this 24th day of September, 1973.

Reconsidered and adopted this 1st day of October,

1973.



  
MAYOR

  
DEPUTY CLERK

THIS LEASE made and entered into this 1st day of October, 1973, IN PURSUANCE of the SHORT FORM OF LEASES ACT.

BETWEEN:

THE CORPORATION OF THE DISTRICT OF BURNABY  
(hereinafter called "the Lessor")

OF THE FIRST PART

AND:

BURNABY ASSOCIATION FOR THE MENTALLY RETARDED  
incorporated under the Societies Act of the Province of British Columbia, and having an office at 7451 Sussex Avenue, in the Municipality of Burnaby, in the Province of British Columbia,  
(hereinafter called "the Lessee")

OF THE SECOND PART

WITNESSETH:

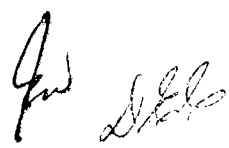
WHEREAS:

(1) The Lessor is the owner of the lands more particularly described in Schedule "1" hereto (hereinafter called "the land") on which a residential building (hereinafter called "the building") shall be constructed by the Lessee in accordance with the plans and specifications approved in writing by the Lessor.

(2) The Lessor has agreed to lease to the Lessee the land and the building.

NOW THEREFORE in consideration of the rents hereby reserved and the covenants herein contained on the part of the Lessee, the Lessor hereby leases to the Lessee the land and the building (hereinafter called "the premises").

To hold the premises unto the Lessee for the term of sixty years (herein called "the term") from the 1st day of October, 1973, subject to the conditions hereinafter mentioned, yielding and paying therefor unto the Lessor in advance, yearly and every year, the rent of \$4,400.00 per annum, payable on or before the 1st day of October in each year at the office of the



Lessor, and whether demanded or not, which said rent shall be renegotiated by the Lessor and Lessee ten years from the date hereof and every five years thereafter during the term, and on the 1st day of October, 1973, and on the 1st day of each month thereafter in 1973 an amount equal to one-twelfth of the annual taxes which would be levied upon the premises, if the same were privately owned, without any deductions of any kind whatsoever.

1. The Lessee covenants with the Lessor:

(a) To pay rent.

(b) To pay taxes including taxes for local improvements and works.

(c) Within six months from the date hereof to commence construction of the building on the land, which said building is to be used as a home for retarded children and to complete the same in a good and workmanlike manner and in accordance with all by-laws of the Lessor and to complete the building so that the same is fit for occupancy not later than eighteen months from the date hereof, unless the work is unavoidably delayed due to labour disputes, strikes, weather conditions or accidental causes beyond the Lessee's control, of which the Lessor shall be the sole judge.

(d) To forthwith pay all accounts and expenses for work or labour done upon and materials supplied to the premises.

(e) Not to carry on on the premises any trade, business or school.

(f) To observe and abide by all by-laws of the Lessor which may be applicable to the premises and the use to which the premises shall be put by the Lessee; and not to carry on or suffer to be carried on any activity upon the premises which may be deemed by the Lessor to constitute a nuisance or to be immoral.

(g) To repair and to keep the walks and other appurtenances in, on and about the premises in good order and repair.

(h) That the Lessor may enter and view the state of repair, and that the Lessee will repair according to notice.

(i) At all times to obey all orders, directives and requests made by any municipal or other public authority to carry out repairs and/or effect changes to the premises in order that they will comply with local health, safety, fire, zoning, building and other requirements authorized by law.

(j) To use the premises as a home for retarded children only.

(k) Not to cut down any live trees, and to maintain the premises in good order and repair.

(l) To keep up fences and not to use the premises as a shop.

(m) Not to assign or sublet without leave.

(n) To pay in every year during the term hereof all rates and charges for water, gas, electric lights and

power and other public utilities or services supplied to or used on the premises and to indemnify the Lessor and the premises against all costs and charges in respect thereof.

(o) That it will immediately pay and discharge any sheriff's executions filed against the premises for which it is responsible, and also any liens or other charges attaching thereto by reason of any act or omission on its part, whether caused by any work, services or materials which it has had performed or supplied in connection with the premises, or by the failure to pay any sales or corporation tax for which it is responsible.

(p) To assume the sole responsibility for the condition, operation, maintenance and management of the premises, and that the Lessor shall be under no liability for injury to any servant, agent or employee of the Lessee or any sub-lessee, licensee, or invitee of the Lessee or for the loss of or damage to the property of the Lessee or of any of the aforementioned persons.

(q) To indemnify the Lessor against all liabilities, costs, fines, suits, claims, demands and actions and causes of action of any kind for which the Lessor may become liable by reason of any breach, violation or non-performance by the tenant of any covenant, term or provision of this lease, or any injury, death, or damage to property, occasioned to or suffered by any person or any property by reason of any act, neglect or default by the tenant or its servants, employees,

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agents, sub-lessees, or licensees or invitees on the premises. The Lessor shall be at liberty to settle or compromise any such claim, demand, suit or action and any damages, compensation and costs paid or incurred by the Lessor and all such claims, demands, suits or actions recoverable from the Lessor or the property of the Lessor shall be a debt due to it from the Lessee and recoverable by action or by set-off against any money due from the Lessor to the Lessee.

(r) To leave the premises in good repair. ✓

(s) Not to discriminate against any person by reason of race, colour, religion or origin.

(t) To keep the premises insured at all times throughout the term in the joint names of the Lessor and the Lessee from loss or damage by fire, flood, explosion and special perils normally insured against under a comprehensive policy in a sum equal to the full insurable value thereof from time to time throughout the said term, and whenever feasible will cause all insurance monies received by virtue of such insurance to be forthwith paid out in rebuilding and reinstating the premises or any part thereof in respect of which such monies shall have become payable. PROVIDED that if the building or reinstatement of the building or any part thereof is not feasible or shall be frustrated, such insurance monies shall be

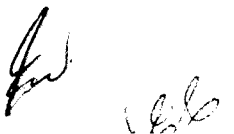
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applied firstly in payment of all arrears of rent and other charges due to the Lessor under these presents and also in reimbursement to the Lessor for all costs incurred in the demolition of the damaged premises and the restoration of the land as nearly as may be possible into the condition in which they stood at the beginning of this lease, and the balance shall be paid to the Lessee, and the forfeiture provisions under this lease shall be applicable.

PROVIDED further that in the event that the premises shall at any relevant time be encumbered by a mortgage under the National Housing Act which contains a provision that the mortgagee may at its option direct that the proceeds of any insurance policy be applied in reduction, or in full payment of, the said mortgage or in the reinstatement of the premises, the provisions of the said mortgage shall prevail with respect to this matter notwithstanding the foregoing provisions of this clause, and only such insurance proceeds, if any, as remain after satisfying the mortgagee's interest shall be applied in reduction of any monies due under these presents to the Lessor. In the event, however, that the premises are not reinstated at the direction of such mortgagee within six months from the date of the loss, then the Lessor may exercise its rights of forfeiture and re-entry as heretofore provided.

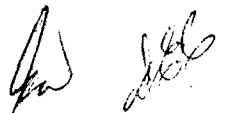
2. The said Lessor covenants with the said Lessee for quiet enjoyment.

3. In the event that the dwellings erected upon the leased premises pursuant to clause 1(c) hereof should be



destroyed by fire or other calamity, or be demolished, or by reason of any other occurrence become incapable of being decently utilized as an abode, then unless the Lessee shall, within 30 days of the happening of any such event, give to the Lessor written notice of its intention to rebuild, replace or reinstate the buildings so destroyed, demolished or rendered uninhabitable in a manner and in accordance with a standard which will meet the satisfaction of the Lessor and actually carries such proposal through to completion to the Lessor's satisfaction within six months, then the remaining term under this Lease shall, at the Lessor's option, but subject to the notice and the rights to be extended to any mortgagee of which the Lessor has notice under clause 9 hereof, become forfeited and determined, and it shall be lawful for the Lessor at any time thereafter to enter upon the premises or any part thereof, in the name of the whole, to re-enter and the same to have again, repossess, and enjoy anything herein, contained to the contrary notwithstanding.

4. Should the premises herein demised, or such portion of same as necessitate the demolition or removal of the building or buildings thereon, be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this lease shall terminate as of the date of such taking, and both the Lessor and the Lessee shall be released from any further liability hereunder. Such part of the compensation monies as are awarded in the expropriation proceedings as representing the then current unimproved value of the land herein shall be paid to the Lessor together with any arrears of rent or other sums due to it by the Lessee by reason of any defaults having occurred under this lease, and the balance of compensation monies shall be paid to the Lessee. If part only

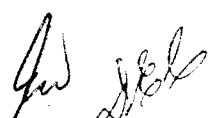




of the premises are expropriated without causing any substantial disturbance to the buildings, this lease shall continue to run and such parts only (if any) of the compensation monies as related to the building and other improvements effected by the Lessee shall be paid to it, and the balance to the Lessor.

5. Provided that if and whenever the rent hereby reserved, or any part thereof, or any sum which by virtue of these presents is collectable as rent, shall be unpaid for ten days after any of the days on which the same become due, the Lessor may forward notice in writing to the Lessee demanding that the sum so in arrear be paid forthwith, and failure by the Lessee to pay the arrears within thirty days following its receipt of such notice shall, at the option of the Lessor, but subject to the notice and the rights to be extended to any mortgagee of which the Lessor has notice under clause 9 hereof, operate as a forfeiture of this lease, and it shall be lawful for the Lessor at any time thereafter, into and upon the premises or any part thereof, in the name of the whole to re-enter, and the same to have again, repossess and enjoy, anything hereinafter contained to the contrary notwithstanding.

6. It is agreed that if the Lessee is at any time in default in the observance of any of its covenants contained in clause 1 hereof, other than the covenant requiring payment of rent, and if the Lessor shall have served notice in writing upon the Lessee specifying the default and requiring him to make compensation in money for same, and the Lessee has failed to rectify the default and pay reasonable compensation for same within thirty days after its receipt of such notice, the Lessor may, in addition to any other remedy available to it for breach of the particular covenant, itself cure the default for the account of, and at the cost of, the Lessee, and the sum so expended or incurred by it shall be deemed to

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be additional rent and shall on demand be paid by the Lessee on the next day, or on such other rent days as the Lessor may specify, and if not paid by the Lessee be treated in the same manner and be subject to the same remedies as for non-payment of rent. If the default is, in the opinion of the Lessor, of such a nature as to be incapable of being cured by the Lessor at the cost of the Lessee, then the Lessor may without further notice or demand on the Lessee at any time after the expiration of the 30-day period above referred to, but subject to the notice and to the rights to be extended to any mortgagee of which the Lessor has notice under clause 9 hereof, re-enter into and upon the premises or any part thereof in the name of the whole, and repossess the same and this lease shall be thereby determined.

7. PROVIDED ALSO that if the term hereby granted shall at any time be seized or taken in execution or in attachment by any creditor of the Lessee, or if the Lessee shall make an assignment for the benefit of creditors, or becoming bankrupt or insolvent shall take the benefit of any Act that may be in force for bankrupt or insolvent debtors, or the Lessee being an incorporated society an order shall be made winding it up or accepting the surrender of its charter, then, in every such case, the then current month's rent, together with the rent for the three months next ensuing shall immediately become due and be payable, and the said term shall, at the option of the Lessor, but subject to the notice and the rights to be extended to any mortgagee of which the Lessor has notice under clause 9 hereof, forthwith become forfeited and be determined, and the Lessor may re-enter and take possession of the premises.

8. PROVIDED ALWAYS, and it is expressly agreed, that if the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the

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same ought to have been paid (although no formal demand shall have been made thereof), or in case of the breach or non-performance of any of the covenants and agreements herein contained on the part of the said Lessee, or permitted assigns, then and in either of such cases it shall be lawful for the said Lessor, its successors or assigns, at any time thereafter, into and upon the premises, or any part thereof, in the name of the whole, to re-enter, and the same to have again, repossess and enjoy anything herein contained to the contrary notwithstanding.

9. The Lessee shall have the right to mortgage its leasehold estate in the premises herein demised to Central Mortgage and Housing Corporation (hereinafter called "the Mortgagee").

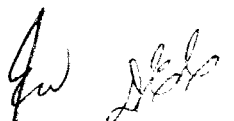
If either the Lessee or the Mortgagee shall have given written notice to the Lessor of such Mortgage, specifying its date, the amount secured, the repayment terms and the address of the Mortgagee, the Lessor shall thereafter during the currency of such mortgage furnish the Mortgagee with notice of default of payment of rent hereunder or of notice of any other default hereunder, and shall, prior to exercising any right of re-entry or option to terminate these presents as a result of such non-payment of rent hereunder, or as a result of breach or non-performance of the covenants, give such Mortgagee at least 45 days' notice of such intention in order that the Mortgagee may, if it so desired, immediately within that time institute foreclosure or other proceedings against its security pursuant to the rights and powers afforded

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to it under the mortgage document, if such are applicable. If the Mortgagee elects to take such steps affecting the leasehold security within the time so limited and notifies the Lessor thereof within the said 45-day period, the rights granted to it under such mortgage shall take priority over the rights of the Lessor under these presents, and the Mortgagee shall be at liberty to carry the proceedings which it has instituted to completion, and provided same are pursued with diligence and promptitude, the rights of the Lessor to re-enter or forfeit the lease shall be postponed thereto during the interim. Upon completion of foreclosure proceedings the Mortgagee shall pay to the Lessor the market value of the land as of the date of the order absolute.

10. In the event that the Lessor shall have exercised its rights under any of the foregoing provisions to forfeit the term herein demised by reason of the Lessee's breach of covenant or default, and shall have re-entered and repossessed the premises, and shall afterwards sell or lease the same to a third party, such third party shall in no case be bound to ascertain that the breach or default has occurred under which such re-entry was made, other than to obtain a statutory declaration from the Lessor setting forth the facts of such breach or default which entitled it to make such re-entry and stating that any prerequisite notice or notices which may be required to be given under the relevant provision or provisions of this Indenture to the Lessee and/or a mortgagee has, or have in fact been given.

11. If the parties hereto fail to agree on any rental fee or fees being renegotiated the matter shall be referred to arbitration under the Arbitration Act.

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12. It is expressly agreed that any failure by the Lessor to enforce, either in part or in whole, the rights and remedies available to it under these presents for any breach or failure by the Lessee to observe the provisions of any covenant or other matter herein contained, shall not be deemed to be a waiver or acquiescence of same on the part of the said Lessor, nor shall such failure preclude the Lessor from enforcing such rights and remedies against the Lessee for any subsequent breach or non-observance.

13. Whenever in this lease it is required or permitted that notice or demand be given by one or either party hereto upon the other, such notice or demand shall be deemed sufficiently given if in writing and forwarded by registered mail addressed as follows:

TO: The Clerk of the Lessor at 4949 Canada Way,  
Burnaby, B.C.

TO: The Lessee, at 7451 Sussex Avenue,  
Burnaby, B.C.

Such addresses may be changed from time to time by either party serving notices as above provided.

Notice may also be given to the Lessee by delivering it to some adult person on the premises, if occupied, or, if not occupied, by posting up a copy of the said notice on the premises. Any notice required to be given by the Lessor to any Mortgagee of the leasehold under these presents shall be deemed sufficiently given if in writing and forwarded by registered mail to the address of such Mortgagee which has been furnished to it under the provisions of clause 9 hereof, or if such premises are no longer occupied by such Mortgagee by leaving or posting up a copy of such notice at the last known address of such Mortgagee.

All rent due under these presents shall be payable to the Lessor at its office situate at the address above specified, or in such other manner or place as the Lessor may from time to time in writing direct.

14. The Lessee covenants that it shall not have any claim or demand against the Lessor for detriment, damage or injury of any nature and howsoever caused to the premises or to any structures, improvements, vehicles, materials, supplies, animals, goods, articles, effects or things at any time erected, brought, placed, made, kept or being upon the premises.

15. PROVIDED ALWAYS that and it is hereby agreed by and between the parties hereto, that if the Lessee shall hold over after the expiration of the term hereby granted and the Lessor shall accept rent, the new tenancy thereby created shall be a tenancy from month to month and not a tenancy from year to year, and shall be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy, from month to month.

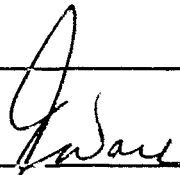
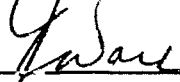
16. It is agreed that at the expiration of the term the ownership of all buildings, structures, and improvements affixed to the land and all fixtures in and about the said buildings, structures and improvements shall vest in the Lessor and no compensation shall be payable to the Lessee by the Lessor for the said buildings, structures, improvements and fixtures as aforesaid.

17. It is agreed that every covenant, proviso and agreement herein contained shall enure to the benefit of and be binding upon the parties hereto, and their successors and permitted assigns, and that where there is more than one Lessee all covenants herein contained shall be construed as being joint and several, and that when the context so requires

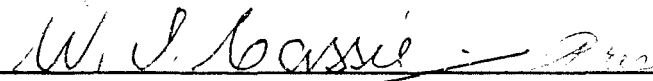
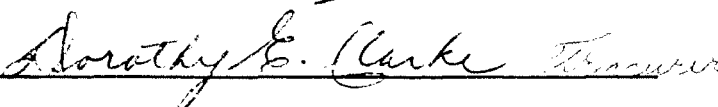
or permits, the singular number shall be read as if the plural were expressed, and the masculine gender as if the feminine or neuter, as the case may be, were expressed.

IN WITNESS WHEREOF the Lessor and the Lessee have hereunto affixed their corporate seals attested by the hands of their proper signing officers in that behalf duly authorized as of the day and year first above written.

THE CORPORATE SEAL OF THE CORPORATION OF THE DISTRICT OF BURNABY WAS HEREUNTO AFFIXED IN THE PRESENCE OF:

 MAYOR  
 DEPUTY CLERK

THE SEAL OF THE BURNABY ASSOCIATION FOR THE MENTALLY RETARDED WAS HEREUNTO AFFIXED IN THE PRESENCE OF:



SCHEDULE "1"

ALL AND SINGULAR that certain parcel or tract of land and premises situated, lying and being in the Municipality of Burnaby, in the Province of British Columbia, and more particularly known and described as Lot One Hundred Thirty-Three (133) of District Lot Seventy-Four (74), Group One (1), Plan 39624, New Westminster District.

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THE CORPORATION OF THE DISTRICT  
OF BURNABY

AND

BURNABY ASSOCIATION FOR THE  
MENTALLY RETARDED

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A G R E E M E N T

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DATED: