

ITEM 20  
MANAGER'S REPORT NO. 9  
COUNCIL MEETING 89/01/30

RE: CARIBOO HEIGHTS: RESPONSE TO QUESTIONS CONCERNING NON-MARKET HOUSING COMPONENT AND STRATEGIES FOR MARKETING OF RESIDENTIAL PROPERTIES

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendations of the Director Planning & Building Inspection be adopted.

\* \* \* \* \*

TO: MUNICIPAL MANAGER 1989 January 25

FROM: DIRECTOR PLANNING & BUILDING INSPECTION Our File: 15.711.1

SUBJECT: CARIBOO HEIGHTS: RESPONSE TO QUESTIONS CONCERNING NON-MARKET HOUSING COMPONENT AND STRATEGIES FOR MARKETING OF RESIDENTIAL PROPERTIES

PURPOSE: The purpose of this report is to respond to questions raised by Municipal Council at its meeting of 1988 October 03 during consideration of the report, "Cariboo Heights Implementation, Non-Market Housing Component".

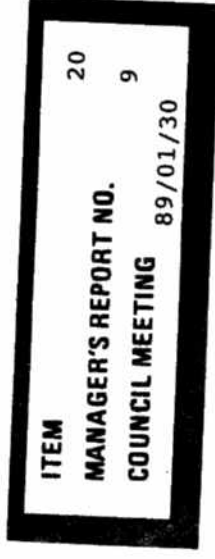
RECOMMENDATIONS:

1. THAT staff be authorized to tender the Phase 1 group housing sites in Cariboo Heights, with the exception of the site designated for co-op housing (site 7a), requiring interested parties to submit both freehold and leasehold bids on the properties as described in this report.
2. THAT staff be authorized to study and report back to Council on the feasibility, desirability, legality and optional procedures for acquiring land for future development of non-market housing in Burnaby, as outlined in this report.

SUMMARY

This report has been prepared by Planning staff in consultation with the Municipal Solicitor, in response to three questions raised by Municipal Council during review of the report, "Cariboo Heights Implementation, Non-Market Housing Component:"

- 1) What is the provision of non-market housing in other Lower Mainland municipalities - specifically the share of non-market housing in residential developments similar to the Cariboo area?
- 2) Would a lottery scheme be a practical or desirable approach for marketing the small lots in the Cariboo area?
- 3) What are Vancouver's policies concerning the sale versus lease of City lands.



In addressing the first question, the report reveals that on a per capita basis, Burnaby contains the third highest share of social housing amongst municipalities in the Region. It indicates that the share of co-op housing proposed for Cariboo Heights (22% of the area's group housing stock) is lower than several Vancouver developments, but is higher than other similar developments in Richmond, North Vancouver District and New Westminster (see Table 1, page 3). The report therefore concludes that Burnaby has been accommodating its "fair share" of the Region's social housing.

With respect to the second question, the report concludes that the small lots in the Cariboo area should be offered on a tender rather than lottery basis. Staff believe the Municipality can make its greatest impact on housing affordability by focusing on non-market developments. To this end, staff recommend that the Municipality consider the possibility of acquiring sites for future social housing development in Burnaby. With the concurrence of Council, staff will conduct further research into the feasibility, implications and optional procedures for establishing a mechanism for social housing land acquisition. We will report our findings and recommendations to Council in the near future.

The report also reviews the City of Vancouver's policies regarding the sale versus lease of lands. It reveals that the City leases land for both market and non-market multi-family housing development, but offers its single family lots on a freehold basis only.

It is concluded that the concept of leasing the market group housing sites has both advantages and disadvantages in comparison with the freehold option. The determination of relative values for the leasehold and freehold options is seen as a logical next step in the formulation of a recommended approach for the disposition of the Phase 1 market group housing sites. Accordingly the Planning and Building Inspection Department is recommending that interested parties be required to submit both leasehold and freehold bids on the Cariboo area's Phase 1 market group housing sites. Upon assessing the bids, staff will make recommendations regarding disposition of the lands, giving consideration to both the short and long term benefits expected to accrue to the Municipality.

R E P O R T

1.0 BACKGROUND

Council, at its meeting of 1988 October 03, received the report, "Cariboo Heights Implementation, Non-Market Housing Component" and adopted the following recommendations contained therein:

- "1. THAT Council approve in principle the allocation of sites 7a, 6a, and 4c of the Cariboo Heights project for co-operative housing development (see Figure 1, attached).
2. THAT Council authorize staff to consult with the Canada Mortgage and Housing Corporation to determine the economic, preliminary terms and mechanics of a long term lease for co-operative housing development in the Cariboo Heights Project."

During their discussion of the report, Council asked staff to review and report back on three additional matters:

1. An analysis of non-market housing in Lower Mainland Municipalities including ratios of non-market to market housing in other Lower Mainland developments similar to Cariboo Heights.
2. The question of marketing the Cariboo small lots through a lot draw system utilizing an upset price, an anti-flip mechanism, and a provision for construction to within a specified time frame.
3. The City of Vancouver's policies concerning the lease versus sale of land.

Staff from the Planning and Building Inspection Department worked closely with the Municipal Solicitor in addressing these questions. We also contacted staff from various Lower Mainland Municipalities and other sources for information. Our findings and conclusions are presented below.

## 2.0 ANALYSIS OF NON-MARKET HOUSING IN THE LOWER MAINLAND

A summary of the non-market housing stock in selected Lower Mainland municipalities is contained in Appendix 1. As the summary table reveals, Burnaby has 4,130 non-market housing units, consisting of non-market family (public and private non-profit), co-op, and seniors' developments. Non-market housing constitutes roughly 7 percent of Burnaby's total housing stock. On a per capita basis, the Municipality has roughly one non-market unit for every 35 residents. Compared with other selected Lower Mainland Municipalities, Burnaby has the third highest per capita share of non-market housing, following Vancouver and New Westminster.

In addition to obtaining data on the total shares of market and non-market housing in the surveyed municipalities, staff gathered information on the non-market housing components of a number of large scale developments throughout the Region. This information is presented below:

TABLE 1

<u>MUNICIPALITY</u>	<u>DEVELOPMENT</u>	<u>NO. OF NON-MKT UNITS</u>	<u>% OF TOTAL MULTI-FAMILY UNITS</u>
Burnaby	Cariboo Heights	206	22
Vancouver	Champlain Hts.	1,289	33
	False Creek S. Riverside	842	33
		141	50
Richmond	Moncton	67	4
Dist. of N. Van	Indian River	175	31
New Westminster	New West. Quay	156	11

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Most of the Municipalities surveyed encouraged non-market housing in the above noted developments. Richmond, for example, included a statement in its Moncton Community Plan that assisted housing would be encouraged in the area. To this end, Richmond staff worked closely with a sponsoring group to facilitate development of a co-op in the Moncton area. As the Moncton lands are privately held, however, the Municipality's ability to facilitate non-market housing there has been restricted. The District of North Vancouver, in contrast, owned some lands in the Indian River area. The District was thus able to lease a municipal site for development of one of the three co-ops in the area. This practice was consistent with the District's policy of making municipal property available for both market and non-market housing, in efforts to ensure a more balanced housing stock throughout the District.

The City of Vancouver has taken the most active role of the Lower Mainland Municipalities in facilitating development of non-market housing. In the Champlain Heights, False Creek South, and Riverside areas, the City sought to create "socially mixed neighbourhoods" by designating a portion of the sites for non-market housing. As the City owned the land in these areas, it was able to lease the sites to appropriate sponsor groups at below market rates. At present, the City is preparing plans for the Concord Pacific and Marathon Waterfront Properties. Through the rezoning process, the City is seeking to ensure that 20 percent of the residential units be rent-g geared-to-income, whereby rents for residents in "core need" are assessed at 30 percent of the residents' incomes.

In addition to the above, the City has also facilitated development of non-market housing through the following methods:

- a) providing capital grants for the development of public housing (in the 1960s)
- b) establishing density bonuses to encourage non-market units in new market rental developments
- c) Managing non-profit rental developments for special needs residents (primarily in Vancouver's Downtown East Side).

Vancouver staff are finalizing a report on the City's non-market housing policy which will likely be forwarded to City Council in early 1989. The report will assess Vancouver's non-market housing situation and prospects and recommend additional strategies for facilitating non-market housing in the future.

### 3.0 MARKETING OF SMALL LOTS

To obtain information about options for marketing the small lots in Cariboo Heights, staff surveyed a number of Municipalities in the region regarding their approach to selling municipal sites for single family development. Of those surveyed, the only Municipality which uses a lot draw system is Coquitlam. Under Coquitlam's system, properties are offered at appraised value to members of the public. Only one person per family is permitted to enter the lottery. Under Coquitlam's system, developers are prevented from buying up groups of sites from the Municipality. The rationale for using the lottery in Coquitlam is to make lots available to individual families, not to improve housing affordability per se. Therefore, no anti-flipping mechanism has been established and developers could, in theory, buy up sites from individuals who obtained properties through the lot draw.

With respect to Council's query about the potential for establishing a lot draw system for the small lots in Cariboo, staff offer the following observations.

First, it would be difficult, if not impossible, to establish an effective anti-flipping mechanism. One possibility would be a restrictive covenant registered against the land title, whereby the purchaser would be prevented from selling for a specified period or until a house had been built on the property. Another possibility would be for the Municipality to include an option to purchase in the agreement of sale, whereby the Municipality could buy back the property if construction had not been started by a specified date. A key problem with these options is that they do not address the possibility that some purchasers may have a legitimate reason for selling their properties prematurely (e.g. relocation for employment, family breakup, financial difficulties).

A second concern with the lot draw system relates to targeting: it would be difficult, if not impossible, to restrict lottery winners to Burnaby residents. It should be noted, however, that this targeting concern also applies to non-market housing initiatives. In the proposed Cariboo co-op developments, the Municipality will not be able to restrict residency to people currently living in Burnaby.

A third concern centres on the question of a lottery's effectiveness in addressing housing affordability issues. Those successful in the lottery would benefit by obtaining lots at prices below what they would pay through a competitive bid system. However, the benefits would not extend to other households seeking single family housing. Cariboo and Burnaby are part of the larger regional real estate market; therefore, selling the relatively few small lots in the Cariboo area through a lottery would not help to bring down the region's high land and housing costs. The Municipal Solicitor has offered the following comments regarding the effectiveness of a lot draw system:

"The mechanisms suggested for controlling the realization of the windfall profit, i.e. anti-flip covenant and time-limited building requirement, might delay the profit taking but would not overcome the criticism that a special benefit is afforded a few individuals at the expense of the public purse.

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Section 538 (1) of the Municipal Act states:

538 (1) Unless a parcel of land is intended to be sold or leased by public auction or tender, it shall not be sold or leased by a municipality unless a description of it, and the lowest price or rental which will be accepted for it in the event the parcel is offered for sale or lease, has been posted in the locations specified in section 92 (4)

Historically we have treated section 538 as requiring that property be offered for competitive bids, thus ensuring that the Municipality receives full market value. A lottery scheme would reduce the return to the municipality without adding to the stock of affordable housing."

Based on the foregoing, staff would recommend against the marketing of small lots via lottery. We believe the Municipality could make a greater impact on housing affordability by focusing on the non-market rather than market housing sector. We therefore propose that the Municipality continue its present practice of selling the lots through a tender process. Further, we propose that the Municipality consider the possibility of acquiring or disposing of Municipal properties for non-market housing purposes in the future. This would enable the Municipality to play a more active role in facilitating development of non-market housing in Burnaby.

Additional research would be required to determine the feasibility, desirability, legality, and optional procedures for acquiring social housing sites, as well as the implications of such procedures on the Municipality's capital reserves. If Council supports the principle of acquiring sites for social housing, staff will conduct the required research and report back with information and recommendations in the near future.

#### 4.0 VANCOUVER POLICY RE: SALE VERSUS LEASE OF LANDS

The City of Vancouver makes City land available for both market and non-market housing. With few exceptions (e.g. waterfront property), the City offers its single family sites on a freehold basis. City staff claim that demand for leased single family lots would be limited, especially under a pre-paid lease vehicle. For market multi-family housing developments, Vancouver makes its sites available on both a freehold and leasehold basis. For non-market developments, it only offers the sites via leasehold.

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Additional information concerning Vancouver's policies regarding allocation of land for market and non market housing is presented below.

#### 4.1 Non-Market Housing

As noted, the City of Vancouver's policy is to lease rather than sell lands for non market housing development. Prior to 1980, the City leased sites to non-market sponsors for a 60 year term. In 1981, it began leasing the sites for a 40 year term. More recently, it has adopted a 41 year lease term. The 40 and 41 year leases contain an option to renew for an additional 20 years. Unlike the situation with leased market sites, at the end of the lease term for social housing developments, the City gains the land and improvements, without being required to pay compensation.

The City's rationale for leasing rather than selling land for non-market housing is twofold. First, because of Vancouver's relatively high land costs, and limitations imposed by senior government funding guidelines, sponsor groups would be unable to acquire sites and develop non-market housing without some additional assistance. Through its land acquisition and lease back program, the City is able to provide this necessary assistance for social housing development.

Second, the City believes that it is making a good investment by leasing the lands. Using a 41 year pre-paid lease, based on 75 percent of appraised market value of the land, the City contends that it is getting fair market return while, at the same time, retaining ownership of the land. Also, through the lease agreement, it is able to ensure that the sponsoring groups meet the conditions stipulated by the City for the development and operation of the housing.

#### 4.2 Market Housing

The City of Vancouver uses the following criteria in deciding whether to lease or sell City owned sites for multi-family market developments:

- 1) Will leasing afford more effective development control?
- 2) Are the lands in key locations that would require they be retained in public ownership to further long term City goals?
- 3) Will demand be such that the market value of the property under leasehold will be at or near the freehold value?

Upon considering these criteria, the City decided to lease all sites in the False Creek, Champlain Heights, and Riverside areas. It leased the market sites in False Creek for a 60 year term and those in Champlain Heights and Riverside for a 99 year term. Properties Department staff strongly favour the pre-paid lease over the periodic payment option - both for administrative and financial reasons.

Vancouver Properties staff indicate that the City has been **189** able to achieve returns at or near freehold value for its leasehold properties in False Creek and Champlain Heights. They advise that the key to getting a good return on leased lands is the uniqueness of the planned development. False Creek and Champlain Heights are considered unique, due to their large size, proximity to the urban core, and extensive amenities. Because of this "uniqueness", developers were willing to enter into lease agreements for the sites even though they would likely have preferred purchase arrangements.

Vancouver Properties staff advise that the leasing of market sites is not a "sure thing". They also advise that leases are more complex, time consuming, and uncertain than outright sale of lands. They note, for example, that the market units in False Creek and Champlain Heights are subject to the Condominium Act. Under terms of the Act, the City will have to compensate the lessees for improvements to the property at the end of the lease term. Given ambiguities in the wording of the Act, legal counsel for some developers have claimed that the City may also be required to pay compensation for the land (see Appendix 2, attached).

This issue will not be decided until some of Vancouver's long term leases expire and the City's obligations as lessor are tested in the Courts.

Burnaby's Municipal Solicitor identifies other uncertainties inherent in lease arrangements:

"It should be noted that not all leased sites can command the same return as an outright sale. A financial analysis involving both calculation of the investment return on the prepaid lease and an appraisal of the value of the reversion of the land must be undertaken where the net return is not equivalent to the market value. If market value is not obtained, then other benefits must accrue in order to justify the transaction. These benefits may include greater development controls, retention of key properties or social benefits as in the case of subsidized housing. Therefore, longer term leases and a strong competitive market are needed to enable the leasing of market housing to yield the equivalent return to that which would be realized on an outright sale."

Additional uncertainties with leases include the decreasing incentive to maintain and improve the properties as the lease term nears conclusion, possible reluctance of lending institutions to provide mortgage financing for leased properties, and questions about the fate of residents upon expiry of the lease (i.e. would a future Municipal Council be willing to evict these residents?)



Assuming developers would be willing to offer at or near freehold value for leasehold properties, a lease arrangement could be a desirable option from the perspective of the Municipality's long term interests. It would enable the Municipality to establish a land bank which would, when the leases expire, provide future Councils with an opportunity to retain the sites for affordable housing development. A lease arrangement might also translate into lower future housing prices in Cariboo. In contrast to freehold tenure, the value of a homeowner's land interest on a leased site decreases with time. As a result, the resale value of townhouse units on the land (in 1989 dollars) should also decline - especially near the end of the lease term.

Acknowledging the potential benefits that may accrue from a lease arrangement on the one hand, and the inherent uncertainties of such an arrangement on the other, staff recommend that a cautious approach be adopted for tendering the market group housing sites in Cariboo Heights. We recommend that interested parties be required to submit both leasehold and freehold bids on the properties. Upon assessing the bids, staff will make recommendations regarding the disposition of sites, taking into account both the short and long term benefits expected to accrue to the Municipality.

#### 4.3 Legal Department Concerns

It should be noted that Legal and Lands Department staff believe that the market group housing sites should be offered exclusively on a leasehold basis. The Solicitor is of the opinion that the Municipality could receive at or near the freehold value if using a 60 year pre-paid lease. Legal and Lands do not support the proposed dual bidding procedure for three reasons:

- 1) From a technical point of view, they question whether such a procedure is workable;
- 2) They contend that the dual bidding procedure would reduce the amount that bidders would be willing to offer for leasehold tenure; and
- 3) They believe that the Municipality should make a decision on whether to lease or sell the sites before initiating the tender.

Planning and Building Inspection Department staff offer the following responses:

First, the proposed dual bidding approach is not without precedent. British Columbia Enterprise Corporation (BCEC) used such an approach in tendering two residential sites on the north side of False Creek (the Admiralty and Seawalk properties). The difference between the freehold and leasehold bids ranged from a low of roughly 5% to a high of 15%. BCEC chose to lease the Admiralty and Seawalk sites. The Corporation has subsequently questioned the merits of lease arrangements, deciding to market its remaining False Creek properties on a freehold basis exclusively.

Second, the assertion that leasehold bids will be driven down through the dual bidding approach can neither be proved nor disproved. We have no way of determining the difference, if any, in what a developer would offer for a leasehold site through a dual bid or lease-only tender. As noted, however, the experience of BCEC suggests that the difference between leasehold and freehold bids should be marginal. Also, if developers have a serious interest in the Cariboo sites, they would be unwise to jeopardize their chances by submitting low bids for leasehold tenure.

Third, as noted, there are both advantages and disadvantages associated with the leasehold option that leads this department to the conclusion that the potential financial difference between the freehold and leasehold tenders should be considered as a contributing factor in the Municipality's decision whether to either lease or sell the market group housing sites. A dual bid tendering process would reveal the actual values developers would be willing to offer for the sites on both a leasehold and freehold basis, thereby providing the Municipality with a more complete range of information on which to make a final decision on the most favourable marketing approach.

Given the fact that we are dealing with the initial phase of the marketing of these lands, the dual bid approach would provide a valuable insight in helping select the most advantageous marketing approach for the remainder of the group housing sites within the various stages of the Cariboo Heights development. If the leasehold bids emerge as clearly the most advantageous, Council could decide to tender the market group housing sites in subsequent phases of development exclusively on a leasehold basis. Alternatively, if the lease bids come in below the freehold bids, Council would have three options: accept the leasehold bid, accept the freehold bid, or invite additional lease bids before making a decision.

#### 5.0 CONCLUSION

From the foregoing review, staff have drawn three conclusions. First, on a municipal wide basis, Burnaby is accommodating its "fair share" of the region's non-market housing. In the Cariboo area, the proposed non-market housing component is smaller than some of Vancouver's developments. Nonetheless, it is higher than the components of other similar developments throughout the region. Staff believe these findings lend additional support to our previous recommendation that roughly 20 percent of the Cariboo group housing stock be designated for non-market housing.

Second, staff conclude that the Cariboo small lots should be offered through a tendering process, as originally planned. We believe that the Municipality can make the greatest impact on housing affordability by focusing on non-market housing. Therefore, unless directed otherwise by Council, we propose to explore the feasibility, desirability, legality, and optional procedures for establishing a mechanism for the acquisition of land for future non-market housing development. In our review, we will examine the possible implications on the Municipality's Capital reserves. We will report our findings and recommendations to Council in the near future.

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Third, from our review, it has been concluded that the concept of leasing the market group housing sites has both advantages and disadvantages in comparison with the more conventional freehold tendering process. While the leasehold option maintains the lands under long term public ownership and offers an ability to introduce specific development controls as part of the lease arrangement, these benefits are offset by uncertainties associated with the lease approach. These include the question of possible compensation for improvements and lands at the termination of the lease, declining value as the termination date approaches, the potential implications on maintenance and mortgage availability and the question of the fate of the occupants at the time of the expiration of the lease period.

It is our view that the determination of relative values for the leasehold and freehold options is a logical, next step in the formulation of a recommended marketing approach for the Phase 1 market group housing sites. Accordingly, it is being recommended that parties interested in the Phase 1 market group housing sites be required to submit both freehold and leasehold bids. Such a tendering arrangement will determine the financial return difference between the two options which can be incorporated within the decision making process. Unless otherwise directed, it is the intention of staff to request leasehold bids based on a 60 year pre-paid lease term.

A recommendation in relation to the bids and the marketing approach would be forwarded to Council following completion of the staff assessment.



A.L. Parr  
DIRECTOR PLANNING &  
BUILDING INSPECTION

JF/mcb  
Attach:

cc: Director Finance  
Director Administrative & Community Services  
Municipal Solicitor  
Cariboo Heights Project Manager

APPENDIX 1

The Stock of Social Housing in Selected Lower Mainland Municipalities

Housing Type	Burnaby	City of North Vancouver	District of North Vancouver	West Vancouver	Vancouver City	Richmond	New Westminster
Public Housing Units	510	201	-	-	3,815	599	275
Co-op Housing Units	1,411	177	238	-	4,333	657	500
Non-Market Seniors' Housing Units	2,157	487	353	306	5,159*	820	700
Private Non-Profit Housing Units	52	-	94	-	2,767	144	-
Total Social Housing Units	4,130	865	685	306	16,074	2,220	1,475
Total Occupied Private Dwelling Units (1986)	59,000	17,000	23,000	14,000	188,000	38,000	19,000
% Social Housing	7.0	5.1	3.0	2.2	8.6	5.8	7.8
Population	145,000	36,000	68,000	36,000	431,000	108,000	40,000
Per Capita Non-Market Housing	1:35	1:42	1:99	1:118	1:27	1:49	1:27

\* 1,150 of the 5,159 seniors' housing units in Vancouver are public seniors' housing units (all sponsored by BCHMC). The rest are all operated or sponsored by non-profit societies.

Source: City of North Vancouver, Social Housing Policy, 1988 October 05 and Burnaby Planning Department.

(b) the person tendering the leasehold strata plan for deposit is the registered lessor in a ground lease of the land included in the leasehold strata plan;

(c) the unexpired term of the ground lease is at least 50 years after the date of the tender of the leasehold strata plan;

(d) the ground lease does not include land other than the land included in the leasehold strata plan; and

(e) the written consent of the lessor under the ground lease to registration of the leasehold strata plan is filed.

1974-89-52; 1977-64-39

**95. New certificates of title**

95. Notwithstanding sections 2 and 3, on deposit of a leasehold strata plan, the registrar shall issue in the name of the registered owner in fee simple of the land included in the strata plan new certificates of title for the strata lots shown on the plan as may be necessary.

1974-89-53(1)

**Conversion and leasehold charge**

96. (1) The deposit of the leasehold strata plan operates as a conversion of the registered ground lease into individual leases in the name of the owner developer of the interest of the Crown or other lessor in each strata lot, including his share in the common property, at a rent, premium or other consideration and subject to the applicable terms contained in the ground lease and in the model strata lot lease attached, and to the provisions of this Act and regulations.

(2) On conversion, the registrar shall issue, in the name of the owner developer, a certificate of leasehold charge, in Form F, in respect of each strata lot lease created under subsection (1), and shall note it in the register.

(3) A certificate of leasehold charge for a strata lot and the strata lot lessor's interest in the strata lot are subject to the obligations of the Crown, or other lessor under the strata lot lease, to purchase the strata lot lessor's interest in the strata lot under section 97. The rights of the Crown or other lessor under the strata lot lease under sections 98 and 99 are, without special reference, subject to any further limitations imposed under sections 103 and 104 or any other enactment.

(4) Every assignee of an owner developer's interest as strata lot lessor in a strata lot shall be deemed to have covenanted and agreed in writing with the Crown or other lessor to observe and perform all of the terms and conditions contained in the model strata lot lease, but is not, notwithstanding an agreement to the contrary, bound by, or required to observe and perform, the terms, covenants and agreements contained in the ground lease that are not also contained in the model strata lot lease.

1974-89-53(2), (3), (4), (5); 1975-74-25; 1977-64-40

**Lessor's right to purchase strata lot**

97. (1) The Crown or other lessor shall purchase the strata lot lessor's interest in the strata lot on the termination of the strata lot lease.

(2) The purchase price shall be arrived at as of the date of expiration of the strata lot lease, and shall be

(a) the price calculated on the basis set out in a schedule filed with the leasehold strata plan; or

\*

**Order for sale**

98. Where, on a strata lot lessor's default in observing and performing his obligations under the strata lot lease, the Crown or other lessor becomes entitled to re-enter and take possession of the strata lot, the Crown or other lessor shall not, notwithstanding any agreement or enactment to the contrary, re-enter, take possession of the strata lot or otherwise cause the strata lot lease to be terminated, but may apply to the court for an order for sale.

1977-64-42

**Procedure**

99. (1) The Crown or other lessor shall give not less than 4 days' notice of an application for an order for sale to the strata lot lessor and to the owners of charges against the strata lot lessor's interest in the strata lot by serving a written notice of application and a copy of each document filed with the court in support of the application.

(2) On an application for sale, the court may declare that the strata lot lessor failed to observe and perform his obligations under the strata lot lease, specifying the nature of the default, and shall in the order provide that, if the default is not cured in 30 days from the making of the order, or such other period as the court considers proper in the circumstances, the Crown or other lessor may sell the strata lot lessor's interest in the strata lot by public auction or private sale at a price and on terms to be approved by the court.

(3) On an application for an order for sale or for an order approving a sale, the court may, by order, give directions it considers necessary for the distribution of the proceeds and the delivery of possession.

1977-64-42

**Renewal of lease**

100. (1) Where, at the expiration of the term of a strata lot lease or a renewal of it the Crown or other lessor elects to renew the strata lot lease, it shall be renewed for a term of not less than 5 years.

(2) The Crown or other lessor shall in writing, at least one year prior to the expiry of the lease, advise the lessee that the Crown or other lessor has elected

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