

CITY OF BURNABY
HOUSING COMMITTEE

HIS WORSHIP, THE MAYOR
AND COUNCILLORS

**RE: 4315 - 23 EAST HASTINGS STREET: CONVERSION TO
CONDOMINIUM TENURE**

RECOMMENDATION:

1. **THAT** Council authorize staff to process the application to convert the residential premises at 4315-4323 East Hastings to condominium ownership recognizing the oversight made by the developer in the late registration of the strata title plans.

REPORT

The Housing Committee, at its meeting held on 1996 February 20, adopted the *attached* staff report from the owner of 4315 - 23 East Hastings to convert the premises to condominium tenure. Staff recommended that the moratorium on strata conversion of rental properties not be applied in this unique instance, and that the application by the owner be processed according to standard procedure.

Respectfully submitted,

Councillor L.A. Rankin
Chairman

Councillor C. Redman
Member

:COPY - CITY MANAGER
- CITY SOLICITOR
- DIR. PLNG. & BLDG.

Councillor J. Young
Member

TO: CHAIRMAN AND MEMBERS
HOUSING COMMITTEE

1996 FEBRUARY 15

FROM: DIRECTOR PLANNING AND BUILDING

OUR FILE: 12.000

SUBJECT: 4315-23 EAST HASTINGS STREET:
CONVERSION TO CONDOMINIUM TENURE

PURPOSE: To respond to a request from the owner of 4315-23 East Hastings to convert the premises to condominium tenure.

RECOMMENDATION:

1. **THAT** the Housing Committee recommend that Council authorize staff to process the application to convert the residential premises at 4315-4323 East Hastings to condominium ownership recognizing the oversight made by the developer in the late registration of the strata title plans.

REPORT

1.0 PURPOSE

The Director of Planning has received a letter (**attachment 1**) from Mr. Toby Lee, co-owner of a mixed use commercial/apartment development at 4315-23 East Hastings (**attachment 2**) requesting that Council approve conversion of the 12 apartment units to condominium ownership.

The subject property was redeveloped under Comprehensive District zoning (Ref #33/91) based on the Hastings Street Area Plan. The final occupancy permit for the building was issued on May 31, 1995. The owner had the required strata plans prepared by a Land Surveyor but indicates that they were submitted to the Land Title Office too late, and that the approval of the City would now be required. This report responds to this request.

2.0 THE CONDOMINIUM ACT REGULATIONS

Normally, new residential buildings are strata titled by having plans registered in the Land Title Office prior to occupancy. These strata title plans do not require City approval. In cases where a building has been occupied, under Section 9 of the Condominium Act, approval of the City Council is required. Before granting approval, the approving authority must consider the following:

- ▶ the building must comply with the applicable bylaws of the City;
- ▶ the priority of rental accommodation over privately owned housing in the area;
- ▶ the proposals of the owner developer for the relocation of persons occupying the building;
- ▶ the life expectancy of the building;
- ▶ projected major increases in maintenance costs due to the condition of the building;
- ▶ other matters, that in the approving authority's opinion, are relevant.

Applications for strata conversions are submitted to staff who prepare a report to Council with a recommendation and an outline of the prerequisites that the applicant must meet to gain approval. After meeting all of the prerequisites, another report is sent to Council recommending final approval of the conversion and authorizing staff to issue the required certificate.

3.0 POLICY ON STRATA CONVERSION OF RENTAL PREMISES

The City of Burnaby has a policy of not approving applications for conversion of rental multiple family properties to condominium ownership. The purpose of this policy is to preserve the stock of existing rental housing recognizing that purpose built rental housing is no longer built and the existing stock comprises a major portion of Burnaby's affordable housing.

As part of the rezoning process for this project, the applicant suggested that the units would be used for rental purposes, but did not state that the building would not be strata titled. In addition, the prerequisites for the rezoning did not include any reference to ensuring that the project remain rental.

In this instance, it is apparent that an oversight was made by the developer that resulted in the strata plans not being registered in the appropriate time. The B.C. Land Surveyor who prepared the strata plans has confirmed that the developer intended to register the plans, but did not realize that the plans must be submitted in a timely manner. Considering this as well as the small period of time that the building has been occupied (less than eight months), staff recommend that this application for strata conversion be considered by Council.

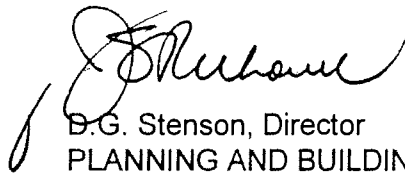
4.0 RESIDENTIAL TENANCY ACT PROVISIONS

Since the building is occupied, special consideration should be given to the security of tenure of the existing tenants. Under the Residential Tenancy Act, tenants must be notified of the intent to convert to condominium before an application is made to the City. Proof of this notification will be a requirement of the application. The Act also stipulates that tenants are entitled to a minimum two months notice if the unit is sold and is intended to be occupied by the owner, but that this period can be extended by the City to a period of no more than six months.

All residential units in the development are currently rented on a standard month-to-month basis, but the owner notes that he intends to keep the units on the rental market for the foreseeable future. As a condition of approval of the strata conversion, staff will recommend that tenants be given a minimum four month notice to vacate as a result of the sale of a unit.

5.0 CONCLUSION

The objective of the City's moratorium on strata title conversion of apartments is to protect the existing rental housing stock recognizing that new purpose built rental accommodation is rarely built and that the older rental stock represents a significant portion of the affordable housing stock. In the case of the subject development, it is clear that a simple oversight was made by the owner resulting in the plans not being registered in the required fashion. Due to this, as well as the short length of time that has passed since occupancy of the building, it is recommended that the moratorium on strata conversion of rental properties not be applied in this unique instance, and that the application by the owner be processed according to standard procedure.



D.G. Stenson, Director
PLANNING AND BUILDING

BG\db

cc: City Manager
City Solicitor

FAXED (96/1/18)

Attachment 1

6050 Sumas Street
Burnaby, B.C. V6B 2T4

January 18, 1996

City of Burnaby
Planning and Building Department
4949 Canada Way
Burnaby, B.C. V5G 1M2

Attention: D.G. Stenson, Director Planning and Building

Re: 4315-23 East Hastings Street, Burnaby, B.C. - Strata Plans

The subject property was redeveloped under a CD rezoning (Ref #33/91) based on the Hastings Street Area Plan. The final occupancy permit for the building was issued on May 31, 1995.

It had been intended from the start of this project that it be built to condominium standards and be strata titled. This is confirmed by Item 3.5 of the Director of Planning & Building's letter of December 11, 1991 to the City Manager recommending that the rezoning application be forwarded to a public hearing.

The strata plans were completed by our surveyor on February 28, 1995 and subsequently forwarded to our lawyer for preparation of the other documents required for registration of the plans. The completed documentation was approved by the Superintendent of Real Estate on August 25th and returned to our lawyer for registration at the Land Titles Office.


The completed strata plans were not accepted at the Land Titles Office as it was indicated that 90 days had lapsed since the date of the surveyor's signature and that the City of Burnaby would now have to approve the strata titling process. Such approval is hereby requested.

It is realized that the City, in making their decision, considers such issues as the availability of rental housing stock in the area. All the residential units in the development are currently rented on a long term basis and it is intended that they remain on the rental market in the foreseeable future.

Title to the strata units will remain in the names of the current owners. The strata titling is intended to simplify the transfer of title by my parents to their estate.

If you require further information pertaining to this matter please contact me at phone/fax 298-5578.

Yours truly,



Toby Lee
co-owner

attach. Strata Plan sheet 2 of 9 - Certificate under Condominium Act Section 8(1)

cc P.Lundrie, Lundrie's Law Office

CONDOMINIUM ACT

STRATA PLAN LMS

LOT	SHEET	FORM 1	FORM 2	FORM 3
		SCHEDULE OF UNIT ENTITLEMENT	SCHEDULE OF INTEREST UPON DESTRUCTION	SCHEDULE OF VOTING RIGHTS
		UNIT ENTITLEMENT	INTEREST UPON DESTRUCTION	VOTING RIGHTS
1	4	99	184	1
2	4	79	144	1
3	4	79	146	1
4	4	77	137	1
5	5	84	122	1
6	5	84	122	1
7	5	85	134	1
8	5	89	137	1
9	5	83	133	1
10	5	83	133	1
11	5	83	140	1
12	5	83	140	1
AGGREGATE		1000	1,644	12

CERTIFICATE UNDER SECTION 8 (1)

I, DAVID LYON OF VANCOUVER B.C., A BRITISH COLUMBIA LAND SURVEYOR,
HEREBY CERTIFY THAT THE BUILDING SHOWN IN THIS STRATA PLAN WAS NOT,
AS OF THE 28TH DAY OF FEBRUARY 1995, BEEN PREVIOUSLY OCCUPIED.
DATED AT VANCOUVER, B.C. THIS 28TH DAY OF FEBRUARY, 1995

David Lyon
S.C.L.S.

ACCEPTED AS TO FORMS 1, 2 AND 3
THIS 28 DAY OF *Aug* 1995.

John P. [Signature]
SUPERINTENDENT OF REAL ESTATE

STATUTORY DECLARATION

WE, THE UNDERSIGNED, SOLEMNLY DECLARE THAT
(1) WE, THE UNDERSIGNED, ARE THE OWNER UNITS
(2) THE STRATA PLAN IS FOR RESIDENTIAL AND
NON-RESIDENTIAL USE
WE MAKE THIS SOLEMN DECLARATION CONSCIENTIOUSLY
BELIEVING IT TO BE TRUE AND KNOWING THAT
IT IS OF THE SAME FORCE AND EFFECT AS IF MADE UNDER OATH.

DECLARED BEFORE ME AT VANCOUVER,
IN THE PROVINCE OF BRITISH COLUMBIA,
THIS 28 DAY OF FEBRUARY, 1995

Yong Sun Lee
YONG SUN LEE
Jerry Lee
JERRY LEE

Toby Lee
TOBY LEE
Busan Lee
BUSAN LEE

[Signature]
A COMMISSIONER FOR THE TAKING
OF AFFIDAVITS IN AID FOR THE
PROVINCE OF BRITISH COLUMBIA

WITNESSED TO ALL PARTIES SIGNATURES:

OWNERS: =
Yong Sun Lee
YONG SUN LEE
Toby Lee
TOBY LEE
Busan Lee
BUSAN LEE

[Signature]
WITNESS
PHILIP H. [Signature]
2507 EASTERN AVENUE, SUITE 201
VANCOUVER, B.C. V6K 1Z2
TEL: 257-3363 FAX: 257-3811
OCCUPATION OF WITNESS

David Lyon
28TH FEBRUARY 1995 S.C.L.S.

