



City of Richmond

Report to Committee

To: Planning Committee **Date:** February 8, 2021
From: Wayne Craig **File:** RZ 19-858804
 Director, Development
Re: **Market Rental Housing Agreement Bylaw 10242 to Secure Market Rental Housing Units at 5500 No. 3 Road**

Staff Recommendation

That Market Rental Housing Agreement (5500 No. 3 Road) Bylaw 10242 to permit the City to enter into a Market Rental Housing Agreement substantially in the form attached hereto, in accordance with the requirements of Section 483 of the *Local Government Act*, to secure the Market Rental Housing Units required by Rezoning Application (RZ 19-858804), be introduced and given first, second and third readings.

Wayne Craig
 Director, Development
 (604-247-4625)

Att. 1

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law Policy Planning	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
SENIOR STAFF REPORT REVIEW	INITIALS: 	APPROVED BY CAO

Staff Report

Origin

The purpose of this report is to recommend that Council adopt Market Rental Housing Agreement (5500 No. 3 Road) Bylaw 10242 to secure 149 market rental housing units in the proposed development located at 5500 No. 3 Road (Attachment 1).

This report supports Council's Strategic Plan 2018-2022 Strategic Focus Area #6 Strategic and Well-Planned Growth:

6.5 Ensure diverse housing options are available and accessible across the housing continuum.

Market Rental Housing Agreement Bylaw 10242 secured the market rental housing units in keeping with the terms and conditions endorsed by Council via the associated rezoning application for the subject site.

On April 20, 2020, the rezoning application (RZ 19-858804) for 5500 No. 3 Road was given second and third readings at a Public Hearing meeting for a mixed use development including ground floor commercial space and 149 market rental housing units. The registration of a Market Rental Housing Agreement and Housing Covenant are required prior to adoption of the Rezoning Bylaw and will secure 100% of the development's total residential floor area as market rental housing; being 149 market rental housing units.

It is recommended that the proposed Market Rental Housing Agreement Bylaw for the subject development (Bylaw 10242) be introduced and given first, second and third reading. Following adoption of the Bylaw, the City will be able to execute the Market Rental Agreement (Housing Agreement) and arrange for notice of the Agreement to be filed in the Land Title Office.

Analysis

The subject development involves the development of approximately 149 market rental housing units in a stand-alone building with commercial uses on the ground floor.

The habitable area of the 149 market rental housing units proposed represents 100% of the development's total residential floor area. The proposal complies with the City's family friendly unit mix with 42% of units having two bedrooms.

The market rental housing units in the building will be delivered as shown in the following table. All the market rental housing units will comply with the Zoning Bylaw's Basic Universal Housing (BUH) standards.

Unit Type	# of Units	Unit Size Range	% of Units
Studio	7	39.5 - 40.6 m ² (425 - 437 ft ²)	4.7%
1-BR	79	43.4 - 50.1 m ² (467 - 539 ft ²)	53%
2-BR	63	67.5 - 78.3 m ² (726 - 843 ft ²)	42.3%
3-BR	n/a	n/a	n/a
TOTAL	149 units	Varies	100%

The Market Rental Housing Agreement specifies that the units must be made available for rental tenure at market rent in perpetuity and must be owned under single ownership (i.e. no stratification of units). In addition, the Agreement restricts the owner from imposing any age-based restrictions on the tenants of the market housing units. The Agreement does not restrict the annual household incomes and maximum rents.

The Agreement specifies that occupants of the market rental housing units shall have unlimited access to all shared outdoor amenity space as well as access to shared indoor amenity space. In order to ensure that the owner is managing the market rental housing units according to the terms outlined in the Market Rental Agreement, the Agreement permits the City to conduct a statutory declaration process no more than once a year.

The applicant has agreed to the terms and conditions of the Market Rental Housing Agreement and to register notice of the Housing Agreement on title to secure the 149 market rental units.

Financial Impact

None.

Conclusion

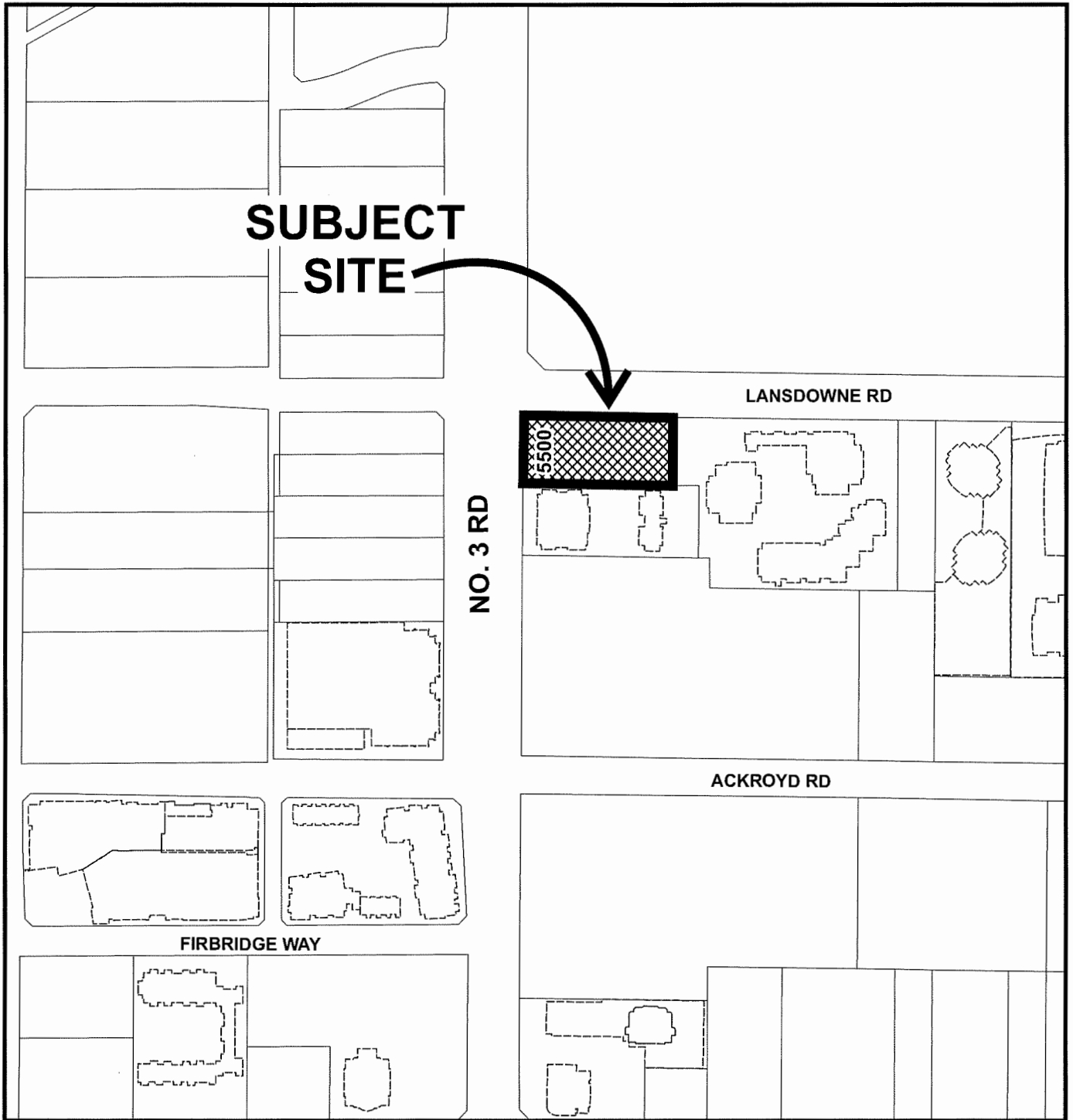
In accordance with the *Local Government Act* (Section 483), adoption of Bylaw 10242 is required to permit the City to enter into a Market Rental Housing Agreement. Together with the Housing Covenant, this will secure 149 market rental units that are proposed in association with rezoning application RZ 19-858804.



Sara Badyal
Planner 2
(604-276-4282)

SB:blg

Attachment 1: Map of 5500 No. 3 Road



5500 No. 3 Road

Original Date: 01/29/21

Revision Date:

Note: Dimensions are in METRES



Market Rental Housing Agreement (5500 No. 3 Road)
Bylaw 10242

The Council of the City of Richmond, in open meeting assembled, enacts as follows:

- 1. The Mayor and City Clerk for the City of Richmond are authorized to execute and deliver a housing agreement, substantially in the form set out as Schedule A to this Bylaw, with the owner of the lands legally described as:

PID 003-550-699 Lot 21 Except: Parcel "A" (Reference Plan 22118) Block 3 Section 4
Block 4 North Range 6 West New Westminster District Plan 1601

- 2. This Bylaw may be cited as Market Rental Housing Agreement (5500 No. 3 Road) Bylaw 10242.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED by SB
APPROVED by Solicitor [Signature]

MAYOR

CORPORATE OFFICER

Schedule A

To Market Rental Housing Agreement (5500 No. 3 Road) Bylaw 10242.

HOUSING AGREEMENT BETWEEN RICHARD MARK AMES AND LESLIE JAY AMES,
EXECUTORS OF THE WILLS OF CLIFFORD AMES, DECEASED AND SURELLA
DOROTHY AMES, DECEASED, AND THE CITY OF RICHMOND

HOUSING AGREEMENT –MARKET RENTAL HOUSING
(Section 483 *Local Government Act*)

THIS AGREEMENT is dated for reference March ____, 2021,

AMONG:

RICHARD MARK AMES

5870 HUDSON STREET, VANCOUVER, BC V6M 2Z3

and

LESLIE JAY AMES

1107 WEST 33RD AVENUE, VANCOUVER, BC V6M 1A3

EXECUTORS OF THE WILL OF CLIFFORD AMES, DECEASED,

SEE BB1351094, IN TRUST, SEE BB1351093, CA3744292

(as to an undivided 3/4 interest)

(the “**Clifford Estate**”)

AND

RICHARD MARK AMES

5870 HUDSON STREET, VANCOUVER, BC V6M 2Z3

and

LESLIE JAY AMES

1107 WEST 33RD AVENUE, VANCOUVER, BC V6M 1A3

EXECUTORS OF THE WILL OF SURELLA DOROTHY AMES,

DECEASED, SEE CA6348248, IN TRUST

(as to an undivided 1/4 interest)

(the “**Surella Estate**”, together with the Clifford Estate, the “**Owner**” as more fully defined in section 1.1 of this Agreement)

AND:

CITY OF RICHMOND, a municipal corporation pursuant to the *Local Government Act* and having its offices at 6911 No. 3 Road, Richmond, British Columbia, V6Y 2C1

(the “**City**” as more fully defined in section 1.1 of this Agreement)

WHEREAS:

- A. Section 483 of the *Local Government Act* permits the City to enter into and, by legal notation on title, note on title to lands, housing agreements which may include, without limitation, conditions in respect to the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units and rent which may be charged for housing units;
- B. The Owner is the owner of the Lands; and
- C. The Owner and the City wish to enter into this Agreement to provide for market rental housing on the terms and conditions set out in this Agreement,

In consideration of \$10.00 and other 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 In this Agreement the following words have the following meanings:
- (a) **“Agreement”** means this agreement together with all schedules, attachments and priority agreements attached hereto;
 - (b) **“Building Permit”** means the building permit authorizing construction on the Lands, or any portion(s) thereof;
 - (c) **“City”** means the City of Richmond;
 - (d) **“City Solicitor”** means the individual appointed from time to time to be the City Solicitor of the Law Division of the City, or his or her designate;
 - (e) **“CPI”** means the All-Items Consumer Price Index for Vancouver, B.C. published from time to time by Statistics Canada, or its successor in function;
 - (f) **“Daily Amount”** means \$100.00 per day as of January 1, 2021 adjusted annually thereafter by adding thereto an amount calculated by multiplying \$100.00 by the percentage change in the CPI since January 1, 2021, to January 1 of the year that a written notice is delivered to the Owner by the City pursuant to section 6.1 of this Agreement. In the absence of obvious error or mistake, any calculation by the City of the Daily Amount in any particular year shall be final and conclusive;
 - (g) **“Development”** means the mixed-use residential and commercial development to be constructed on the Lands;
 - (h) **“Development Permit”** means the development permit authorizing development on the Lands, or any portion(s) thereof;

- (i) **“Director of Development”** means the individual appointed to be the chief administrator from time to time of the Development Applications Division of the City and his or her designate;
- (j) **“Dwelling Unit”** means a residential dwelling unit or units located or to be located on the Lands whether those dwelling units are lots, strata lots or parcels, or parts or portions thereof, and includes rental apartments and strata lots in a building strata plan and includes, where the context permits, a Market Rental Housing Unit;
- (k) **“GST”** means the Goods and Services Tax levied pursuant to the *Excise Tax Act*, R.S.C., 1985, c. E-15, as may be replaced or amended from time to time;
- (l) **“Housing Covenant”** means the agreements, covenants and charges granted by the Owner to the City (which includes covenants pursuant to section 219 of the *Land Title Act*) charging the Lands from time to time, in respect to the use and transfer of the Market Rental Housing Units;
- (m) **“Interpretation Act”** means the *Interpretation Act*, R.S.B.C. 1996, Chapter 238, together with all amendments thereto and replacements thereof;
- (n) **“Land Title Act”** means the *Land Title Act*, R.S.B.C. 1996, Chapter 250, together with all amendments thereto and replacements thereof;
- (o) **“Lands”** means the lands and premises legally described currently as follows: as follows:
 - (i) Parcel Identifier: 003-550-699 Lot 21 Except: Parcel “A” (Reference Plan 22118) Block 3 Section 4 Block 4 North Range 6 West New Westminster District Plan 1601;

And following registration of the subdivision plan EPP105851,

 - (ii) Parcel Identifier: No Pid Lot A Block 43 Section 4 Block 4 North Range 6 West New Westminster District Plan EPP105851,

including a building or a portion of a building, into which said lands are Subdivided;
- (p) **“Local Government Act”** means the *Local Government Act*, R.S.B.C. 2015, Chapter 1, together with all amendments thereto and replacements thereof;
- (q) **“LTO”** means the New Westminster Land Title Office or its successor;
- (r) **“Market Rent”** means the amount of rent that a willing and reasonable landlord would charge for the rental of a comparable dwelling unit in a comparable location for a comparable period of time;

- (s) **“Market Rental Housing Unit”** means a Dwelling Unit or Dwelling Units designated as such in accordance with a building permit and/or development permit issued by the City and/or, if applicable, in accordance with any rezoning consideration applicable to the development on the Lands and includes, without limiting the generality of the foregoing, the Dwelling Unit charged by this Agreement;
- (t) **“Owner”** means the party described on page 1 of this Agreement as the Owner and any subsequent owner of the Lands or of any part into which the Lands are Subdivided, and includes any person who is a registered owner in fee simple of a Market Rental Housing Unit from time to time;
- (u) **“Real Estate Development Marketing Act”** means the *Real Estate Development Marketing Act*, S.B.C. 2004, Chapter 41, together with all amendments thereto and replacements thereof;
- (v) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, Chapter 78, together with all amendments thereto and replacements thereof;
- (w) **“Strata Property Act”** means the *Strata Property Act* S.B.C. 1998, Chapter 43, together with all amendments thereto and replacements thereof;
- (x) **“Subdivide”** means to divide, apportion, consolidate or subdivide the Lands, or the ownership or right to possession or occupation of the Lands 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 interests” or “shared interest in land” as defined in the *Real Estate Development Marketing Act*;
- (y) **“Tenancy Agreement”** means a tenancy agreement, lease, license or other agreement granting rights to occupy a Market Rental Housing Unit; and
- (z) **“Tenant”** means an occupant of a Market Rental Housing Unit by way of a Tenancy Agreement.

1.2 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) any reference to any enactment is to the enactment in force on the date the Owner signs this Agreement, and to subsequent amendments to or replacements of the enactment;
- (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 a tenant, agent, officer and invitee 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”.

ARTICLE 2 USE AND OCCUPANCY OF RENTAL HOUSING UNITS

- 2.1 The Owner agrees that each Market Rental Housing Unit may only be used as a permanent residence occupied by a Tenant at or below Market Rent. A Market Rental Housing Unit must not be occupied by the Owner, the Owner’s family members (unless the Owner’s family members qualify as Tenants), or any tenant or guest of the Owner, other than the Tenant. For the purposes of this Article, “permanent residence” means that the Market Rental Housing Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Tenant.
- 2.2 Within 30 days after receiving notice from the City, the Owner must in respect of each Market Rental Housing Unit, provide to the City a statutory declaration, substantially in the form (with, in the City Solicitor’s discretion, such further amendments or additions as deemed necessary) attached as Appendix A, sworn by the Owner, containing all of the information required to complete the statutory declaration. The City may request such statutory declaration in respect to each Market Rental Housing Unit no more than once in any calendar year; provided, however, notwithstanding that the Owner may have already provided such statutory declaration in the particular calendar year, the City may request and the Owner shall provide to the City such further statutory declarations as requested by the City in respect to an Market Rental Housing Unit if, in the City’s absolute

determination, the City believes that the Owner is in breach of any of its obligations under this Agreement

- 2.3 The Owner hereby irrevocably authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.
- 2.4 The Owner agrees that notwithstanding that the Owner may otherwise be entitled, the Owner will not:
- (a) be issued with a Development Permit unless the Development Permit includes the Market Rental Housing Units;
 - (b) be issued with a Building Permit unless the Building Permit includes the Market Rental Housing Units; and
 - (c) occupy, nor permit any person to occupy any Dwelling Unit or any portion of any building, in part or in whole, constructed on the Lands and the City will not be obligated to permit occupancy of any Dwelling Unit or building constructed on the Lands until all of the following conditions are satisfied:
 - (i) the Market Rental Housing Units and related uses and areas have been constructed to the satisfaction of the City;
 - (ii) the Market Rental Housing Units have received final building permit inspection granting occupancy; and
 - (iii) the Owner is not otherwise in breach of any of its obligations under this Agreement or any other agreement between the City and the Owner in connection with the development of the Lands.
 - (d) Subdivide the Market Rental Housing Units into individual strata lots. The Owner acknowledges and agrees that if the Lands are subject to Subdivision by a Strata Plan, that the Market Rental Housing Units will together form no more than 1 strata lot.

ARTICLE 3

DISPOSITION AND ACQUISITION OF MARKET RENTAL HOUSING UNITS

- 3.1 Without limiting section 2.1, the Owner will not permit a Market Rental Housing Unit to be used for short term rental purposes (being rentals for periods shorter than 30 days), or any other purposes that do not constitute a “permanent residence” of a Tenant (as contemplated in section 2.1). Notwithstanding the foregoing, and for greater certainty, nothing in this Agreement will prevent renting of a Market Rental Housing Unit to a Tenant on a “month-to-month” basis.
- 3.2 If this Agreement encumbers more than one Market Rental Housing Unit, then the Owner may not, without the prior written consent of the City Solicitor, sell or transfer less than all of the Market Rental Housing Units in a single or related series of transactions with

the result that when the purchaser or transferee of the Market Rental Housing Units becomes the owner, the purchaser or transferee will be the legal and beneficial owner of not less than all of the Market Rental Housing Units.

- 3.3 If the Owner sells or transfers any Market Rental Housing Units, the Owner will notify the City Solicitor of the sale or transfer within 3 days of the effective date of sale or transfer.
- 3.4 Subject to the requirements of the *Residential Tenancy Act*, the Owner must not rent, lease, license or otherwise permit occupancy of any Market Rental Housing Unit except to a Tenant and except in accordance with the following additional conditions:
- (a) the Market Rental Housing Unit will be used or occupied only pursuant to a Tenancy Agreement;
 - (b) the monthly rent payable for the Market Rental Housing Unit will be at or below Market Rent; and
 - (c) the Owner will allow the Tenant and any permitted occupant and visitor of the Market Rental Housing Units to have full access to and use and enjoy all on-site common indoor and outdoor amenity spaces on the Lands, subject to reasonable rules and regulations established by the Owner or the Owner's property manager consistent with good and efficient management of the Market Rental Housing Units and the standard of management of rental properties similar to the Market Rental Housing Units.
- 3.5 The Owner shall not impose any age-based restrictions on Tenants of Market Rental Housing Units.
- 3.6 The Owner will include in the Tenancy Agreement a clause requiring the Tenant and each permitted occupant of the Market Rental Housing Unit to comply with this Agreement.
- 3.7 The Owner will attach a copy of this Agreement to every Tenancy Agreement.
- 3.8 If the Owner has terminated the Tenancy Agreement, subject to the requirements of the *Residential Tenancy Act*, then the Owner shall use commercially reasonable efforts to cause the Tenant and all other persons that may be in occupation of the Market Rental Housing Unit, as applicable, to vacate the Market Rental Housing Unit, as applicable on or before the effective date of termination.

ARTICLE 4 DEMOLITION OF MARKET RENTAL HOUSING UNIT

- 4.1 The Owner will not demolish a Market Rental Housing Unit unless:
- (a) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that it is no longer reasonable or practical to

repair or replace any structural component of the Market Rental Housing Unit, and the Owner has delivered to the City a copy of the engineer's or architect's report; or

- (b) the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that the Market Rental Housing Unit is damaged or destroyed, to the extent of 40% or more of its value above its foundations,

and, in each case, a demolition permit for the Market Rental Housing Unit, as applicable, has been issued by the City and the Market Rental Housing Unit, as applicable, has been demolished under that permit.

Following demolition, the Owner will use and occupy any replacement Dwelling Unit in compliance with this Agreement and the Housing Covenant both of which will apply to any replacement Dwelling Unit to the same extent and in the same manner as those agreements apply to the original Dwelling Unit, and the Dwelling Unit must be approved by the City as a Market Rental Housing Unit, as applicable, in accordance with this Agreement.

ARTICLE 5 STRATA CORPORATION BYLAWS

- 5.1 This Agreement will be binding upon all strata corporations created upon the strata title Subdivision of the Lands or any Subdivided parcel of the Lands.
- 5.2 Any strata corporation bylaw which prevents, restricts or abridges the right to use the Market Rental Housing Units as rental accommodation, or imposes age-based restrictions on Tenants of Market Rental Housing Units, will have no force and effect.
- 5.3 No strata corporation shall pass any bylaws preventing, restricting or abridging the use of the Market Rental Housing Unit, as applicable, as rental accommodation.
- 5.4 The strata corporation shall not pass any bylaw or make any rule which would prohibit or restrict the Owner or the Tenant or any other permitted occupant of a Market Rental Housing Unit from using and enjoying any common property, limited common property or other common areas, facilities or amenities of the strata corporation, including parking, bicycle storage, electric vehicle charging stations or related facilities on the Lands intended for the use of the residential occupants, subject to reasonable rules and regulations established by the strata corporation or the strata manager consistent with good and efficient management of the strata corporation and the standard of management of similar strata properties in the City of Richmond.

**ARTICLE 6
DEFAULT AND REMEDIES**

- 6.1 The Owner agrees that, in addition to any other remedies available to the City under this Agreement or the Housing Covenant or at law or in equity, if:
- (a) a Market Rental Housing Unit is used or occupied in breach of this Agreement
 - (b) a Market Rental Housing Unit is rented at a rate in excess of the Market Rent; or
 - (c) the Owner is otherwise in breach of any of its obligations under this Agreement or the Housing Covenant,

then the Owner will pay the Daily Amount to the City for every day that the breach continues after ten days written notice from the City to the Owner stating the particulars of the breach. For greater certainty, the City is not entitled to give written notice with respect to any breach of the Agreement until any applicable cure period, if any, has expired. The Daily Amount is due and payable five business days following receipt by the Owner of an invoice from the City for the same.

- 6.2 The Owner acknowledges and agrees that a default by the Owner of any of its promises, covenants, representations or warranties set-out in the Housing Covenant shall also constitute a default under this Agreement.

**ARTICLE 7
MISCELLANEOUS**

7.1 **Housing Agreement**

The Owner acknowledges and agrees that:

- (a) this Agreement includes a housing agreement entered into under section 483 of the *Local Government Act*;
- (b) where a Market Rental Housing Units are a separate legal parcel the City may file notice of this Agreement in the LTO against the title to the Market Rental Housing Units; and
- (c) where the Lands have not yet been Subdivided to create the separate parcels to be charged by this Agreement, the City may file a notice of this Agreement in the LTO against the title to the Lands. If this Agreement is filed in the LTO as a notice under section 483 of the *Local Government Act* prior to the Lands having been Subdivided, and it is the intention that this Agreement is, once separate legal parcels are created and/or the Lands are subdivided, to charge and secure only the legal parcels or Subdivided Lands which contain the Market Rental Housing Units, then the City Solicitor shall be entitled, without further City Council approval, authorization or bylaw, to partially discharge this Agreement accordingly. The Owner acknowledges and agrees that notwithstanding a partial

discharge of this Agreement, this Agreement shall be and remain in full force and effect and, but for the partial discharge, otherwise unamended.

7.2 **No Compensation**

The Owner acknowledges and agrees that no compensation is payable, and the Owner is not entitled to and will not claim any compensation from the City, for any decrease in the market value of the Lands or for any obligations on the part of the Owner and its successors in title which at any time may result directly or indirectly from the operation of this Agreement.

7.3 **Modification**

Subject to section 7.1 of this Agreement, this Agreement may be modified or amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.

7.4 **Management**

The Owner covenants and agrees that it will furnish good and efficient management of the Market Rental Housing Units and will permit representatives of the City to inspect the Market Rental Housing Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Market Rental Housing Units in a good state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Market Rental Housing Units.

7.5 **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 negligent 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 City refusing to issue a development permit, building permit or refusing to permit occupancy of any building, or any portion thereof, constructed on the Lands;

- (c) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands or any Market Rental Housing Unit or the enforcement of any Tenancy Agreement; and/or
- (d) without limitation, any legal or equitable wrong on the part of the Owner or any breach of this Agreement by the Owner.

7.6 **Release**

The Owner hereby 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) construction, maintenance, repair, ownership, lease, license, operation or management of the Lands or any Market Rental Housing Unit under this Agreement;
- (b) the City refusing to issue a development permit, building permit or refusing to permit occupancy of any building, or any portion thereof, constructed on the Lands; and/or
- (c) the exercise by the City of any of its rights under this Agreement or an enactment.

7.7 **Survival**

The obligations of the Owner set out in Section 7.5 and 7.6 of this Agreement will survive termination or discharge of this Agreement.

7.8 **Priority**

The Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement, if required by the City Solicitor, will be noted against title to the Lands in priority to all financial charges and encumbrances which may have been registered or are pending registration against title to the Lands save and except those specifically approved in advance in writing by the City Solicitor or in favour of the City, and that a notice under section 483(5) of the *Local Government Act* will be filed on the title to the Lands.

7.9 **City's 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.

7.10 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 user of the Lands or the building or any portion thereof, including any Market Rental Housing Unit; and
- (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.

7.11 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.

7.12 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 the Owner set out in the records at the LTO, and in the case of the City addressed:

To: Clerk, City of Richmond
6911 No. 3 Road
Richmond, BC V6Y 2C1

And copy to: City Solicitor and Director of Planning

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

7.13 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.

7.14 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.

7.15 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 or any similar or different breach.

7.16 Sole Agreement

This Agreement, and any documents signed by the Owners contemplated by this Agreement (including, without limitation, the Housing Covenant), represent the whole agreement between the City and the Owner respecting the use and occupation of the Market Rental Housing Units, and there are no warranties, representations, conditions or collateral agreements made by the City except as set forth in this Agreement. In the event of any conflict between this Agreement and the Housing Covenant, this Agreement shall, to the extent necessary to resolve such conflict, prevail.

7.17 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.

7.18 Covenant Runs with the Lands

This Agreement burdens and runs with the Lands and every parcel into which it is Subdivided in perpetuity. 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.

7.19 Equitable Remedies

The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for any 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.

7.20 No Joint Venture

Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.

7.21 Applicable Law

Unless the context otherwise requires, the laws of British Columbia (including, without limitation, the *Residential Tenancy Act*) will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia.

7.22 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.

7.23 Joint and Several

If the Owner is comprised of more than one person, firm or body corporate, then the covenants, agreements and obligations of the Owner shall be joint and several.

7.23 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 provided however that notwithstanding that the Owner is no longer the registered owner of the Lands, the Owner will remain liable for breaches of this Agreement that occurred while the Owner was the registered owner of the Lands.

7.24 Counterparts

This Agreement may be signed by the parties hereto in counterparts and by facsimile or pdf email transmission, each such counterpart, facsimile or pdf email transmission copy shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument and may be compiled for registration, if registration is required, as a single document.

[Execution blocks follow]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

Signed in the presence of: _____)
_____)
_____)
_____)
_____)
Print Name Below Signature _____)
_____)
_____)
Occupation _____)
_____)
_____)
Address _____)

RICHARD MARK AMES
AS EXECUTOR OF THE WILL OF
CLIFFORD AMES, AND SURELLA
DOROTHY AMES

Signed in the presence of: _____)
_____)
_____)
_____)
_____)
Print Name Below Signature _____)
_____)
_____)
Occupation _____)
_____)
_____)
Address _____)

LESLIE JAY AMES
AS EXECUTOR OF THE WILL OF
CLIFFORD AMES, AND SURELLA
DOROTHY AMES

CITY OF RICHMOND
by its authorized signatory(ies):

Per: _____
Malcolm D. Brodie, Mayor

Per: _____
Claudia Jesson, Corporate Officer

CITY OF RICHMOND
APPROVED for content by originating dept.
Legal Advice
DATE OF COUNCIL APPROVAL (if applicable)

Appendix A to Market Rental Housing Agreement

STATUTORY DECLARATION

CANADA)	IN THE MATTER OF A
)	HOUSING AGREEMENT WITH
PROVINCE OF BRITISH COLUMBIA)	THE CITY OF RICHMOND
)	("Market Rental Housing Agreement")

TO WIT:

I, _____ of _____, British Columbia, do solemnly declare that:

1. I am the owner or authorized signatory of the owner of _____ (the "Market Rental Housing Unit"), and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Market Rental Housing Agreement in respect of the Market Rental Housing Unit.
3. To the best of my knowledge, for the period from _____ to _____, the Market Rental Housing Unit was used solely for the provision of rental housing for Tenants (as defined in the Market Rental Housing Agreement) at or below Market Rent (as defined in the Market Rental Housing Agreement).
4. I 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 and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at the City of _____,)	
in the Province of British Columbia,)	
this _____ day of _____,)	
20____.)	
)	
)	_____
)	DECLARANT
_____)	
A Commissioner for Taking Affidavits in the Province of British Columbia)	