

## **COUNCIL CORRESPONDENCE UPDATE TO JUNE 15, 2022 (8:30 a.m.)**

### **Correspondence**

- (1) 2 submissions, June 9, 2022, regarding Fire Rescue Bylaw No. 5163, 2021**
- (2) June 12, 2022, regarding “Replacement of Keith Road Bridge”**
- (3) 2 submissions, undated and June 12, 2022, regarding Pickleball at Hugo Ray Park**
- (4) D. Marley, June 13, 2022, regarding “District of West Vancouver Public Enquiry Call #: M-93847” (Crosswalks in Horseshoe Bay)**
- (5) Committee and Board Meeting Minutes – Community Grants Committee meeting May 6, 2022; and Arts and Culture Advisory Committee meeting May 12, 2022**

### **Correspondence from Other Governments and Government Agencies**

- (6) P. Weiler, M.P. (West Vancouver-Sunshine Coast-Sea to Sky Country) (3 submissions), June 9, 2022, regarding Federal Programs and Initiatives**

### **Responses to Correspondence**

- (7) Deputy Chief Administrative Officer, June 8, 2022, response to D. Marley regarding 2195 Gordon Avenue**
- (8) Senior Manager of Cultural Services, June 13, 2022, response regarding “FW: “Arts Planning Visioning””**
- (9) Financial Services, June 13, 2022, response regarding “2021 Annual Financial Report -- not published”**

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**From:** [REDACTED] s. 22(1)  
**Sent:** Thursday, June 9, 2022 11:02 AM  
**To:** correspondence  
**Subject:** Fire Rescue Bylaw No. 5163, 2021

**CAUTION:** This email originated from outside the organization from email address [REDACTED] s. 22(1). Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

To the Mayor and Councillors of West Vancouver:

I have just been told that the West Vancouver fire officials have now decided that the private garage in my townhome must be emptied of everything except my car and that officials will demand access to inspect my garage at any time (Fire Rescue Bylaw No. 5163, 2021).

What an incredible invasion of my privacy. When I bought my townhome, the garage was part of the purchase of the home, permitted as part of my home and registered as such with the land title office. Does the fire department plan to demand access to the garage of every home owner in West Vancouver? I think not!

What happened to public consultation, which normally would precede such a serious change of use to homeowners – this bylaw reduces the re-sale value of my home and imposes a serious change in my living circumstance.

I understand the desire to minimize risk to fire fighters, but surely an approach similar to that of Canada Post might be more appropriate – case in point, their recent mailing entitled “Thank you for helping keep our Delivery Agent safe!”, listing those things that homeowners can do to help keep the delivery agent safe, and thanking homeowners for their cooperation.

How can a spare fridge stored in the garage be more risky than a car? Where would the city like me to keep my snow shovel, which I require several times a year to clear city sidewalks in accordance with municipal by-laws? Must I really keep food waste and recycling material in my home, rather than in the garage between pick ups? Gardening shovels and equipment? Skis, boots and poles? Skates? Golf clubs and a cart?! Seriously, I question why any of these things are to be prohibited from my private garage, particularly given they are neatly stored against the wall. Surely a Tesla plugged into a charging outlet poses a much greater risk; in fact, a car with a full tank of gas is likely the most dangerous fire hazard, by far!

The City of Vancouver has taken a far more reasonable approach, which focusses on banning combustibles but allowing day-to-day necessities neatly stored.

I truly do not wish to become part of a protracted lawsuit and cannot believe that West Vancouver will want to add this to a seemingly growing list of restrictions on those of us who are moving from single-family to multi-family units.

I would like to think that the Mayor and Councillors will move quickly to revoke this punishing and over-reaching by-law. If so, you will certainly have my vote this fall.

s. 22(1)

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**From:** s. 22(1)  
**Sent:** Thursday, June 9, 2022 11:21 PM  
**To:** correspondence  
**Subject:** New Fire and Rescue Bylaw 5163 passed in 2021

CAUTION: This email originated from outside the organization from email address s. 22(1). Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

Dear Mayor and Councillors

You are likely aware of the negative impacts that the Fire Department's interpretation of this new bylaw is having and therefore there is no need to provide more detail here. The s. 22(1) were constructed according to the approved development plan and of course the building code s.22(1) years ago. Our garages are designated on title as private property and I never envisaged that the District would ever use the Fire Department to prevent us from using our garages as one normally does. We are like most homeowners who have a garage- we store our cars and with the extra space we use it for storage. There has never been an incident here to prompt such a major policy change and we follow all the normal fire inspection rules and maintain the required monthly records. Our insurers have never made it an issue.

There is a suggestion that this bylaw was swept up with a bunch of other stuff and was approved by Council without any public discussion and therefore due process. The Fire Department's approach appears to be one of tunnel vision - either black or white. This is serious and if you allow it to stand it will have major financial and social impacts on each of us. I am writing to ask that the order be revoked and if not at least exempt the s. 22(1) from this bylaw after all we haven't contravened any fire regulations in our sixteen years and are unlikely to do so in the future. The initial intent to introduce this bylaw was probably to target new construction?

We have s.22(1) here occupied by sixteen voters and we are requesting due consideration and respect. Thank you.

s. 22(1)

West Vancouver, BC

s. 22(1)

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**From:** [REDACTED] s. 22(1)  
**Sent:** Sunday, June 12, 2022 1:12 PM  
**To:** correspondence  
**Cc:** Mary-Ann Booth; Craig Cameron; Nora Gambioli; Peter Lambur; Bill Soprovich; Sharon Thompson; Marcus Wong  
**Subject:** Replacement of Keith Road Bridge  
**Attachments:** DSC04996.JPG; DSC04998.JPG; DSC04999.JPG; DSC04997.JPG

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Mayor and Council:

You are aware that on May 16, 2022 the District Transportation Department published the following Update on the subject Major Project located in Cedardale which continues in its Planning Phase.

**'Update: May 16, 2022**

Preliminary investigations and design feasibility have been conducted. Findings indicate that there may be an opportunity to take an alternative approach to remediate the existing bridge, which could potentially require less capital investment and substantively extend the useful life of the existing structure.

The next steps include a detailed condition review of the existing bridge, which will take place in early summer 2022 to better understand and assess options to extend the service life of the existing structure. The study is expected to be complete in late fall 2022.

**Background**

The existing Keith Road Bridge, constructed in 1952, has reached the end of its service life and requires upgrading to modern seismic standards. Recent inspections have confirmed that the structure remains safe for use in the short term.'

As a [REDACTED] s.22(1) proud resident of Cedardale I have watched as the District, particularly over the last five years, has continually put off/delayed, even the most basic maintenance of this aging structure. As proof you are invited to take a look at the picture included on the website update and/or the more recent photo enclosed which as residents we must live with which not surprisingly is a subject of questions by our visitors. While the road surface appears in good repair, I ask how you can consider that this slowly deteriorating and moss stained wooden structure, not repainted for many years, albeit with the single sidewalk surface in satisfactory condition but it is never cleaned with seasonal and other refuse left to self deteriorate and the wooden safety curb that no longer displays its painted yellow colour represents the best of West Vancouver. Granted there were substantive structural upgrades in 2007 which we

were assured at the time would permit heavier vehicles to again cross, then there were the 2012 and the above mentioned recent professional inspections which have confirmed the bridge remains safe for use in the short term. However in this regard, you may be interested that I am advised that the contractors undertaking the current Sanitary Sewer Replacement project to the east on Keith Road have recently been told that their heavy vehicles and equipment and loaded trucks should exit Cedardale via 3rd Street and Inglewood Avenue over the Inglewood Avenue Brothers Creek Bridge?

Mayor and Council, may I suggest that the above Update is lacking in transparency. It conveys that the District paid for professional preliminary investigation and design feasibility work last year (2021) which is now to be augmented (2022) by a presumed professional paid detail condition review in the hope that a suggested full bridge replacement may not be required to substantively extend its useful life. That said, it is unclear if it would be the District's thinking to consider going with an alternative opportunity/option that would or would not include the correction of the 'Very High Seismic Rating' carried by the structure covered in the professional Transportation Infrastructure Asset Management Plan of December 18, 2012. I put to you that certainly a substantive reduction in the cost of \$2.6 million (2012 dollars) of a full replacement detailed in the above Plan would be welcome but surely you would agree only if the 'High Seismic Rating' is corrected? I would like to remind you that the only problematic vehicular bridge Seismic Ratings in the District are the Keith Road Bridge at "Very High" and the other is Inglewood Avenue Bridge at "Medium". In the case of the subject structure recently traffic statistics carried out by the District indicated that cyclists and 1,100 vehicles per day and the #256 Shuttle Bus cross the span and the two bridges serve the whole of the 485 residences in Cedardale with the largest share using the Keith Road Bridge.

Accordingly I respectfully request as follows:

- 1) To clarify the current District position on this Project, I request that a FURTHER Update be placed on the District website to clearly document for residents the known CURRENT safety/limitations of the structure and that the only option that would ultimately be chosen by the District would not only extend the service life of the existing structure and substantially improve its safety and appearance but would ALSO ensure the "Very High Seismic Rating" would be eliminated.
- 2) As it appears again that the structure will not be the subject of a major remediation during 2022 and once again no future date has been provided, I request that the District maintenance of the structure be improved to include this year cleaning and painting of the wooden structure including the yellow safety curb, the single sidewalk be at least swept as appropriate and oh yes that repairs be made to ongoing deterioration including the wooden handrails where even rusty nails are exposed (see photos attached). Incidentally I have brought the latter decaying ongoing situation to the District's attention in the recent past. I must say that the continuing level of maintenance or lack thereof of the bridge seems consistent with a response received recently from the Director of Engineering and Transportation regarding Cedardale in general but Keith Road in particular. My letter to her was in part regarding the lack of attention over a number of years related to water more or less continually flowing from Taylorwood Place east across the pedestrian intersection at Keith Road to run east down the gutter on Keith Road all year long which freezes in the winter requiring salting by the District, and the deteriorating patches in several spots west of the Keith Road Bridge and the lack of the planned but uninstalled sidewalk on the north side of Keith Road west from Keith Place to Margaree Place.

The sad but honest and sincere response read as follows, 'As for the Cedardale neighbourhood, it is not dissimilar to many local residential neighbourhoods in West Vancouver which were developed some time ago, the roads don't necessarily have pedestrian and/or bike facilities and the infrastructure which services those neighbourhoods is abundant relative to the population it serves and at various stages of useful life. I think we have discussed before that the District maintains over 300 km or road network consisting of major structures, slope hazards, pavement, sidewalks and other features; our asset management planning and coordination continues to evolve and be refined in order to prioritize investment within available budgets.

Your comments and anticipated action on the two requests would be appreciated.

Regards,

s. 22(1)

, West Vancouver,

s. 22(1)







**From:** s. 22(1)  
**Sent:** Sunday, June 12, 2022 7:37 PM  
**To:** Marcus Wong; Bill Soprovich; Craig Cameron; correspondence; Mary-Ann Booth; Nora Gambioli; Peter Lambur; Sharon Thompson  
**Subject:** Pickleball at Hugo Ray Park

**CAUTION:** This email originated from outside the organization from email address s. 22(1). Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

Dear Mayor and Council,

I and members of our household are residents s.22(1) Hugo Ray Park. We are not, in principle, opposed to the sport of pickleball, but we are opposed to the proposal by staff to locate pickleball courts at the Park, and to the improper way in which this matter is being handled. Our reasons are as follows:

1. Staff's recommendations state that there would be no significant noise impact to the neighborhood residences. Yet, surprisingly, we understand from you that **no sound impact studies have been conducted** to back up this conclusion. We therefore ask:

(a) What is the basis for the staff's statement that there will be no 'significant' noise impact? Please **define 'significant'** in terms of dBA from the point of strike, and state whether this is based on maximum capacity court usage, or not.

(b) If sound impact studies have not been conducted, why has staff made a statement to the Mayor and Council -- about no significant impact from noise -- especially because such a statement could have unduly influenced its decision to greenlight the proposal to its next step?

(c) If sound impact studies are planned, I and our neighbours s.22(1) would like input into the terms of reference. Will we be allowed such input?

(d) If, despite our understanding, sound impact studies have in fact been conducted, will these be shared with us? It is clear that a number of households might well be faced with **sounds exceeding the limits stated for continuous noise in the relevant DWV bylaw**, and, if those kinds of noise are permitted, they may be tortiously actionable as a nuisance. Has the DWV obtained a legal opinion in this regard? Please share it with us.

(e) In view of other neighborhoods in West Vancouver having objected to pickleball in their vicinity, would you please share with us the **reasons for their objections** (duly redacting private information as required by law), responses by the staff to those objections, and any studies conducted in those contexts to enable DWV to reach its decision not to permit pickleball in those neighbourhoods? The time range for which we are seeking this information is during the 24 months preceding the date of this email.

(f) In view of other municipalities closing down pickleball facilities in park settings due to neighborhood complaints (see, for example, the following link: <https://www.cbc.ca/news/canada/british-columbia/pickleball-victoria-noise-complaints-1.6437623>), why are Mayor and Council considering such a **politically regressive proposal** for Hugo Ray Park and our neighborhood?

2. Staff's recommendations are **not in keeping with the Official Community Plan**, in particular the section (2.1) dealing with respecting the character of this quiet s.22(1) neighborhood of single-family residences, s.22(1) a park, a cemetery and three churches; nor with the section (2.6) dealing with the protection of the natural environment. We therefore ask:

(a) Have any studies been conducted to **protect the bat sanctuaries** located at the north west corner of the Park? Please provide us with a copy. If no study has been conducted, please explain why.

Please confirm whether such a study will be conducted, and its parameters and that its results will be shared with this neighborhood before any steps are taken to formally approve the proposal. If there are no such plans, please explain why.

(b) Have any **traffic studies** been conducted to establish the impact of increased traffic on this neighborhood? Please provide us with a copy. If no study has been conducted, please explain why.

Please confirm whether such a study will be conducted, and that its parameters and results will be shared transparently with this neighborhood before any steps are taken to formally approve the proposal. If there are no such plans, please explain why.

In particular, please identify the volumes of traffic expected, at what times of day this is expected, and the **pathways of ingress and egress**.

(c) Have any studies been conducted to establish **the impact of the plans on the other users -- the cricket club, the cemetery visitors, the church congregants, and (particularly) the safety of the many pre-schoolers who regularly use the roadways and park?** Please provide us with a copy. If no study has been conducted, please explain why.

Please confirm whether such a study will be conducted, and that its parameters and results will be shared transparently with this neighborhood before any steps are taken to formally approve the proposal. If there are no such plans, please explain why.

(d) The neighbourhood's ambience has already been substantially adversely effected by the removal of trees to install the bike path, and no remedial steps have been taken despite repeated correspondence asking that this be addressed. The residents are already aware of the adverse effect on sound insulation of the removal of tree cover, but have any studies been conducted to establish **the impact of the tree removal contemplated under Option A?** Please provide us with a copy. If no study has been conducted, please explain why.

Please confirm whether such a study will be conducted, and that its parameters and results will be shared transparently with this neighborhood before any steps are taken to formally approve the proposal. If there are no such plans, please explain why.

Please identify which trees are to be removed, and how many. Please advise how this is in keeping with generally-accepted principles of **neighbourhood ambience and environmental preservation** of bird, wildlife and human habitat in the area.

3. Have any studies been conducted to establish how many users of the proposed facilities are **non-residents of West Vancouver?** Please provide us with a copy. If no study has been conducted, please explain why.

Please confirm whether such a study will be conducted, and that its parameters and results will be shared transparently with this neighborhood before any steps are taken to formally approve the proposal. If there are no such plans, please explain why.

If there are non-WV residents who will be expected to use the facilities, please advise:

(a) whether those non-residents will be **funding** the construction and maintenance of those facilities, or whether the cost will be foisted instead solely on WV residents;

(b) whether Mayor and Council have considered **other (non WV) facilities** for pickleball. If so, please provide details; and if not, please explain why not;

(c) whether any **promises** have been made to any pickleball lobby group about the creation of these facilities at Hugo Ray Park. Please provide details.

4. Both proposals under consideration lack **critical information, which we request be provided in a timely way before any public consultation process takes place**. This includes:

(a) details of any plans for **expansion**, or limits on expansion — as expansion is referred to in the proposals;

(b) details of **limits and controls on the use** of the planned facilities, in particular, hours of use, lighting, protocols for equipment (for example, noise reducing balls and racquets), and protocols for behaviour by the sports users (booking, spectator attendance, shouting);

(c) details of any **acoustic curtain** to be used at the facilities, and its noise reduction impact calibrated in terms of dBA.

5. The process being followed is flawed as it is in violation of rules of fair consultation and is more in keeping with **railroading the neighbors with a 'fait accompli'** than engaging in any fair consultation because:

(a) it is based on **misleading information** having been provided to the Mayor and Council, in particular the statement that there will be no significant noise impact to neighbouring residents despite any formal sound impact study having been conducted;

(b) **none of the other impact studies (traffic, etc) have either been conducted, or, even if they have, the information has not been shared** with the neighbours in the interests of fairness and transparency and so as to be capable of being understood and internalized before the proposed community consultation;

(c) the community consultation is to include **non-residents whose status as 'stakeholders' is legally questionable**. What weight will be given to their voices over that of the immediately impacted local residents of the neighborhood? Please explain your policy.

No proposal conducted in this manner can be safe from downstream legal consequences.

That said, I would like to state that while we, as neighbors, would like to work constructively with the Mayor, Council and staff, that will require being given access to the relevant requested information in a fair and transparent way, and to be given meaningful involvement as legitimate stakeholders entitled to civically engage to reach a resolution in the common interest of all.

Yours truly,

s. 22(1)

s. 22(1) resident

s. 22(1), West Vancouver, BC, s. 22(1)

From:

s.22(1)

- 1 - Why are trees being removed and how many?
- 2 - Why is there no acknowledgement of the trees as a sound curtain from highway noise?
- 3 - What are you doing about the increased traffic to the area - safety for kids, bikes, pedestrians?
- 4 - The current costs to build these courts is around \$500,000-\$750,000 but include no provisions for sound barriers or shielding - why?
- 5 - Are there plans to expand the parking for buses and extra cars?
- 6 - Are there plans to add fluorescent lighting and/or bleachers to the park (as suggested by the North Van pickleball club)?
- 7 - Why are you putting pickleball courts in an area with no transit (thus forcing people to drive)?
- 8 - What will people do while waiting for the courts (there are no benches, no amenities, no dogs allowed?)
- 9 - Why are you not considering other viable locations like Ambleside Field H and Gleneagles?
- 10 - When will a proper environmental study be done on the area to help clean up the contaminated soil in and around the fields?
- 11 - What is being done to protect the fish bearing and other 'riparian' areas that lie adjacent to the park?

(3)(b)

## CLOSING STATEMENT

Staff is supposed to be conducting a public input session - but really it's just a popularity contest which is pitting the neighbourhood residents (which are only about 50-100 people) against the entire North Shore and a special interest group that claims numbers over 300+ (and which includes people who don't live in this community).

This is NOT proper public engagement. We should have been approached as a stakeholder in the beginning. Our requests to meet with staff have been rejected. Why? And when will you invite us to the table properly to discuss this matter instead of taking part in this one-sided David vs Goliath battle.

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**From:** David Marley <domarley52@gmail.com>  
**Sent:** Monday, June 13, 2022 10:18 AM  
**To:** correspondence  
**Cc:** Mary-Ann Booth; Craig Cameron; Nora Gambioli; Peter Lambur; Bill Soprovich; Sharon Thompson; Marcus Wong  
**Subject:** District of West Vancouver Public Enquiry Call #: M-93847

**CAUTION:** This email originated from outside the organization from email address domarley52@gmail.com. Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

Three weeks or so ago, if memory serves, I wrote to you concerning a “clear and present hazard” to pedestrians in Horseshoe Bay presented by the District’s failure to repaint two crosswalks at a major intersection. Since then, I have received two replies from the District, including the accompanying one, which indicate that “staff are looking into the matter and a response will be forthcoming”. Yesterday, I was in Horseshoe Bay. The crosswalks remain unpainted and the hazard continues.

I don’t want a response to my e-mail. Just instruct District staff to paint the damn crosswalks before someone is injured or worse.

I hereby request that my name and contact information not be redacted from this communication.

David Marley  
s. 22(1)  
West Vancouver, BC  
s. 22(1)

604-926-8994

Sent from my iPad

Begin forwarded message:

**From:** Engineering Department <engineeringdept@westvancouver.ca>  
**Date:** June 13, 2022 at 10:05:24 AM PDT  
**To:** domarley52@gmail.com  
**Subject:** District of West Vancouver Public Enquiry Call #: M-93847

Hello David,

This email is to confirm that staff are continuing to look into your request and a response is forthcoming.

Thank you for your patience.

Engineering & Transportation Services | District of West Vancouver  
[engineeringdept@westvancouver.ca](mailto:engineeringdept@westvancouver.ca) | 604-925-7020

**THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER  
COMMUNITY GRANTS COMMITTEE MEETING MINUTES  
CEDAR ROOM, WEST VANCOUVER COMMUNITY CENTRE  
FRIDAY, MAY 6, 2022**

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Committee Members: A. Sawchyn (Chair), V. Holysh, K. Louie, J. Mascall, L. Rogers, J. Verner; and Councillor M. Wong attended the meeting in the Cedar Room, West Vancouver Community Centre. Absent: S. Bell-Irving Gray and M. Hess.

Staff: A. Beckett, Community Services & Community Development Manager; and F. Costa, Cultural Services Department Secretary (Committee Clerk) attended the meeting in the Cedar Room, West Vancouver Community Centre.

**1. CALL TO ORDER**

The meeting was called to order at 8:33 a.m.

**2. APPROVAL OF AGENDA**

It was Moved and Seconded:

THAT the May 6, 2022 Community Grants Committee meeting agenda be approved as circulated.

CARRIED

**3. ADOPTION OF MINUTES**

It was Moved and Seconded:

THAT the April 8, 2022 Community Grants Committee meeting minutes be amended by:

- Adjusting the total funding in the discussion and recommendation for Item 5;

AND THAT the minutes be adopted as amended.

CARRIED

**REPORTS / ITEMS**

**4. Annual Committee Evaluation**

Staff informed the Committee that the Annual Committee Evaluation is emailed to all District committee members annually in November/December. The 2022 evaluation will be sent in November with the hopes of achieving more participation. Staff will resend the results of the 2021 Annual Evaluation to the Committee to be discussed at the next meeting.

It was Moved and Seconded:

THAT the discussion regarding Annual Committee Evaluation be received for information.

CARRIED

## **5. Grant Evaluation 2022 Business Arising**

The Committee discussed options to reach out to organizations to raise awareness for the grants program. It was recommended that Staff will create a draft outreach plan for the 2023 Community Grants funding cycle to be presented to the Committee for discussion.

The Committee also discussed functional improvements to Foundant and improvements/adjustments to the Framework. Staff will confirm which District staff/departments need to be consulted regarding changes to the Community Grants Framework and will update the Committee at the next meeting. It was agreed that a list of questions and issues about the new software system will be discussed at the next meeting.

It was Moved and Seconded:

THAT

1. Staff be directed to develop a draft outreach plan for the 2023 Community Grants funding cycle to be presented to the Committee for discussion; and
2. the discussion regarding Grant Evaluation 2022 Business Arising be received for information.

CARRIED

## **PUBLIC QUESTIONS**

### **6. PUBLIC QUESTIONS**

There were no questions.

## **NEXT MEETING**

### **7. NEXT MEETING**

It was Moved and Seconded:

THAT

1. the next Community Grants Committee meeting be scheduled for June 3, 2022 at 8:30 a.m. via electronic communication facilities; and
2. a Community Grants Committee meeting be scheduled for July 15, 2022 at 8:30 a.m. and be held in-person in the Mountain Room at the West Vancouver Community Centre.

CARRIED

## **ADJOURNMENT**

### **8. ADJOURNMENT**

It was Moved and Seconded:

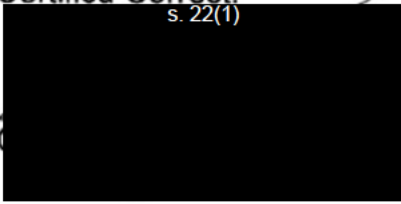
THAT the May 6, 2022 Community Grants Committee meeting be adjourned.

CARRIED

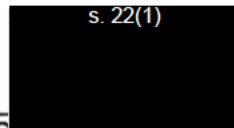
The meeting adjourned at 9:34 a.m.

Certified Correct:

s. 22(1)



s. 22(1)



Committee Clerk



**THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER  
ARTS & CULTURE ADVISORY COMMITTEE MEETING MINUTES  
VIA ELECTRONIC COMMUNICATION FACILITIES  
TUESDAY, MAY 12, 2022**

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Committee Members: S. Tsangarakis (Chair), J. Baxter, P. Bowles, R. Finley, K. Rosin, S. Swan; and Councillor P. Lambur attended the meeting via electronic communication facilities. Absent: D. Khormali and B. Milley.

Staff: D. Niedermayer, Senior Manager, Cultural Services (Staff Liaison); and F. Costa, Cultural Services Department Secretary (Committee Clerk) attended the meeting via electronic communication facilities.

Guest: I. Gutzmann, President of the North Shore Artists' Guild, and P. Aldrich attended the meeting via electronic communication facilities.

**1. CALL TO ORDER**

The meeting was called to order at 3:01 p.m.

**2. APPROVAL OF AGENDA**

It was Moved and Seconded:

THAT the May 12, 2022 Arts & Culture Advisory Committee meeting agenda be approved as circulated.

CARRIED

J. Baxter absent at the vote

**3. ADOPTION OF MINUTES**

It was Moved and Seconded:

THAT the April 5, 2022 Arts & Culture Advisory Committee meeting minutes be adopted as circulated.

CARRIED

J. Baxter absent at the vote

**REPORTS / ITEMS**

**4. Council Liaison Update**

There was no update.

## 5. Meetings with Community Groups – North Shore Artists’ Guild

Ingrid Gutzmann, President of the North Shore Artists’ Guild (NSAG), a community group active across the North Shore, provided an overview of the organization, the engagement with artist members, and the challenges faced by the NSAG. The key issue facing the NSAG at this time is capacity. There is a lack of human capacity to organize events, meetings and help the organization be more effective in marketing and communications. Many of the members are seniors with some losses in membership experienced through the COVID-19 pandemic.

The Committee discussed other organizations, their work model and funding framework. The Suncoastarts.com artist directory and database was discussed as an effective tool for the Sunshine Coast community. This service would require funding and staffing to maintain. North Van Arts created the Culture Compass which is also an excellent tool for the arts community, government, residents and visitors to learn more about the cultural sector of the North Shore. The Culture Compass has been an enormous undertaking with significant seed funding from the federal government and ongoing support from a number of sources so is worth looking to in terms of how it could be used for the needs offered by a directory/database. It was recommended that North Van Arts join a future Committee meeting to present the Culture Compass.

The Committee also discussed opportunities to attract the youth and partnerships to increase the NSAG’s reach.

It was Moved and Seconded:

THAT

1. North Van Arts be invited to a Committee meeting to present the Culture Compass; and
2. the discussion regarding Meetings with Community Groups – North Shore Artists’ Guild be received for information.

CARRIED

J. Baxter absent at the vote

## 6. Arts Facilities Advisory Committee Update

R. Finley updated the Committee about the Arts Facilities Advisory Committee’s (AFAC) recent meeting and the workshops that will be held on June 22 and 23 with arts groups and the general public, respectively, followed by a community survey to take place during the summer, as part of the visioning process. Staff is working on developing the list of community arts groups that will participate in the workshops. Workshops will also host a cross-section of community members and be facilitated by consultants. ACAC members are encouraged to share the notice for the meetings once this has been prepared and shared.

It was Moved and Seconded:

THAT the verbal report regarding Arts Facilities Advisory Committee Update be received for information.

CARRIED

J. Baxter absent at the vote

## 7. Strategic Planning Session Discussion

Chair updated the Committee about the Strategic Planning Session scheduled for June 2, 2022 from 10 a.m. to 1 p.m. P. Bowles introduced Phil Aldrich, facilitator for the session who provided an overview of his experience and an outline of the Strategic Planning Session which will help the Committee identify and focus on the priorities and develop creative and decisive solutions. The goal is to create a tangible plan attached to the Committee's three priorities as stated in the 2022 Work Plan.

J. Baxter entered the meeting at 3:32 p.m. via electronic communication facilities.

R. Finley left the meeting at 3:48 p.m. and did not return.

It was Moved and Seconded:

THAT the discussion regarding Strategic Planning Session Discussion be received for information.

CARRIED

R. Finley absent at the vote

## 8. Staff Update

Staff reported on the following:

- D. Khormali was appointed to the Committee at the May 9 Council meeting. D. Khormali will attend the next meeting.
- the Community Grants 2022 recommendations will go to Council on June 27, and the public can attend in-person or virtually.
- Bridge Festival is scheduled for Friday, June 3 from 4 to 10 p.m. and Saturday, June 4 from 11 a.m. to 10 p.m. in Ambleside Park. The programming is being developed by community cultural groups, and the Festival offers a great opportunity for the Committee to engage with these groups and get to know many of the community's arts and culture sector. Entry is free and open to all.

It was Moved and Seconded:

THAT the verbal report regarding Staff Update be received for information.

CARRIED

R. Finley absent at the vote

## PUBLIC QUESTIONS

### 9. PUBLIC QUESTIONS

There were no questions.

**NEXT MEETING**

**10. NEXT MEETING**

It was Moved and Seconded:

THAT the next Arts & Culture Advisory Committee meeting be scheduled for June 2, 2022 at 10 a.m. and be held in-person at the Music Box.

CARRIED

R. Finley absent at the vote

**11. ADJOURNMENT**

It was Moved and Seconded:

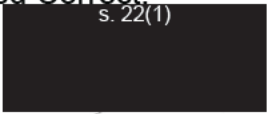
THAT the May 12, 2022 Arts & Culture Advisory Committee meeting be adjourned.

CARRIED

R. Finley absent at the vote

The meeting adjourned at 4 p.m.

Certified Correct:

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Committee Clerk

---

**From:** Weiler, Patrick - M.P. <Patrick.Weiler@parl.gc.ca>  
**Sent:** Thursday, June 9, 2022 3:11 PM  
**To:** Weiler, Patrick - M.P.  
**Subject:** [Possible Scam Fraud]Letter from MP Patrick Weiler - Government of Canada calls for applications to fill the new position of Special Representative on Combatting Islamophobia

**Attachments:** Letter from MP Patrick Weiler - Government of Canada calls for applications to fill the new position of Special Representative on Combatting Islamophobia.pdf

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Good afternoon,

Please see the attached letter from MP Patrick Weiler regarding the Government of Canada's calls for applications to fill the new position of Special Representative on Combatting Islamophobia.

Sincerely,  
Kevin Hemmat



Kevin Hemmat  
Office of Patrick Weiler  
Director of Communications  
West Vancouver-Sunshine Coast-Sea to Sky Country  
Office: 604-913-2660  
Cell: 604-353-2550  
Kevin.Hemmat.842@parl.gc.ca



Before printing this e-mail, think about the Environment



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

*Patrick Weiler*

Member of Parliament  
West Vancouver-Sunshine Coast-Sea to Sky Country

June 9, 2022

Islamophobia and hate, in any form, have no place in Canada. The Government of Canada stands with and supports Muslim communities across Canada and reaffirms its commitment to take action to denounce and tackle Islamophobia and hate-fueled violence.

This week, the Honourable Ahmed Hussen, Minister of Housing and Diversity and Inclusion, announced that the Notice of Appointment Opportunity, which invites applicants to submit their candidacy for the new position of Special Representative on Combatting Islamophobia, has been posted on the [Governor in Council Appointments website](#).

The Special Representative on Combatting Islamophobia will serve as a champion, advisor, expert and representative to the Canadian government, for the purpose of enhancing efforts to combat Islamophobia and to address barriers facing Muslim communities, and promoting awareness of the diverse and intersectional identities of Muslims in Canada. The Special Representative will collaborate with domestic partners, institutions and stakeholders to support Canada's efforts to combat Islamophobia, anti-Muslim hate, systemic racism, racial discrimination and religious intolerance.

The Government of Canada is committed to an open, transparent and merit-based selection process. To fulfill this role, qualified candidates must have the knowledge and understanding of Muslim communities across Canada, preferably based on lived experience.

A detailed description of the education, experience, knowledge, skills and abilities required for the position is provided in the Notice of Appointment Opportunity, which reflects what we heard during the National Summit on Islamophobia held in July 2021 and also through the ongoing work of the Federal Anti-Racism Secretariat with members of racialized, and religious minority communities, as well as Indigenous peoples.

**Eligible candidates are encouraged to submit their applications by July 6. For more information and to apply [please visit this webpage](#).**

If you have any questions, please do not hesitate to reach out to our office.

Sincerely,

Patrick Weiler, MP  
*West Vancouver-Sunshine Coast-Sea to Sky Country*

|   |   |
|---|---|
| <i>Constituency</i>   | <i>Ottawa</i>   |
| 6367 Bruce Street<br>West Vancouver<br>British Columbia V7W 2G5 | Suite 282, Confederation Building<br>229 Wellington Street, Ottawa<br>Ontario K1A 0A6 |
| Tel.: 604-913-2660   Fax.: 604-913-2664                         | Tel.: 613-947-4617   Fax.: 613-847-4620   |

**From:** Weiler, Patrick - M.P. <Patrick.Weiler@parl.gc.ca>  
**Sent:** Thursday, June 9, 2022 3:22 PM  
**To:** Weiler, Patrick - M.P.  
**Subject:** Applications for the Community Volunteer Income Tax Program (CVITP) Grant Program Now Open  
**Attachments:** CVITP Grant one-pager KM EN.pdf

**CAUTION:** This email originated from outside the organization from email address Patrick.Weiler@parl.gc.ca. Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

Good afternoon,

The Canada Revenue Agency (CRA) is now accepting applications for the **Community Volunteer Income Tax Program (CVITP) Grant Program**. The CVITP Grant Program was launched last year to help off-set costs incurred by community organizations that host free tax clinics, and to provide funding to those organizations for each income tax return filed. These volunteer-driven tax clinics provide free help for people with modest income to file their taxes and get the benefits and credits to which they are entitled.

**The CRA is currently accepting applications for the CVITP grant program until June 30th, 2022.**

For information on the application process [please visit the following webpage](#). For more information on the program, [please visit this webpage](#) and see the information sheet attached in this email.

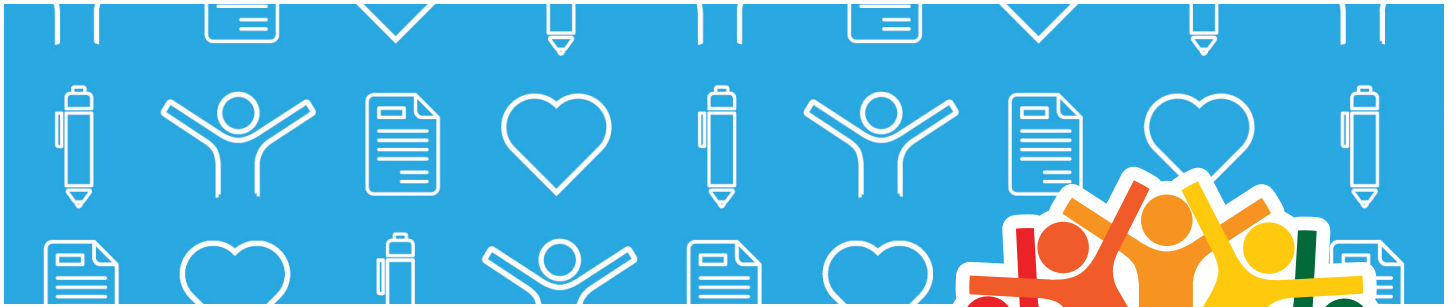
As always, if you have any questions about the program, please do not hesitate to reach out to our office.

Sincerely,  
Kevin Hemmat



Kevin Hemmat  
Office of Patrick Weiler  
Director of Communications  
West Vancouver-Sunshine Coast-Sea to Sky Country  
Office: 604-913-2660  
Cell: 604-353-2550  
Kevin.Hemmat.842@parl.gc.ca





# Do you host free tax clinics? Grant funding may be available!

**The CVITP Grant can help community organizations offset the cost of hosting a free tax clinic.**

## What is the Community Volunteer Income Tax Program (CVITP) Grant?

The CRA has committed more than \$10 million over three years to a pilot program offering grants to community organizations that host free tax clinics through the Community Volunteer Income Tax Program (CVITP) or Income Tax Assistance – Volunteer Program (ITAVP) in Quebec. Free tax clinics help people with a modest income and a simple tax situation file their tax return, ensuring they receive the benefits and credits they are entitled to.



Organizations that hosted free tax clinics from June 1, 2021 to May 31, 2022 can submit grant applications for year two of the grant program starting on May 1, 2022. Applications close on June 30, 2022.





## Who is eligible?

Only organizations that host free tax clinics through the CVITP or the ITAVP in Quebec can apply for the grant. To apply for the 2022 funding cycle, you must have hosted a free tax clinic between June 1, 2021 and May 31, 2022.

### To be eligible an organization must:

- ✓ be registered and approved to participate in the CVITP or ITAVP
- ✓ have been assigned a CVITP Organization Identification Number (COIN)
- ✓ host or administer a CVITP or ITAVP free tax clinic that provides tax filing services free of charge
- ✓ electronically file a minimum of ten income tax returns for Canadians with a modest income and simple tax situation
- ✓ have at least two volunteers
- ✓ have a bank account with a Canadian institution and accept direct deposit
- ✓ be a non-profit, charity, or community group

### Your organization must not fall within the following categories:

- ✗ Non-community or non-volunteer based organizations operating tax clinics for profit
- ✗ Federal or Provincial Member of Parliament offices
- ✗ Municipal councillor offices

## Interested in hosting a free tax clinic?

If your community organization would like to host a free tax clinic, go to [canada.ca/taxes-volunteer](https://canada.ca/taxes-volunteer) to learn more.

Organizations that host free tax clinics from June 1, 2022 to May 31, 2023 can apply for grant funding in 2023.

**To learn more about the CVITP Grant** go to [canada.ca/free-tax-clinics-grant](https://canada.ca/free-tax-clinics-grant).  
**You can apply online from May 1 to June 30, 2022.**

**Still have questions?**  
Our grant team is happy to help!

Contact  
[CVITPGrantG@cra-arc.gc.ca](mailto:CVITPGrantG@cra-arc.gc.ca).

---

**From:** Weiler, Patrick - M.P. <Patrick.Weiler@parl.gc.ca>  
**Sent:** Thursday, June 9, 2022 3:32 PM  
**To:** Weiler, Patrick - M.P.  
**Subject:** [Possible Scam Fraud]Letter from MP Patrick Weiler - Government of Canada announces launch of Age Well at Home initiative  
**Attachments:** Letter from MP Patrick Weiler - Minister Khara announces launch of Age Well at Home initiative.pdf

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Good afternoon,

Please see the attached letter from MP Patrick Weiler regarding the launch of the Age Well at Home Initiative and the two program streams now open for applications: In-Home Support Pilot Projects and Scaling Up for Seniors.

Sincerely,  
Kevin Hemmat



Kevin Hemmat  
Office of Patrick Weiler  
Director of Communications  
West Vancouver-Sunshine Coast-Sea to Sky Country  
Office: 604-913-2660  
Cell: 604-353-2550  
Kevin.Hemmat.842@parl.gc.ca





HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

*Patrick Weiler*

Member of Parliament  
West Vancouver-Sunshine Coast-Sea to Sky Country

June 9, 2022

Dear Friends & Neighbours,

After a lifetime of hard work, seniors want to live healthy, safe and independent lives. Many seniors want to stay at home for as long as possible, in the communities that support them. The Government of Canada is committed to ensuring that Canadian seniors have all the supportive care they need to help them age at home, thereby increasing their sense of belonging and connection to the communities they live in.

This week, the Minister of Seniors, Kamal Khara, **announced the launch of a new initiative called Age Well at Home, which will help seniors stay in their homes for as long as possible as they age by providing them with practical assistance for everyday tasks.**

Budget 2021 provided \$90 million in funding that will be invested over four fiscal years, starting in 2022–23, for Age Well at Home. As part of the calls for proposals, organizations will be able to apply for funding for projects under two streams: In-Home Support Pilot Projects and Scaling Up for Seniors.

The **In-Home Support Pilot Projects stream** funds eligible organizations across Canada that have experience delivering one or more specific volunteer-based services to seniors. Organizations need to provide at least one of the eligible practical support services to low-income and otherwise vulnerable seniors in a local area, as well as help seniors navigate and access eligible services provided by other local organizations. Eligible services are:

- light housekeeping (such as laundry, cleaning);
- meal delivery and/or preparation;
- home maintenance (such as repairs, yard work, lawn mowing);
- transportation (such as to appointments, errands);
- snow removal;
- volunteer drop-offs (such as groceries, medication, pet supplies); and
- friendly visiting in the home.

The **Scaling Up for Seniors stream** provides funds to eligible organizations to expand services that have already demonstrated results in helping seniors age in place. Applications must propose to deliver services in more than one province or territory. However, Indigenous governments and organizations located in Quebec can choose whether to propose to scale up within a single province or territory, or scale up within more than one.

*Constituency Ottawa*

6367 Bruce Street Suite 282, Confederation Building

West Vancouver 229 Wellington Street, Ottawa

British Columbia V7W 2G5 Ontario K1A 0A6

Tel.: 604-913-2660 | Fax.: 604-913-2664 Tel.: 613-947-4617 | Fax.: 613-847-4620

Organizations are invited to apply for the [In-Home Support Pilot Projects stream](#) and the [Scaling Up for Seniors stream](#) of the Age Well at Home initiative until July 22, 2022.

If you have any questions about the Age Well Home initiative and application process, please feel free to reach out to our office. We would be more than happy to support your application in any way that we can.

Sincerely,

A handwritten signature in black ink, appearing to be 'P. Weiler', written in a cursive style.

Patrick Weiler, MP  
*West Vancouver-Sunshine Coast-Sea to Sky Country*

---

**From:** Mark Chan  
**Sent:** Wednesday, June 8, 2022 3:05 PM  
**To:** domarley52@gmail.com  
**Cc:** correspondence; Bill Soprovich; Craig Cameron; Marcus Wong; Mary-Ann Booth; Nora Gambioli; Peter Lambur; Sharon Thompson  
**Subject:** FW: West Van moves ahead with Gordon Ave project  
**Attachments:** Housing Agreement.pdf; 2195 Gordon Avenue - below market rental housing

Hi Mr. Marley,

Thank you for your email of June 7 below. I refer to your question below asking what criteria is used in determining eligibility for prospective tenants in the proposed below market rental housing at 2195 Gordon Avenue.

The eligibility criteria for the tenants of the below market rental housing is set out in the proposed Housing Agreement (see 1st attachment) which would be registered on title to bind Kiwanis for the duration of the proposed 60 year long term lease.

In summary, as set out in “Schedule B – Eligible Tenant” to the Housing Agreement, eligible tenants must comply with income limits, asset limits, not own real property, and be able to demonstrate a substantial connection to the West Vancouver community. A substantial connection to the West Vancouver community includes, but is not limited to, demonstrating that: at least one member of the tenant’s household has resided in West Vancouver for at least 12 months; at least one member of the tenant’s household is employed in West Vancouver; and at least one member of the tenant’s household is enrolled in a school in West Vancouver.

The Housing Agreement further provides that the rental unit must only be used as a permanent residence, and that the tenant must provide to Kiwanis, and be willing to disclose to the District, information including: a statement of gross annual income; a statement of asset ownership; details of connection to the community; the number of occupants in the unit; income tax records; employment records; school records; residence; employment history; etc.

Kiwanis each year must deliver to the District a statutory declaration confirming that, among other things, the units were occupied only by eligible tenants, and at rents not exceeding 75% of market rent.

For completeness, I also enclose as the second attachment my email to you of May 20 with my previous comments on tenant eligibility and the Housing Agreement.

Yours sincerely,

**Mark Chan**  
Deputy Chief Administrative Officer | District of West Vancouver  
t: 604-925-7098 | [westvancouver.ca](http://westvancouver.ca)



## TERMS OF INSTRUMENT – PART 2

### *Housing Agreement and Covenant*

THIS AGREEMENT is dated for reference as of the last date of execution by a party to this agreement (the “**Reference Date**”),

BETWEEN:

**THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER**, a municipal corporation pursuant to the *Local Government Act* and having its offices at 750 17<sup>th</sup> Street, West Vancouver BC V7V 3T3

(the “**District**”)

AND:

**KIWANIS NORTH SHORE HOUSING SOCIETY INC. NO. S0004376**, a society having its offices at 100 975 21st Street, West Vancouver, BC V7V 0B5

(“**Kiwanis**”)

WHEREAS:

- A. Kiwanis leases from the District certain lands and premises with the civic address of 990 22<sup>nd</sup> Street, legally described as \_\_\_\_\_ (the “**Lands**”), pursuant to a lease dated \_\_\_\_\_ registered against title to the Lands under No. \_\_\_\_\_ (the “**Lease**”);
- B. In accordance with the Lease, Kiwanis intends to construct and operate on the Lands one or more buildings containing affordable rental housing units and an adult day services facility, complete with soft and hard landscaping, on-site and off-site servicing, parking and loading (the “**Development**”);
- C. Section 483 of the *Local Government Act*, permits municipalities to enter into a housing agreement with an owner regarding the occupancy of the housing units, including the form of tenure, the availability of units, the administration and the rents;
- D. Section 219 of the *Land Title Act* permits registration of a covenant in favour of a municipality in respect of the use of land or the use of a building on or to be erected on land and that land is or is not to be built on except in accordance with the covenant and that land is not to be subdivided except in accordance with the covenant;
- E. Kiwanis and the District wish to enter into this Agreement, with respect to Kiwanis’ interest under the Lease (the “**Leasehold Interest**”) to require that, with the exception of the Adult Day Care Facility, all Dwellings in the Development be Affordable Rental Units, during the Term. This

{00744247; 19 }

*990 22nd Street  
Housing Agreement and Covenant  
Affordable Rental Housing*

Agreement is a housing agreement under section 483 of the *Local Government Act* and a covenant under section 219 of the *Land Title Act*; and

- F. The District has, by bylaw, authorized the execution of this Agreement and Kiwanis has duly authorized and executed this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of \$10.00 paid by the District to Kiwanis (the receipt of which is acknowledged by Kiwanis) and in consideration of the promises exchanged below, the District and Kiwanis covenant and agree as follows:

## 1.0 DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement, the following words have the following meanings:

- (a) “**Adult Day Care Facility**” means a facility forming part of the Development and intended to provide day care services to eligible program participants;
- (b) “**Affordable Rent**” means rent within the range set out in Schedule A, subject to increases contemplated in this Agreement;
- (c) “**Affordable Rental Unit**” means a Dwelling that is rented to an Eligible Tenant at Affordable Rent;
- (d) “**Agreement**” means this agreement and includes all recitals, instruments, schedules, and amendments thereto;
- (e) “**Building**” means any building or buildings constructed on the Lands. “**Buildings**” means all buildings constructed on the Lands from time to time;
- (f) “**Canadian National Occupancy Standard**” means the Canadian National Occupancy Standard, or an alternate standard used by the Canadian Mortgage and Housing Corporation (CMHC), from time to time, as a measure of crowding, all as amended or replaced from time to time;
- (g) “**Certificate of Occupancy**” means certificate of occupancy issued by the District of West Vancouver pursuant to Building Bylaw 4400, 2004, as amended or replaced from time to time;
- (h) “**Chief Administrative Officer**” means the person appointed from time to time as the Chief Administrative Officer of the District, or their delegate;
- (i) “**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;
- (j) “**Daily Amount**” means \$100.00 per day as of January 1, 2022 adjusted thereafter by an amount determined by multiplying \$100.00 by the percentage change in the CPI from January 1, 2022 to January 1 of the year that a written notice is delivered to Kiwanis by the District pursuant to section 5.1;

(k) “**Development**” has the meaning assigned to that term in Recital B;

(l) “**Dwelling**” has the same meaning as in the District of West Vancouver Zoning Bylaw No. 4662, 2010, as amended or replaced from time to time. Without limiting the foregoing, at the date of this Agreement, the term “Dwelling” under the Zoning Bylaw means “a building or portion of a building having 2 or more rooms used or intended to be used together for the domestic purposes of one or more persons and including at least one living room, one cooking facility and one bathroom and not rented or available for rent or occupation for periods of less than 30 days”;

(m) “**Eligible Tenant**” means a Tenant who meets all the qualifications set out in Schedule B;

(n) “**Existing Tenant**” means a Tenant continuing tenancy of a Dwelling they are renting;

(o) “**First Occupancy**” means first occupancy for a Building on the Lands permitted by the District of West Vancouver, as evidenced by a Certificate of Occupancy;

(p) “**Initial Tenant**” means the first New Tenant of a newly constructed Dwelling that has not previously been rented or occupied;

(q) “**Initial Occupancy Period**” means one calendar year after First Occupancy;

(r) “**Lands**” has the meaning set out in Recital A;

(s) “**Lease**” has the meaning set out in Recital A;

(t) “**Leasehold Interest**” has the meaning set out in Recital E;

(u) “**Over-housing**” means a situation in which a Tenant is residing in a Dwelling where the number of bedrooms is greater than the number of persons as established under the Canadian National Occupancy Standard; “**Over-housed**” has a corresponding meaning;

(v) “**Over-housing Charge**” means the amount calculated as follows:

the difference between rent for the Dwelling that is occupied and the rent for the Dwelling that should be occupied, based on this Agreement. For the purpose of the calculation, the rent for both Dwellings will be based on rents to be imposed on New Tenants. For example, if a Tenant lives in a 3-bedroom Dwelling but should live in a 2-bedroom Dwelling, and the current rent for New Tenants of the Existing Tenant’s 3-bedroom Dwelling is \$700, and the current rent for New Tenants of the 2-bedroom Dwelling being offered to the Existing Tenant is \$500, then the calculation of the Over-housing Charge is as follows:  $\$700 - \$500 = \$200$ ;

(w) “**New Tenant**” means a Tenant commencing a new tenancy in a Dwelling;

(x) “**Permanent Residence**” means that the Affordable Rental Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Eligible Tenant;

(y) “**Pet**” has the same meaning as in the District of West Vancouver Animal Control and License Bylaw, No. 4545, 2008, as amended or replaced from time to time. Without limiting the foregoing, at

{00744247; 19 }



the date of this Agreement, the term “Pet” under the Animal Control and License Bylaw means “a domesticated dog, cat, rabbit, ferret, hamster, guinea pig, gerbil, or bird, and includes reptiles and other animals if they are kept inside a dwelling unit, but does not include livestock, poultry, or wildlife as defined by the *Wildlife Act*”;

(z) “**Records**” means all documentation relating to the use and occupation of the Lands and Buildings including tenancy agreements, information confirming Eligible Tenant status, books of account and receipts;

(aa) “**Subdivide**” means to divide, apportion, consolidate or subdivide the Lands, the Building, 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 interests in land” as defined in the *Real Estate Development Marketing Act*; “**Subdivision**” has a corresponding meaning;

(bb) “**Tenant**” means one or more individuals that occupy or propose to occupy a Dwelling pursuant to a Tenancy Agreement;

(cc) “**Tenancy Agreement**” means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by the *Residential Tenancy Act*;

(dd) “**Term**” has the meaning set out in section 2.1; and

(ee) “**Zoning Bylaw**” means the District of West Vancouver Zoning Bylaw No. 4662, 2010, as amended by Amendment Bylaw No. 5068, 2020, and as further amended from time to time.

## 1.2 Interpretation

In this Agreement:

(a) words importing the singular number include the plural and vice versa and words importing the neuter gender include the masculine and the feminine genders;

(b) the division of this Agreement into articles and sections and the insertion of headings are for convenience only and will not affect the construction or the interpretation of this Agreement;

(c) references to any article, section or schedule will, unless the context otherwise requires, mean that article, section or schedule of this Agreement;

(d) every reference to each party is deemed to include the heirs, executors, administrators, personal representatives, successors, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or allows;

(e) the words “include” and “including” are to be construed as meaning “include without limitation” and “including without limitation”;

(f) all payments to be made will be deemed to be payments in lawful currency of Canada;

{00744247; 19 }

990 22nd Street  
Housing Agreement and Covenant  
Affordable Rental Housing

- (g) reference to “business day” means all days other than Saturday, Sunday and statutory holidays in the Province of British Columbia;
- (h) reference to “party” and “parties” means the one or more parties to this Agreement, as the context demands;
- (i) reference to a whole, for example, the “Lands” and the “Development”, includes reference to a portion thereof; and
- (j) unless expressly stated otherwise, all references to enactments refer to enactments of the Province of British Columbia, as amended or replaced from time to time. All reference to bylaws and policies refers to the bylaws and policies of the District, as amended or replaced from time to time.

### **1.3 Acknowledgements**

Kiwanis acknowledges and agrees that:

- (a) except as expressly provided, nothing in this Agreement will relieve Kiwanis from any obligation or requirement arising under any applicable statute, bylaw or regulation in respect of the use, Subdivision and development of the Lands;
- (b) nothing contained or implied in this Agreement will prejudice or affect the District’s rights, powers, duties or obligations in the exercise of its functions pursuant to the *Local Government Act*, the *Community Charter* or other statutes, bylaws, orders and regulations; and
- (c) all obligations of Kiwanis under this Agreement will be at the cost of Kiwanis.

### **1.4 Schedules**

Schedule A, Schedule B and Schedule C are attached to and form part of this Agreement.

## **2.0 TERM**

### **2.1 Term**

This Agreement will commence on the Reference Date and will continue until the Lease has expired or is terminated (the “Term”).

## **3.0 SECTION 219 COVENANT**

### **3.1 Grant**

Kiwanis, as the holder of the Leasehold Interest, hereby covenants and agrees with the District, as a covenant in favour of the District pursuant to section 219 of the *Land Title Act*, it being the intention and agreement of Kiwanis that the provisions in this Agreement be annexed to, and run with and be a charge upon the Leasehold Interest, that:

{00744247; 19 }

(a) the Lands will be built on in the manner that includes the following, in the location and configuration satisfactory to the District, as more particularly detailed through the development permit process:

(1) the Adult Day Care Facility; and

(2) Affordable Rental Units in the following unit mix and size:

| Unit Type | % Mix (which % mix may vary up or down by no more than 2%) | Number of Units (which number of units may vary up or down by no more than 2 units) | Average Unit Size (Square Feet) (which average size may vary up or down by no more than 3%) |
|-----------|--|---|---|
| Studio    | 13%  | 20  | 415.8   |
| 1-Bedroom | 35%  | 55  | 603.1   |
| 2-Bedroom | 37%  | 58  | 803.7   |
| 3-Bedroom | 15%  | 23  | 1020.4  |
| TOTAL     | 100%   | 156   | N/A   |

(b) all parking spaces and loading spaces constructed on the Lands will be used for the Affordable Rental Units and the Adult Day Care Facility, in the manner satisfactory to the District, as more particularly detailed through the development permit process;

(c) the Lands and the Buildings will be used only in accordance with this Agreement;

(d) except to the extent contained within the Adult Day Care Facility, all Dwellings constructed on the Lands will be used only as Affordable Rental Units; and

(e) the Lands, the Leasehold Interest, and the Buildings will not be Subdivided in any manner without the prior written consent of the District, acting reasonably. As a condition of Subdivision, the District may require Kiwanis to register against the Leasehold Interest one or more covenants pursuant to section 219 of the *Land Title Act* that limits separate sale or sublease of all or some of the Affordable Rental Units.

### 3.2 Indemnity

As an indemnity pursuant to section 219(6) of the *Land Title Act*, and an integral part of the covenant contained in section 3.1, Kiwanis will indemnify and save harmless the District and each of its elected officials, officers, directors, and agents, and their respective heirs, executors, administrators, personal

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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 one or more of the following:

- (a) any act or omission of Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible, relating to this Agreement;
- (b) construction, maintenance, operation, management or financing of the Lands, the Development, the Buildings, the Adult Day Care Facility, or any Affordable Rental Unit by Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible;
- (c) any breach of this Agreement by Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible; and
- (d) the exercise by the District of any of its rights under this Agreement,

without any exceptions.

### **3.3 Release**

As a release pursuant to section 219(6) of the *Land Title Act*, and an integral part of the covenant contained in section 3.1, Kiwanis releases and forever discharges the District and each of its elected officials, officers, directors, and agents, and its and their respective 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 one or more of the following:

- (a) any act or omission of Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible, relating to this Agreement;
- (b) construction, maintenance, operation, management or financing of the Lands, the Development, the Buildings, the Adult Day Care Facility, or any Affordable Rental Unit by Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible;
- (c) any breach of this Agreement by Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible; and
- (d) the exercise by the District of any of its rights under this Agreement,

without any exceptions.

### **3.4 Impact on Market Value**

Kiwanis acknowledges and agrees that no compensation is payable, and Kiwanis is not entitled to and will not claim any compensation from the District, for any decrease in the market value of the Lands, or the Leasehold Interest, which at any time results directly or indirectly from the existence, registration, or operation of this Agreement.

### 3.5 Release and Indemnity Survival

The release and indemnity in sections 3.2, 3.3 and 3.4 will survive the termination or expiration of this Agreement, and the release of this Agreement from title to the Lands.

## 4.0 USE AND OCCUPANCY OF AFFORDABLE RENTAL UNITS

### 4.1 Rent and Tenure

#### General

- (a) Kiwanis will not lease, rent, license or permit occupancy of an Affordable Rental Unit except as follows:
- (1) to an Eligible Tenant;
  - (2) at Affordable Rent;
  - (3) as a Permanent Residence; and
  - (4) pursuant to a Tenancy Agreement.

#### Number of occupants

- (b) Kiwanis will ensure that the number of individuals who permanently reside in an Affordable Rental Unit will conform to the suitable minimum and maximum number of occupants pursuant to the Canadian National Occupancy Standard in effect from time to time, as necessary to avoid overcrowding and Over-housing. For clarity, as of the date of this Agreement, the Canadian National Occupancy Standard assesses the bedroom requirements of a household based on the following criteria:
- (1) there should be no more than 2 and no less than 1 persons per bedroom;
  - (2) children less than 5 years of age of different sexes may reasonably share a bedroom;
  - (3) children 5 years of age or older of opposite sex should have separate bedrooms;
  - (4) children less than 18 years of age and of the same sex may reasonably share a bedroom;
  - (5) single household members 18 years or older should have a separate bedroom, as should parents or couples; and
  - (6) a household of one individual may occupy a bachelor unit (i.e., a unit with no bedroom).

- (c) The Tenancy Agreement for an Affordable Rental Unit will identify all occupants of the Affordable Rental Unit and will stipulate that anyone not identified in the Tenancy Agreement will be

prohibited from residing in the Affordable Rental Unit for more than 30 consecutive days or more than 45 days total in any calendar year.

Subleasing/assignment not permitting

- (d) Kiwanis will not permit the Affordable Rental Unit to be subleased, or the Tenancy Agreement for an Affordable Rental Unit to be assigned.

Determining and confirming eligibility and suitability

- (e) To determine eligibility of a prospective Tenant of an Affordable Rental Unit, Kiwanis may reasonably rely on information provided by the prospective Tenant, provided that Kiwanis will require all reasonable information necessary to confirm eligibility (including without being exhaustive income tax records, employment records, school records, residence and/or employment history, and other). Unless Kiwanis' reliance is unreasonable, negligent or in wilful misconduct, Kiwanis will have no liability nor will have breached this Agreement if the prospective Tenant intentionally or unintentionally provides inaccurate information.

- (f) Kiwanis will collect the following information on an annual basis or as otherwise requested by the District to ensure compliance with eligibility requirements of the Affordable Rental Unit as set out in Schedule B:

- (1) gross annual income from all sources (including employment, disability, retirement, investment, and other) of all members of the Tenant's household who are 18 years of age and over and who reside in the Affordable Rental Unit;
- (2) a statement of asset ownership; and
- (3) number of occupants of the Affordable Rental Unit.

- (g) Subject to the requirements of the *Residential Tenancy Act*, Kiwanis will ensure that each Tenancy Agreement includes the following provision:

"By entering into this Tenancy Agreement, the Tenant hereby consents to Kiwanis collecting, retaining and disclosing to the District of West Vancouver personal information required to confirm the Tenant's eligibility to reside in the rental unit, including the following personal information:

- (1) a statement of gross annual income from all sources (including employment, disability, retirement, investment, and other) of all members of the Tenant's household who are 18 years of age and over and who reside in the Affordable Rental Unit;
- (2) a statement of asset ownership;
- (3) details of connection to the community of the District of West Vancouver (including employment, school enrollment, past residence); and
- (4) number of occupants of the Affordable Rental Unit.

The foregoing personal information may be collected at the beginning of the tenancy and on an annual basis and may be used to confirm the Tenant's eligibility to reside in the rental unit, and to confirm Kiwanis' compliance with the District of West Vancouver affordable housing eligibility requirements."

Terminating if cease to be eligible, or if Dwelling has too many occupants

- (h) Subject to any contrary provisions in the *Residential Tenancy Act*, Kiwanis will include in the Tenancy Agreement a clause entitling Kiwanis to terminate the Tenancy Agreement if:
- (1) an Affordable Rental Unit is occupied by a person or persons other than an Eligible Tenant;
  - (2) the Tenant subleases the Affordable Rental Unit or assigns the Tenancy Agreement in whole or in part;
  - (3) the Affordable Rental Unit is occupied by more than the number of people acceptable under the Canadian National Occupancy Standard; or
  - (4) the Affordable Rental Unit remains vacant for four (4) consecutive months or longer, notwithstanding the timely payment of rent.

Over-housing relocation and Over-housing Charge

- (i) Subject to any contrary provisions of the *Residential Tenancy Act*, if an Affordable Housing Unit becomes occupied by less than the number of people than acceptable under the Canadian National Occupancy Standard (also known as "Over-housing"), the following will apply:
- (1) if a Dwelling of the correct size is available, Kiwanis will forthwith, in writing, offer that Dwelling to the Tenant and the Tenant will have the maximum of 30 days from the date of the offer to accept or to refuse the offered Dwelling;
  - (2) a Tenant that accepts the offered Dwelling will not be charged any additional amount from the time when the Tenant is Over-housed until the time the Tenant moves into the suitable Dwelling offered;
  - (3) a Tenant that refuses the offer of a suitable Dwelling will have a period of six (6) consecutive months, starting from the date of the offer, with no Over-housing Charge. If the Tenant is still living in the Dwelling after this period, the Over-housing Charge may be levied on the Tenant, in addition to the rent;
  - (4) if a Dwelling of the correct size is not available, the Tenant may continue to occupy their rented Dwelling, and no Over-housing Charge will be applied until such time that:
    - (i) a Dwelling of correct size is available and is offered to the Tenant, in which case section 4.1(i)(1) will govern; and
    - (ii) the Tenant has refused the offer of the suitable Dwelling, in which case section 4.1(i)(3) will govern;

- (5) if Kiwanis has no Dwellings that meet the Canadian National Occupancy Standard, the Dwelling of the closest size will be considered the one that is suitable for the purpose of this section 4.1(i);
  - (6) to avoid frequent moving expenses, a Tenant that accepts a housing offer that does not meet the Canadian National Occupancy Standard may refuse a new, more adequate housing offer submitted by Kiwanis within the following twenty-four (24) consecutive months without having to pay the Over-housing Charge; and
  - (7) a Tenant will be fully responsible for all relocation and moving expenses.
- (j) If there is more than one Tenant that is in a situation of Over-housing, Kiwanis will offer a Dwelling of the correct size when it becomes available to Tenants in order of longest tenure.

Pets

- (k) Kiwanis will not prohibit Tenants from having Pets in an Affordable Rental Unit, subject to all applicable provincial, federal and municipal laws and bylaws. Kiwanis may make reasonable rules and regulations with respect to security deposit requirements, size and number of Pets.

Age

- (l) Kiwanis will not impose age-based restrictions on Tenants of Affordable Rental Units.

Payments additional to rent

- (m) Kiwanis will not require Tenants of the Affordable Rental Units to pay any of the following:
- (1) extra fees or charges for use of common property, limited common property or other common property, facilities or amenities;
  - (2) extra fees or charges for use of sanitary sewer, storm sewer or water;
  - (3) property taxes or similar taxes,
- provided that Kiwanis may charge the following in addition to the Affordable Rent:
- (4) providing cable television, telephone, other telecommunications, or electricity fees;
  - (5) electricity fees associated with electrical vehicle charging;
  - (6) security and pet deposit and fees for lockers, parking stalls, key and fob replacements and the use of common rooms, amenity rooms, or similar facilities, if any; and
  - (7) if applicable, the Over-housing Charge.



Use of common amenities

- (n) Kiwanis will ensure that occupants of Affordable Rental Units in the Development will have access to and use of all common indoor and outdoor facilities and amenities located in the Development from time to time, except for access to and use of the Adult Day Care Facility.
- (o) Kiwanis will ensure that all occupants of Affordable Rental Units will have access to and use of loading facilities allocated for the use of the Affordable Rental Units in accordance with the Zoning Bylaw, development permit or building permit issued for the Development.

**4.2 Starting Affordable Rent and Affordable Rent Increases**

The District and Kiwanis acknowledge that the Affordable Rent set out in Schedule A constitutes Affordable Rent as of January 1, 2021. Acknowledging that Occupancy of the Development will commence after the rates in Schedule A have been established, the parties agree that the following will apply to establishing starting Affordable Rent for New Tenants (including Initial Tenants) and increasing Affordable Rent for Existing Tenants, during the Term:

- (a) for Initial Tenants commencing tenancy within the Initial Occupancy Period: the starting Affordable Rent may be increased from the rental rates set out in Schedule A by the maximum amount permitted by the *Residential Tenancy Act*, as if the Affordable Rental Unit was first rented out on January 1, 2021. For example, if the Initial Tenant moves in between January 1, 2023 and December 31, 2023, rental rates in Schedule A may be increased on January 1, 2022 (in accordance with rate of increase in effect on that date), and on January 1, 2023 (in accordance with rate of increase in effect on that date). In this example, the starting Affordable Rent will be: [Schedule A Affordable Rent] + [January 1, 2022 increase] + [January 1, 2023 increase]. For greater certainty, this section 4.2(a) only applies to Initial Tenants whose tenancy commences within the Initial Occupancy Period and does not apply to: (i) Initial Tenants commencing Tenancy after Initial Occupancy Period has expired; and (ii) New Tenants, but not Initial Tenants, commencing tenancy within the Initial Occupancy Period;
- (b) for Initial Tenants commencing tenancy after the Initial Occupancy Period has expired, and for New Tenants commencing tenancy during or after the Initial Occupancy Period: the starting Affordable Rent will be established as follows:
  - (1) every three (3) years beginning 2025, as early as reasonably possible in the beginning of the calendar year, Kiwanis will engage an independent third-party appraiser to establish market rent for different unit types (comparable to the unit types in the Development) in effect at the time in the District of West Vancouver (the “**Market Rent**”). The starting Affordable Rent for New Tenants (including Initial Tenants) commencing tenancy in the calendar year of the appraisal will equal the percentage of the Market Rent as set out in the applicable column in Schedule A titled “% of Market Rent Rate” for each unit type;
  - (2) during years when there has been no update to Market Rent pursuant to 4.2(b)(1), the starting Affordable Rent for New Tenants (including Initial Tenants) will be established by applying the percentage rent as set out in Schedule A as indicated in the applicable

column titled “% of Market Rent Rate” for each unit types using the most recent Market Rent appraisal, provided that this rent may be increased by the maximum amount permitted by the *Residential Tenancy Act*, from the date of the most recent Market Rent appraisal to the time the tenancy commences;

(3) if the District, acting reasonably, determines that Market Rent has decreased by more than 10% from the most recent Market Rent appraisal, Kiwanis shall obtain an appraisal for Market Rent within 60 days of the District’s written request. In this instance, the starting Affordable Rent for New Tenants (including Initial Tenants) will be calculated in accordance with section 4.2(b)(1), based on Market Rent appraisal; and

(4) with respect to section 4.2(b)(1) and section 4.2(b)(2):

- i. a reduction in the Market Rent will result in a corresponding reduction in the starting Affordable Rent for New Tenants (including Initial Tenants); and
- ii. an increase in the Market Rent may result in an increase in the starting Affordable Rent for New Tenants (including Initial Tenants); and

(c) for Existing Tenants: Affordable Rent may be increased as permitted from time to time by the *Residential Tenancy Act*, irrespective of the basis on which the starting Affordable Rent was established.

#### **4.3 Operation and Management**

(a) Kiwanis will be fully responsible for complying with all applicable laws and regulations, including the *Residential Tenancy Act*.

(b) Kiwanis will be fully responsible for the management and administration of the Affordable Rental Units, and all associated costs.

(c) Kiwanis will furnish good and efficient management and operation of the Development, the Buildings and the Affordable Rental Units and will permit representatives of the District to inspect the Development, the Buildings and the Affordable Rental Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*.

(d) Kiwanis will maintain the Development (including soft and hard landscaping, servicing, parking and loading), the Buildings and the Affordable Rental Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands.

(e) Kiwanis will not assign or delegate management and operation of the Affordable Rental Units to any entity, except with the prior written consent of the District, acting reasonably. When considering whether to provide consent, the District may consider (without being exhaustive) whether the proposed entity is a society or a non-profit organization experienced in providing affordable housing. As an exception to the foregoing, Kiwanis may retain contractors to assist with repair, facility maintenance, janitorial services, and similar activities, on the Lands, provided

that Kiwanis will remain primarily responsible for the operation and management of the Affordable Rental Units.

#### **4.4 District Inquiries and Inspections**

- (a) On or before December 31 of every calendar year during the Term, and otherwise at the request of the District, acting reasonably, Kiwanis will deliver to the District:
  - (1) a statutory declaration in the form attached as Schedule C;
  - (2) as applicable, the Market Rent appraisal report contemplated in section 4.2(b)(1) or in section 4.2(b)(3);
  - (3) such Records as the District may reasonably require confirming that a Tenant of an Affordable Rental Unit is an Eligible Tenant under this Agreement; and
  - (4) such other information as may be reasonably requested by the District from time to time to confirm Kiwanis' compliance with this Agreement.
- (b) Kiwanis hereby irrevocably authorizes the District to make such inquiries as the District reasonably considers necessary in order to confirm Kiwanis is complying with this Agreement.
- (c) Kiwanis will retain all Records that pertain to its obligations under this Agreement for not less than seven (7) years following the date of receipt or production of the Records.
- (d) The District will have the right to inspect the Records including the right to enter any premises used by Kiwanis to keep or store the Records at any time after the delivery of notice to Kiwanis and will have the immediate right to make extracts from and take copies of the Records.

#### **4.5 District's Administration**

Unless otherwise stated from time to time in a District bylaw, this Agreement will be administered for the District by the Chief Administrative Officer. To that effect:

- (a) all notices addressed to the District pursuant to this Agreement will be addressed to the Chief Administrative Officer and delivered in accordance with section 6.2(h);
- (b) all reports, declarations, and other deliverables that Kiwanis is obligated to deliver or submit to the District under this Agreement will be addressed and delivered to the Chief Administrative Officer;
- (c) except in the context of Subdivision, development permit, building permit, or occupancy approval (in which case ordinary District process will govern) all approvals, consents, and expressions of District's satisfaction, or refusal thereof, as applicable, pursuant to the Agreement will be delivered to Kiwanis by the Chief Administrative Officer; and
- (d) all determinations of the District contemplated in this Agreement (including pursuant to section 4.2) will be delivered to Kiwanis by the Chief Administrative Officer.

Nothing in this section precludes the Chief Administrative Officer from referring a matter, approval, consent, or determination to the District's Council.

## 5.0 DEFAULT AND REMEDIES

### 5.1 Notice

- (a) In the event of a default under this Agreement, the District may give to Kiwanis a written notice of default (the “**Notice**”) requiring Kiwanis to cure a default under this Agreement. The Notice must specify the nature of the default.
- (b) Kiwanis will cure the default:
  - (1) within 30 days of receipt of the Notice; or
  - (2) within such longer period as may reasonably be required to cure such default, provided that Kiwanis has advised the District in writing of the time reasonably required to cure the default and is diligently pursuing same.
- (c) In the event of a real or a reasonable perceived emergency, no Notice is required, and Kiwanis will immediately cure the default upon being advised verbally or in writing by the District.

### 5.2 Daily Amount

If Kiwanis fails to correct a default as contemplated in section 5.1, Kiwanis will pay to the District, as a rent charge pursuant to section 5.3, in respect to each incidence of default, within 30 days of receiving a written request by the District, the Daily Amount for every day that the default continues. The Daily Amount will be increased on January 1 of each year by an amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase in the CPI during the immediately preceding calendar year. The Daily Amount is due and payable immediately upon receipt by Kiwanis of an invoice from the District for the same. This section is without prejudice to any other remedy available to the District under this Agreement and at law or in equity.

### 5.3 Rent Charge

Kiwanis hereby grants to the District, with respect to the Leasehold Interest, a rent charge under section 5.2 and section 5.3 of this Agreement and under Section 219 of the *Land Title Act*, and at common law, securing payment by Kiwanis to the District of any amount payable by Kiwanis pursuant to this Agreement. Kiwanis agrees that the District, at its option, may enforce payment of such outstanding amount in a court of competent jurisdiction as a contract debt, by an action for and order for sale, by proceedings for the appointment of a receiver, or in any other method available to the District at law or in equity.

### 5.4 Damages Inadequate

Notwithstanding section 5.2 and section 5.3, Kiwanis acknowledges and agrees that in case of a breach of this Agreement which is not fully remediable by the mere payment of money and promptly so remedied, the harm sustained by the District and to the public interest will be irreparable and not susceptible of adequate monetary compensation. The District may, in its discretion, seek any other remedy that may be available to the District at law or in equity.

## 5.5 No Remedy is Exclusive

No remedy under this Agreement is deemed to be exclusive but will, where possible, be cumulative with all other remedies available under this Agreement, at law or in equity.

## 6.0 GENERAL

### 6.1 Registration

Kiwanis acknowledges and agrees that:

- (a) The covenants and agreements on the part of Kiwanis in this Agreement have been made by Kiwanis as contractual obligations as well as being made pursuant to section 483 of the Local Government Act and as a covenant pursuant to section 219 of the Land Title Act;
- (b) Kiwanis will cause the registration of the section 219 covenant contained in this Agreement against the Leasehold Interest in priority to all financial charges and encumbrances (including mortgages, assignments of rents, liens, options to purchase, and rights of first refusal); and
- (c) this Agreement will be registered as a charge against the Leasehold Interest on title to the Lands, pursuant to section 219 of the *Land Title Act*, and will be noted as a notation on title to the Lands pursuant to section 483 of the *Local Government Act*.

### 6.2 Miscellaneous

- (a) Kiwanis and the District agree that:
  - (1) this Agreement is entered into only for the benefit of the District;
  - (2) this Agreement is not intended to protect the interests of Kiwanis, any tenant, or any future owner, lessee, occupier or user of the Lands, the Development, the Buildings, or any Affordable Rental Unit; and
  - (3) the District 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 Kiwanis.
- (b) This Agreement burdens and runs with the Lands and any part into which any of them may be Subdivided. All covenants and agreements contained in this Agreement are made by Kiwanis for itself, its successors and assigns, and all persons who acquire an interest in the Lands after the date of this Agreement. Without limiting the foregoing, Kiwanis will not be liable for any breach of any covenant, promise or agreement herein in respect of any portion of the Lands sold, assigned, considered or otherwise disposed of, occurring after Kiwanis has ceased to hold the Leasehold Interest in the Lands.
- (c) This Agreement may only be modified in writing, signed by both parties, in registrable form. The modification will only be effective if it is approved both as a modification of a housing agreement pursuant to section 483 of the *Local Government Act* (which requires a bylaw), and

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as a modification of a covenant pursuant to section 219 of the *Land Title Act*. Any modification will be filed in the Land Title Office as a modification of a covenant and as a modification of the housing agreement.

- (d) The rights given to the District by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the District to anyone, or obliges the District to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.
- (e) The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement will not be construed as a waiver of any future or continuing failure, whether similar or dissimilar.
- (f) The District is not obligated to inspect the Lands or to otherwise ensure compliance with this Agreement, nor is the District obligated to remedy any default of this Agreement. A failure by the District to enforce this Agreement will not constitute a waiver of any of the District's rights herein.
- (g) If a Court of competent jurisdiction finds that any part of this Agreement is invalid, illegal, or unenforceable, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that finding or by the severance of that part.
- (h) All notices, demands, or requests of any kind, which a party may be required or permitted to serve on another in connection with this Agreement, must be in writing and may be served on the other parties by registered mail, or by personal service, to the address written on page 1 of this Agreement. All notices to the District must be addressed to the Chief Administrative Officer. Service of any such notice, demand, or request will be deemed complete, if made by registered mail, 72 hours after the date and hour of mailing, except where there is a postal service disruption during such period, in which case service will be deemed to be complete only upon actual delivery of the notice, demand or request; and if made by personal service, upon personal service being effected. Any party, from time to time, by notice in writing served upon the other parties, may designate a different address or different or additional persons to which all notices, demands, or requests are to be addressed.
- (i) Upon request by the District, Kiwanis will promptly do such acts and execute such documents as may be reasonably necessary, in the opinion of the District, to give effect to this Agreement.
- (j) This Agreement will ensure to the benefit of and be binding upon each of the parties and their successors and permitted assigns.
- (k) This Agreement, and any documents signed by Kiwanis contemplated by this Agreement, represents the whole agreement between the District and Kiwanis, and there are no warranties, representations, conditions or collateral agreements made by the District or Kiwanis except as set forth in this Agreement.
- (l) Nothing in this Agreement will constitute Kiwanis as the agent, joint venturer, or partner of the District or give Kiwanis any authority to bind the District in any way.

(m) A reference in this Agreement to approval or consent of the District shall be a reference to approval by the District's Chief Administrative Officer or their designate. Nothing in this section precludes the Chief Administrative Officer from referring an approval or consent to the District's Council.

(n) This Agreement can be signed in counterpart and delivered electronically.

**IN WITNESS WHEREOF**, the parties have executed the Form C to which this Agreement is attached to these Terms of Instrument.

**SCHEDULE A**  
**AFFORDABLE RENT**

| Unit Mix | Average Size (sq. ft) (which may vary up or down by 3%) | Average L1 Rent**** | Average Rent/sq. ft. | % of Market Rent Rate |
|----------|---|---------------------|----------------------|-----------------------|
| Studio*  | 415.8   | \$1,141.29          | \$2.74               | 75%                   |
| 1-bd.*   | 603.1   | \$1,479.28          | \$2.45               | 75%                   |
| 2-bd.**  | 803.7   | \$2,035.85          | \$2.53               | 75%                   |
| 3-bd.*** | 1020.4  | \$2,689.06          | \$2.64               | 75%                   |

\*Floor level adjustment of \$20 per floor for Studio and 1-bd units

\*\*Floor level adjustments of \$30 per floor for 2-bd

\*\*\*Floor level adjustment of \$50 per floor for 3-bd units

\*\*\*\*Rent will reflect square footage of the unit (on the basis of average rent/square foot)



**SCHEDULE B  
ELIGIBLE TENANT**

An Eligible Tenant is a Tenant who meets all the following qualifications:

- (1) has a cumulative household gross annual income from all sources (including employment, disability, retirement, investment, and other) that does not exceed the limits set out below:
  - i. for Dwellings with less than two (2) bedrooms, a gross household income that does not exceed 1.25 multiplied by BC Housing’s Low and Moderate Income Limits for couples without children in BC, as determined by BC Housing from time to time. For 2022, this calculation amounts to:
    - 1.25 multiplied by \$77,430, for a gross household income limit of \$96,787; and
  - ii. for Dwellings with two (2) or more bedrooms, a gross household income that does not exceed 1.20 multiplied by BC Housing’s Low and Moderate Income Limits for families with children in BC, as determined by BC Housing from time to time. For 2022, this calculation amounts to:
    - 1.20 multiplied by \$120,990, for a gross household income limit of \$145,188.

For clarity, “**Low and Moderate Income Limits**” in this Schedule B has the same meaning as set by BC Housing from time to time. As of the date of this Agreement, “Low and Moderate Income Limits” refers to a gross household income that does not exceed the median income [*being 50<sup>th</sup> percentile*], for couples with or without children in BC, as applicable, all as determined by BC Housing from time to time;
- (2) do not currently own an interest in residential real property anywhere in the world, and are living in rental housing or another non-ownership tenure (e.g. living with family);
- (3) do not own assets (including stocks, bonds, term deposits, mutual funds and cash, real estate equity (net of debt), business equity in a private incorporated company, and such other assets as are valued by BC Housing from time to time to determine eligibility for supportive housing) in excess of:
  - i. for 2-bedroom units and for 3-bedroom units: \$400,000.00; and
  - ii. for studios and for 1-bedroom units: \$300,000.00;
- (4) can demonstrate a substantial connection to the West Vancouver community, including (without being exhaustive) in one or more of the following ways:

- i. at least one member of the Tenant’s household has resided in West Vancouver for at least 12 months;
- ii. at least one member of the Tenant’s household is employed in West Vancouver; and
- iii. at least one member of the Tenant’s household is enrolled in a school within the boundaries of the District of West Vancouver,

provided that if, despite reasonable efforts, Kiwanis is unable to find Eligible Tenants who meet the qualification in this paragraph (4), then, upon prior written approval of the District, which will not be unreasonably withheld, Kiwanis may accept otherwise Eligible Tenants who do not have a substantial connection to the West Vancouver community but have a substantial connection to the North Shore community in the ways outlined immediately above. For the purpose of this section “North Shore” refers to the cumulative geographic area of the District of West Vancouver, the District of North Vancouver and the City of North Vancouver.

The District and Kiwanis will meet periodically to discuss if any amendments or adjustments to this Schedule B – Eligible Tenant may be warranted, with the first meeting to take place within the first two years after initial occupancy of the Development.

SCHEDULE C

STATUTORY DECLARATION

|                     |   |   |
|---------------------|---|---|
|                     | ) |   |
| CANADA              | ) | IN THE MATTER OF Unit Nos. _____ - _____ (collectively,   |
|                     | ) | the “Affordable Rental Units”) located at                 |
|                     | ) | _____   |
| PROVINCE OF BRITISH | ) | (street address), British Columbia, and Housing Agreement |
| COLUMBIA            | ) | dated _____, 20____ (the “Housing                         |
|                     | ) | Agreement”) between Kiwanis North Shore Housing Society   |
|                     | ) | and the District of West Vancouver (the “City”)           |
| TO WIT:             | ) |   |
|                     | ) |   |

I, \_\_\_\_\_ (full name),  
of \_\_\_\_\_ (address) in the Province

of British Columbia, DO SOLEMNLY DECLARE that:

I am \_\_\_\_\_ of Kiwanis North Shore Housing Society and have personal knowledge of the matters set out herein;

This declaration is made pursuant to the terms of the Housing Agreement in respect of the Affordable Housing Units for each of the 12 months for the period from January 1, 20\_\_ to December 31, 20\_\_ (the “Period”);

Throughout the Period:

- (a) the Affordable Rental Units, if occupied, were occupied only by Eligible Tenants (as defined in the Housing Agreement);
- (b) all Affordable Rental Units have been rented at Affordable Rent (as defined in the Housing Agreement);
- (c) Affordable Rent has not exceeded 75 % of average market rent in the District of West Vancouver for equivalent units, except as expressly permitted in the Housing Agreement; and

(d) subject to availability, all Affordable Rental Units have been rented to suitable Tenants, in accordance with the Canadian National Occupancy Standards, as reasonably necessary to avoid overcrowding and Over-housing.

Appendix 1 is attached to this declaration setting out: the Affordable Rent for each rented Affordable Rental Unit as of the date of this declaration, the date of tenancy commencement, the time and rate of last increase in the Affordable Rent, and the list of Affordable Rental Units not rented as of the date of this declaration.

[To be included during the years in which Market Rent appraisal is carried out pursuant to section 4.2(b)(1) or section 4.2(b)(3)] The average market rent in the District of West Vancouver for equivalent units in the same time period is set out in the report attached as Appendix 2.

I make this solemn declaration, conscientiously believing it to be true and knowing that it is of same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE ME at )  
\_\_\_\_\_ in the )  
Province of British Columbia, Canada, this )  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ )

\_\_\_\_\_  
(Signature of Declarant)

Name:

\_\_\_\_\_  
A Notary Public and a Commissioner for taking )  
Affidavits in and for the Province of British )  
Columbia )  
)

*Declarations should be signed, stamped, and dated and witnessed by a lawyer, notary public, or commissioner for taking affidavits.*

*Appendix 1*

| <b>Unit #</b> | <b>Rented (R)<br/>or<br/>Unrented<br/>(UR)</b> | <b>If rented:<br/>Current rent</b> | <b>If rented: Date<br/>current tenancy<br/>commenced</b> | <b>If rented:<br/>Date of last<br/>rent increase</b> | <b>If rented:<br/>% of last<br/>rent<br/>increase</b> | <b>Number<br/>of<br/>occupants</b> |
|---------------|--|------------------------------------|--|--|---|------------------------------------|
|               |  |                                    |  |  |   |                                    |

*Appendix 2*

*[report to be attached, as and when applicable]*

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**From:** Mark Chan  
**Sent:** Friday, May 20, 2022 8:13 PM  
**To:** domarley52@gmail.com  
**Cc:** correspondence; Bill Soprovich; Craig Cameron; Marcus Wong; Mary-Ann Booth; Nora Gambioli; Peter Lambur; Sharon Thompson  
**Subject:** 2195 Gordon Avenue - below market rental housing  
**Attachments:** Housing Agreement.pdf; email title (2195 Gordon Avenue) TO Chan 2022 05 11 2130-David Marley (do not redact).pdf

Dear Mr. Marley,

Thank you for your email of May 11 (2nd attachment). You have raised a number of questions regarding the District-owned property at 2195 Gordon Avenue. I set out below my response to your email.

The eligibility criteria for the tenants of the below market rental housing is set out in the proposed Housing Agreement (see 1st attachment). The eligibility criteria includes asset and income testing, and also requires that a tenant has a substantial connection to the West Vancouver community considering factors such as, at least one member of the household: has resided in West Vancouver; is employed in West Vancouver; or is enrolled in a school within the boundaries of West Vancouver. The project does not provide any preference for municipal employees, though they may be eligible since the target market is moderate income people including workers, families and seniors in West Vancouver. If a tenant's household income exceeds the maximum income limit, the housing operator (proposed to be Kiwanis North Shore Housing Society) would be required to evict the tenant. This is permitted pursuant to the operation of the Housing Agreement (which would be registered on title) and the Residential Tenancy Act. The Housing Agreement provides, among other things, that each year, the operator must provide the District with a Statutory Declaration confirming that the rental units have been rented only by tenants who meet the eligibility criteria in the Housing Agreement. The District also has the ability to require additional information from the operator pursuant to the Housing Agreement. While a tenant (like any tenant in British Columbia) could appeal to the Residential Tenancy Branch, the District and operator have the ability to regulate these matters through the Housing Agreement, which is authorized by section 483 of the *Local Government Act*.

Kiwanis North Shore Housing Society would design and construct the rental buildings, and operate and maintain the buildings, including the selection of eligible tenants. Kiwanis North Shore Housing Society currently operates the low income seniors housing directly adjacent to the property at 2195 Gordon Avenue and in North Vancouver. Tenants' incomes would need to be provided to the operator; however, this information would not need to be provided to the public. The Housing Agreement contains a provision that the operator will ensure that each tenancy agreement includes a provision whereby the tenant consents to the operator collecting, retaining and disclosing to the District personal information required to confirm the tenant's eligibility to reside in the rental unit. More information is contained in the attached Housing Agreement, which will need to be considered and approved by Council through adoption of a Housing Agreement Authorization Bylaw.

I refer to your comments about seniors' housing. While the District recognizes the need for seniors' housing, the District also recognizes that the District needs to do its part to address the decreasing population of younger families and children. This is also a policy objective of the Official Community Plan. While the District already has over 1,500 dedicated housing units for seniors and 55+ living (with approximately 40% of those within a 500 metre radius of the site at 2195 Gordon Avenue), the District does not have currently have housing dedicated for moderate income people of the type proposed for 2195 Gordon Avenue. With respect to seniors, it is also important to note that Council decided to include in the 2195 Gordon Avenue project an Adult Day Centre that serves many seniors and provides respite to the spouses, family members and caregivers of seniors who are not able to live independantly. That Adult Day Centre is

proposed to be designed and constructed by Kiwanis, and operated by Vancouver Coastal Health Authority, at no cost to the District.

Finally, with respect to the June 13th Council Meeting, as set out in the Council Report that was considered at the May 9 Council Meeting (<https://westvancouver.ca/sites/default/files/dwv/council-agendas/2022/may/09/22may09-7..pdf>), Council's decision on whether to execute the Offers to Lease are only one procedural step that is the culmination of years of work by Council and Staff. Council already made many of the foundational decisions that have led to this point, and after considering significant input from the public:

- Council decided in 2018 to explore options for the Property to address housing affordability and balance revenue needs.
- The District conducted initial consultation in 2019, which showed general support for the District's proposal to create housing, increase rental supply and improve affordability, with no ongoing cost to the District. District staff spoke with over 750 people, received over 330 survey responses, and sent over 2,000 letters and emails during the initial consultation.
- It was in response to that initial consultation that the Adult Day Centre was incorporated into the vision for the project.
- In 2019, after considering public feedback, Council unanimously passed a resolution authorizing Staff to proceed with a rezoning application.
- In 2020, after a public hearing and further public consultation, Council approved the rezoning of the Property, formally allowing for rental only housing and an Adult Day Centre in proposed Parcel A, and strata condominiums in proposed Parcel B. Further, Council amended the Official Community Plan to incorporate Development Permit Guidelines that provide for the form and character of the buildings. The Guidelines formed the basis of Darwin and Kiwanis' current development permit applications.
- In 2021, Council authorized an open competitive process through the public issuing of a Request for Proposals. After considering all of the responses, Council decided that Kiwanis and Darwin had the best proposals for the District.
- In mid-2021, with Council's approval, the District announced that it was in negotiations with Kiwanis, Darwin and Vancouver Coastal Health Authority on the basis of long term leases for the Property.

Yours sincerely,

**Mark Chan**

Deputy Chief Administrative Officer | District of West Vancouver  
t: 604-925-7098 | [westvancouver.ca](https://westvancouver.ca)





## TERMS OF INSTRUMENT – PART 2

### *Housing Agreement and Covenant*

THIS AGREEMENT is dated for reference as of the last date of execution by a party to this agreement (the “**Reference Date**”),

BETWEEN:

**THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER**, a municipal corporation pursuant to the *Local Government Act* and having its offices at 750 17<sup>th</sup> Street, West Vancouver BC V7V 3T3

(the “**District**”)

AND:

**KIWANIS NORTH SHORE HOUSING SOCIETY INC. NO. S0004376**, a society having its offices at 100 975 21st Street, West Vancouver, BC V7V 0B5

(“**Kiwanis**”)

WHEREAS:

- A. Kiwanis leases from the District certain lands and premises with the civic address of 990 22<sup>nd</sup> Street, legally described as \_\_\_\_\_ (the “**Lands**”), pursuant to a lease dated \_\_\_\_\_ registered against title to the Lands under No. \_\_\_\_\_ (the “**Lease**”);
- B. In accordance with the Lease, Kiwanis intends to construct and operate on the Lands one or more buildings containing affordable rental housing units and an adult day services facility, complete with soft and hard landscaping, on-site and off-site servicing, parking and loading (the “**Development**”);
- C. Section 483 of the *Local Government Act*, permits municipalities to enter into a housing agreement with an owner regarding the occupancy of the housing units, including the form of tenure, the availability of units, the administration and the rents;
- D. Section 219 of the *Land Title Act* permits registration of a covenant in favour of a municipality in respect of the use of land or the use of a building on or to be erected on land and that land is or is not to be built on except in accordance with the covenant and that land is not to be subdivided except in accordance with the covenant;
- E. Kiwanis and the District wish to enter into this Agreement, with respect to Kiwanis’ interest under the Lease (the “**Leasehold Interest**”) to require that, with the exception of the Adult Day Care Facility, all Dwellings in the Development be Affordable Rental Units, during the Term. This

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*990 22nd Street  
Housing Agreement and Covenant  
Affordable Rental Housing*

Agreement is a housing agreement under section 483 of the *Local Government Act* and a covenant under section 219 of the *Land Title Act*; and

- F. The District has, by bylaw, authorized the execution of this Agreement and Kiwanis has duly authorized and executed this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of \$10.00 paid by the District to Kiwanis (the receipt of which is acknowledged by Kiwanis) and in consideration of the promises exchanged below, the District and Kiwanis covenant and agree as follows:

## 1.0 DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement, the following words have the following meanings:

- (a) “**Adult Day Care Facility**” means a facility forming part of the Development and intended to provide day care services to eligible program participants;
- (b) “**Affordable Rent**” means rent within the range set out in Schedule A, subject to increases contemplated in this Agreement;
- (c) “**Affordable Rental Unit**” means a Dwelling that is rented to an Eligible Tenant at Affordable Rent;
- (d) “**Agreement**” means this agreement and includes all recitals, instruments, schedules, and amendments thereto;
- (e) “**Building**” means any building or buildings constructed on the Lands. “**Buildings**” means all buildings constructed on the Lands from time to time;
- (f) “**Canadian National Occupancy Standard**” means the Canadian National Occupancy Standard, or an alternate standard used by the Canadian Mortgage and Housing Corporation (CMHC), from time to time, as a measure of crowding, all as amended or replaced from time to time;
- (g) “**Certificate of Occupancy**” means certificate of occupancy issued by the District of West Vancouver pursuant to Building Bylaw 4400, 2004, as amended or replaced from time to time;
- (h) “**Chief Administrative Officer**” means the person appointed from time to time as the Chief Administrative Officer of the District, or their delegate;
- (i) “**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;
- (j) “**Daily Amount**” means \$100.00 per day as of January 1, 2022 adjusted thereafter by an amount determined by multiplying \$100.00 by the percentage change in the CPI from January 1, 2022 to January 1 of the year that a written notice is delivered to Kiwanis by the District pursuant to section 5.1;

(k) “**Development**” has the meaning assigned to that term in Recital B;

(l) “**Dwelling**” has the same meaning as in the District of West Vancouver Zoning Bylaw No. 4662, 2010, as amended or replaced from time to time. Without limiting the foregoing, at the date of this Agreement, the term “Dwelling” under the Zoning Bylaw means “a building or portion of a building having 2 or more rooms used or intended to be used together for the domestic purposes of one or more persons and including at least one living room, one cooking facility and one bathroom and not rented or available for rent or occupation for periods of less than 30 days”;

(m) “**Eligible Tenant**” means a Tenant who meets all the qualifications set out in Schedule B;

(n) “**Existing Tenant**” means a Tenant continuing tenancy of a Dwelling they are renting;

(o) “**First Occupancy**” means first occupancy for a Building on the Lands permitted by the District of West Vancouver, as evidenced by a Certificate of Occupancy;

(p) “**Initial Tenant**” means the first New Tenant of a newly constructed Dwelling that has not previously been rented or occupied;

(q) “**Initial Occupancy Period**” means one calendar year after First Occupancy;

(r) “**Lands**” has the meaning set out in Recital A;

(s) “**Lease**” has the meaning set out in Recital A;

(t) “**Leasehold Interest**” has the meaning set out in Recital E;

(u) “**Over-housing**” means a situation in which a Tenant is residing in a Dwelling where the number of bedrooms is greater than the number of persons as established under the Canadian National Occupancy Standard; “**Over-housed**” has a corresponding meaning;

(v) “**Over-housing Charge**” means the amount calculated as follows:

the difference between rent for the Dwelling that is occupied and the rent for the Dwelling that should be occupied, based on this Agreement. For the purpose of the calculation, the rent for both Dwellings will be based on rents to be imposed on New Tenants. For example, if a Tenant lives in a 3-bedroom Dwelling but should live in a 2-bedroom Dwelling, and the current rent for New Tenants of the Existing Tenant’s 3-bedroom Dwelling is \$700, and the current rent for New Tenants of the 2-bedroom Dwelling being offered to the Existing Tenant is \$500, then the calculation of the Over-housing Charge is as follows:  $\$700 - \$500 = \$200$ ;

(w) “**New Tenant**” means a Tenant commencing a new tenancy in a Dwelling;

(x) “**Permanent Residence**” means that the Affordable Rental Unit is used as the usual, main, regular, habitual, principal residence, abode or home of the Eligible Tenant;

(y) “**Pet**” has the same meaning as in the District of West Vancouver Animal Control and License Bylaw, No. 4545, 2008, as amended or replaced from time to time. Without limiting the foregoing, at

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the date of this Agreement, the term “Pet” under the Animal Control and License Bylaw means “a domesticated dog, cat, rabbit, ferret, hamster, guinea pig, gerbil, or bird, and includes reptiles and other animals if they are kept inside a dwelling unit, but does not include livestock, poultry, or wildlife as defined by the *Wildlife Act*”;

(z) “**Records**” means all documentation relating to the use and occupation of the Lands and Buildings including tenancy agreements, information confirming Eligible Tenant status, books of account and receipts;

(aa) “**Subdivide**” means to divide, apportion, consolidate or subdivide the Lands, the Building, 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 interests in land” as defined in the *Real Estate Development Marketing Act*; “**Subdivision**” has a corresponding meaning;

(bb) “**Tenant**” means one or more individuals that occupy or propose to occupy a Dwelling pursuant to a Tenancy Agreement;

(cc) “**Tenancy Agreement**” means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by the *Residential Tenancy Act*;

(dd) “**Term**” has the meaning set out in section 2.1; and

(ee) “**Zoning Bylaw**” means the District of West Vancouver Zoning Bylaw No. 4662, 2010, as amended by Amendment Bylaw No. 5068, 2020, and as further amended from time to time.

## 1.2 Interpretation

In this Agreement:

(a) words importing the singular number include the plural and vice versa and words importing the neuter gender include the masculine and the feminine genders;

(b) the division of this Agreement into articles and sections and the insertion of headings are for convenience only and will not affect the construction or the interpretation of this Agreement;

(c) references to any article, section or schedule will, unless the context otherwise requires, mean that article, section or schedule of this Agreement;

(d) every reference to each party is deemed to include the heirs, executors, administrators, personal representatives, successors, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or allows;

(e) the words “include” and “including” are to be construed as meaning “include without limitation” and “including without limitation”;

(f) all payments to be made will be deemed to be payments in lawful currency of Canada;

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990 22nd Street  
Housing Agreement and Covenant  
Affordable Rental Housing

- (g) reference to “business day” means all days other than Saturday, Sunday and statutory holidays in the Province of British Columbia;
- (h) reference to “party” and “parties” means the one or more parties to this Agreement, as the context demands;
- (i) reference to a whole, for example, the “Lands” and the “Development”, includes reference to a portion thereof; and
- (j) unless expressly stated otherwise, all references to enactments refer to enactments of the Province of British Columbia, as amended or replaced from time to time. All reference to bylaws and policies refers to the bylaws and policies of the District, as amended or replaced from time to time.

### **1.3 Acknowledgements**

Kiwanis acknowledges and agrees that:

- (a) except as expressly provided, nothing in this Agreement will relieve Kiwanis from any obligation or requirement arising under any applicable statute, bylaw or regulation in respect of the use, Subdivision and development of the Lands;
- (b) nothing contained or implied in this Agreement will prejudice or affect the District’s rights, powers, duties or obligations in the exercise of its functions pursuant to the *Local Government Act*, the *Community Charter* or other statutes, bylaws, orders and regulations; and
- (c) all obligations of Kiwanis under this Agreement will be at the cost of Kiwanis.

### **1.4 Schedules**

Schedule A, Schedule B and Schedule C are attached to and form part of this Agreement.

## **2.0 TERM**

### **2.1 Term**

This Agreement will commence on the Reference Date and will continue until the Lease has expired or is terminated (the “Term”).

## **3.0 SECTION 219 COVENANT**

### **3.1 Grant**

Kiwanis, as the holder of the Leasehold Interest, hereby covenants and agrees with the District, as a covenant in favour of the District pursuant to section 219 of the *Land Title Act*, it being the intention and agreement of Kiwanis that the provisions in this Agreement be annexed to, and run with and be a charge upon the Leasehold Interest, that:

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(a) the Lands will be built on in the manner that includes the following, in the location and configuration satisfactory to the District, as more particularly detailed through the development permit process:

(1) the Adult Day Care Facility; and

(2) Affordable Rental Units in the following unit mix and size:

| Unit Type | % Mix (which % mix may vary up or down by no more than 2%) | Number of Units (which number of units may vary up or down by no more than 2 units) | Average Unit Size (Square Feet) (which average size may vary up or down by no more than 3%) |
|-----------|--|---|---|
| Studio    | 13%  | 20  | 415.8   |
| 1-Bedroom | 35%  | 55  | 603.1   |
| 2-Bedroom | 37%  | 58  | 803.7   |
| 3-Bedroom | 15%  | 23  | 1020.4  |
| TOTAL     | 100%   | 156   | N/A   |

(b) all parking spaces and loading spaces constructed on the Lands will be used for the Affordable Rental Units and the Adult Day Care Facility, in the manner satisfactory to the District, as more particularly detailed through the development permit process;

(c) the Lands and the Buildings will be used only in accordance with this Agreement;

(d) except to the extent contained within the Adult Day Care Facility, all Dwellings constructed on the Lands will be used only as Affordable Rental Units; and

(e) the Lands, the Leasehold Interest, and the Buildings will not be Subdivided in any manner without the prior written consent of the District, acting reasonably. As a condition of Subdivision, the District may require Kiwanis to register against the Leasehold Interest one or more covenants pursuant to section 219 of the *Land Title Act* that limits separate sale or sublease of all or some of the Affordable Rental Units.

### 3.2 Indemnity

As an indemnity pursuant to section 219(6) of the *Land Title Act*, and an integral part of the covenant contained in section 3.1, Kiwanis will indemnify and save harmless the District and each of its elected officials, officers, directors, and agents, and their respective heirs, executors, administrators, personal

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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 one or more of the following:

- (a) any act or omission of Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible, relating to this Agreement;
- (b) construction, maintenance, operation, management or financing of the Lands, the Development, the Buildings, the Adult Day Care Facility, or any Affordable Rental Unit by Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible;
- (c) any breach of this Agreement by Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible; and
- (d) the exercise by the District of any of its rights under this Agreement,

without any exceptions.

### **3.3 Release**

As a release pursuant to section 219(6) of the *Land Title Act*, and an integral part of the covenant contained in section 3.1, Kiwanis releases and forever discharges the District and each of its elected officials, officers, directors, and agents, and its and their respective 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 one or more of the following:

- (a) any act or omission of Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible, relating to this Agreement;
- (b) construction, maintenance, operation, management or financing of the Lands, the Development, the Buildings, the Adult Day Care Facility, or any Affordable Rental Unit by Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible;
- (c) any breach of this Agreement by Kiwanis, its officers, directors, agents, contractors, or other persons for whom at law Kiwanis is responsible; and
- (d) the exercise by the District of any of its rights under this Agreement,

without any exceptions.

### **3.4 Impact on Market Value**

Kiwanis acknowledges and agrees that no compensation is payable, and Kiwanis is not entitled to and will not claim any compensation from the District, for any decrease in the market value of the Lands, or the Leasehold Interest, which at any time results directly or indirectly from the existence, registration, or operation of this Agreement.

### 3.5 Release and Indemnity Survival

The release and indemnity in sections 3.2, 3.3 and 3.4 will survive the termination or expiration of this Agreement, and the release of this Agreement from title to the Lands.

## 4.0 USE AND OCCUPANCY OF AFFORDABLE RENTAL UNITS

### 4.1 Rent and Tenure

#### General

- (a) Kiwanis will not lease, rent, license or permit occupancy of an Affordable Rental Unit except as follows:
- (1) to an Eligible Tenant;
  - (2) at Affordable Rent;
  - (3) as a Permanent Residence; and
  - (4) pursuant to a Tenancy Agreement.

#### Number of occupants

- (b) Kiwanis will ensure that the number of individuals who permanently reside in an Affordable Rental Unit will conform to the suitable minimum and maximum number of occupants pursuant to the Canadian National Occupancy Standard in effect from time to time, as necessary to avoid overcrowding and Over-housing. For clarity, as of the date of this Agreement, the Canadian National Occupancy Standard assesses the bedroom requirements of a household based on the following criteria:
- (1) there should be no more than 2 and no less than 1 persons per bedroom;
  - (2) children less than 5 years of age of different sexes may reasonably share a bedroom;
  - (3) children 5 years of age or older of opposite sex should have separate bedrooms;
  - (4) children less than 18 years of age and of the same sex may reasonably share a bedroom;
  - (5) single household members 18 years or older should have a separate bedroom, as should parents or couples; and
  - (6) a household of one individual may occupy a bachelor unit (i.e., a unit with no bedroom).

- (c) The Tenancy Agreement for an Affordable Rental Unit will identify all occupants of the Affordable Rental Unit and will stipulate that anyone not identified in the Tenancy Agreement will be



prohibited from residing in the Affordable Rental Unit for more than 30 consecutive days or more than 45 days total in any calendar year.

Subleasing/assignment not permitting

- (d) Kiwanis will not permit the Affordable Rental Unit to be subleased, or the Tenancy Agreement for an Affordable Rental Unit to be assigned.

Determining and confirming eligibility and suitability

- (e) To determine eligibility of a prospective Tenant of an Affordable Rental Unit, Kiwanis may reasonably rely on information provided by the prospective Tenant, provided that Kiwanis will require all reasonable information necessary to confirm eligibility (including without being exhaustive income tax records, employment records, school records, residence and/or employment history, and other). Unless Kiwanis' reliance is unreasonable, negligent or in wilful misconduct, Kiwanis will have no liability nor will have breached this Agreement if the prospective Tenant intentionally or unintentionally provides inaccurate information.

- (f) Kiwanis will collect the following information on an annual basis or as otherwise requested by the District to ensure compliance with eligibility requirements of the Affordable Rental Unit as set out in Schedule B:

- (1) gross annual income from all sources (including employment, disability, retirement, investment, and other) of all members of the Tenant's household who are 18 years of age and over and who reside in the Affordable Rental Unit;
- (2) a statement of asset ownership; and
- (3) number of occupants of the Affordable Rental Unit.

- (g) Subject to the requirements of the *Residential Tenancy Act*, Kiwanis will ensure that each Tenancy Agreement includes the following provision:

"By entering into this Tenancy Agreement, the Tenant hereby consents to Kiwanis collecting, retaining and disclosing to the District of West Vancouver personal information required to confirm the Tenant's eligibility to reside in the rental unit, including the following personal information:

- (1) a statement of gross annual income from all sources (including employment, disability, retirement, investment, and other) of all members of the Tenant's household who are 18 years of age and over and who reside in the Affordable Rental Unit;
- (2) a statement of asset ownership;
- (3) details of connection to the community of the District of West Vancouver (including employment, school enrollment, past residence); and
- (4) number of occupants of the Affordable Rental Unit.

The foregoing personal information may be collected at the beginning of the tenancy and on an annual basis and may be used to confirm the Tenant's eligibility to reside in the rental unit, and to confirm Kiwanis' compliance with the District of West Vancouver affordable housing eligibility requirements."

Terminating if cease to be eligible, or if Dwelling has too many occupants

- (h) Subject to any contrary provisions in the *Residential Tenancy Act*, Kiwanis will include in the Tenancy Agreement a clause entitling Kiwanis to terminate the Tenancy Agreement if:
- (1) an Affordable Rental Unit is occupied by a person or persons other than an Eligible Tenant;
  - (2) the Tenant subleases the Affordable Rental Unit or assigns the Tenancy Agreement in whole or in part;
  - (3) the Affordable Rental Unit is occupied by more than the number of people acceptable under the Canadian National Occupancy Standard; or
  - (4) the Affordable Rental Unit remains vacant for four (4) consecutive months or longer, notwithstanding the timely payment of rent.

Over-housing relocation and Over-housing Charge

- (i) Subject to any contrary provisions of the *Residential Tenancy Act*, if an Affordable Housing Unit becomes occupied by less than the number of people than acceptable under the Canadian National Occupancy Standard (also known as "Over-housing"), the following will apply:
- (1) if a Dwelling of the correct size is available, Kiwanis will forthwith, in writing, offer that Dwelling to the Tenant and the Tenant will have the maximum of 30 days from the date of the offer to accept or to refuse the offered Dwelling;
  - (2) a Tenant that accepts the offered Dwelling will not be charged any additional amount from the time when the Tenant is Over-housed until the time the Tenant moves into the suitable Dwelling offered;
  - (3) a Tenant that refuses the offer of a suitable Dwelling will have a period of six (6) consecutive months, starting from the date of the offer, with no Over-housing Charge. If the Tenant is still living in the Dwelling after this period, the Over-housing Charge may be levied on the Tenant, in addition to the rent;
  - (4) if a Dwelling of the correct size is not available, the Tenant may continue to occupy their rented Dwelling, and no Over-housing Charge will be applied until such time that:
    - (i) a Dwelling of correct size is available and is offered to the Tenant, in which case section 4.1(i)(1) will govern; and
    - (ii) the Tenant has refused the offer of the suitable Dwelling, in which case section 4.1(i)(3) will govern;

- (5) if Kiwanis has no Dwellings that meet the Canadian National Occupancy Standard, the Dwelling of the closest size will be considered the one that is suitable for the purpose of this section 4.1(i);
  - (6) to avoid frequent moving expenses, a Tenant that accepts a housing offer that does not meet the Canadian National Occupancy Standard may refuse a new, more adequate housing offer submitted by Kiwanis within the following twenty-four (24) consecutive months without having to pay the Over-housing Charge; and
  - (7) a Tenant will be fully responsible for all relocation and moving expenses.
- (j) If there is more than one Tenant that is in a situation of Over-housing, Kiwanis will offer a Dwelling of the correct size when it becomes available to Tenants in order of longest tenure.

Pets

- (k) Kiwanis will not prohibit Tenants from having Pets in an Affordable Rental Unit, subject to all applicable provincial, federal and municipal laws and bylaws. Kiwanis may make reasonable rules and regulations with respect to security deposit requirements, size and number of Pets.

Age

- (l) Kiwanis will not impose age-based restrictions on Tenants of Affordable Rental Units.

Payments additional to rent

- (m) Kiwanis will not require Tenants of the Affordable Rental Units to pay any of the following:
- (1) extra fees or charges for use of common property, limited common property or other common property, facilities or amenities;
  - (2) extra fees or charges for use of sanitary sewer, storm sewer or water;
  - (3) property taxes or similar taxes,
- provided that Kiwanis may charge the following in addition to the Affordable Rent:
- (4) providing cable television, telephone, other telecommunications, or electricity fees;
  - (5) electricity fees associated with electrical vehicle charging;
  - (6) security and pet deposit and fees for lockers, parking stalls, key and fob replacements and the use of common rooms, amenity rooms, or similar facilities, if any; and
  - (7) if applicable, the Over-housing Charge.

Use of common amenities

- (n) Kiwanis will ensure that occupants of Affordable Rental Units in the Development will have access to and use of all common indoor and outdoor facilities and amenities located in the Development from time to time, except for access to and use of the Adult Day Care Facility.
- (o) Kiwanis will ensure that all occupants of Affordable Rental Units will have access to and use of loading facilities allocated for the use of the Affordable Rental Units in accordance with the Zoning Bylaw, development permit or building permit issued for the Development.

**4.2 Starting Affordable Rent and Affordable Rent Increases**

The District and Kiwanis acknowledge that the Affordable Rent set out in Schedule A constitutes Affordable Rent as of January 1, 2021. Acknowledging that Occupancy of the Development will commence after the rates in Schedule A have been established, the parties agree that the following will apply to establishing starting Affordable Rent for New Tenants (including Initial Tenants) and increasing Affordable Rent for Existing Tenants, during the Term:

- (a) for Initial Tenants commencing tenancy within the Initial Occupancy Period: the starting Affordable Rent may be increased from the rental rates set out in Schedule A by the maximum amount permitted by the *Residential Tenancy Act*, as if the Affordable Rental Unit was first rented out on January 1, 2021. For example, if the Initial Tenant moves in between January 1, 2023 and December 31, 2023, rental rates in Schedule A may be increased on January 1, 2022 (in accordance with rate of increase in effect on that date), and on January 1, 2023 (in accordance with rate of increase in effect on that date). In this example, the starting Affordable Rent will be: [Schedule A Affordable Rent] + [January 1, 2022 increase] + [January 1, 2023 increase]. For greater certainty, this section 4.2(a) only applies to Initial Tenants whose tenancy commences within the Initial Occupancy Period and does not apply to: (i) Initial Tenants commencing Tenancy after Initial Occupancy Period has expired; and (ii) New Tenants, but not Initial Tenants, commencing tenancy within the Initial Occupancy Period;
- (b) for Initial Tenants commencing tenancy after the Initial Occupancy Period has expired, and for New Tenants commencing tenancy during or after the Initial Occupancy Period: the starting Affordable Rent will be established as follows:
  - (1) every three (3) years beginning 2025, as early as reasonably possible in the beginning of the calendar year, Kiwanis will engage an independent third-party appraiser to establish market rent for different unit types (comparable to the unit types in the Development) in effect at the time in the District of West Vancouver (the “**Market Rent**”). The starting Affordable Rent for New Tenants (including Initial Tenants) commencing tenancy in the calendar year of the appraisal will equal the percentage of the Market Rent as set out in the applicable column in Schedule A titled “% of Market Rent Rate” for each unit type;
  - (2) during years when there has been no update to Market Rent pursuant to 4.2(b)(1), the starting Affordable Rent for New Tenants (including Initial Tenants) will be established by applying the percentage rent as set out in Schedule A as indicated in the applicable

column titled “% of Market Rent Rate” for each unit types using the most recent Market Rent appraisal, provided that this rent may be increased by the maximum amount permitted by the *Residential Tenancy Act*, from the date of the most recent Market Rent appraisal to the time the tenancy commences;

(3) if the District, acting reasonably, determines that Market Rent has decreased by more than 10% from the most recent Market Rent appraisal, Kiwanis shall obtain an appraisal for Market Rent within 60 days of the District’s written request. In this instance, the starting Affordable Rent for New Tenants (including Initial Tenants) will be calculated in accordance with section 4.2(b)(1), based on Market Rent appraisal; and

(4) with respect to section 4.2(b)(1) and section 4.2(b)(2):

- i. a reduction in the Market Rent will result in a corresponding reduction in the starting Affordable Rent for New Tenants (including Initial Tenants); and
- ii. an increase in the Market Rent may result in an increase in the starting Affordable Rent for New Tenants (including Initial Tenants); and

(c) for Existing Tenants: Affordable Rent may be increased as permitted from time to time by the *Residential Tenancy Act*, irrespective of the basis on which the starting Affordable Rent was established.

#### **4.3 Operation and Management**

(a) Kiwanis will be fully responsible for complying with all applicable laws and regulations, including the *Residential Tenancy Act*.

(b) Kiwanis will be fully responsible for the management and administration of the Affordable Rental Units, and all associated costs.

(c) Kiwanis will furnish good and efficient management and operation of the Development, the Buildings and the Affordable Rental Units and will permit representatives of the District to inspect the Development, the Buildings and the Affordable Rental Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*.

(d) Kiwanis will maintain the Development (including soft and hard landscaping, servicing, parking and loading), the Buildings and the Affordable Rental Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Lands.

(e) Kiwanis will not assign or delegate management and operation of the Affordable Rental Units to any entity, except with the prior written consent of the District, acting reasonably. When considering whether to provide consent, the District may consider (without being exhaustive) whether the proposed entity is a society or a non-profit organization experienced in providing affordable housing. As an exception to the foregoing, Kiwanis may retain contractors to assist with repair, facility maintenance, janitorial services, and similar activities, on the Lands, provided

that Kiwanis will remain primarily responsible for the operation and management of the Affordable Rental Units.

#### **4.4 District Inquiries and Inspections**

- (a) On or before December 31 of every calendar year during the Term, and otherwise at the request of the District, acting reasonably, Kiwanis will deliver to the District:
  - (1) a statutory declaration in the form attached as Schedule C;
  - (2) as applicable, the Market Rent appraisal report contemplated in section 4.2(b)(1) or in section 4.2(b)(3);
  - (3) such Records as the District may reasonably require confirming that a Tenant of an Affordable Rental Unit is an Eligible Tenant under this Agreement; and
  - (4) such other information as may be reasonably requested by the District from time to time to confirm Kiwanis' compliance with this Agreement.
- (b) Kiwanis hereby irrevocably authorizes the District to make such inquiries as the District reasonably considers necessary in order to confirm Kiwanis is complying with this Agreement.
- (c) Kiwanis will retain all Records that pertain to its obligations under this Agreement for not less than seven (7) years following the date of receipt or production of the Records.
- (d) The District will have the right to inspect the Records including the right to enter any premises used by Kiwanis to keep or store the Records at any time after the delivery of notice to Kiwanis and will have the immediate right to make extracts from and take copies of the Records.

#### **4.5 District's Administration**

Unless otherwise stated from time to time in a District bylaw, this Agreement will be administered for the District by the Chief Administrative Officer. To that effect:

- (a) all notices addressed to the District pursuant to this Agreement will be addressed to the Chief Administrative Officer and delivered in accordance with section 6.2(h);
- (b) all reports, declarations, and other deliverables that Kiwanis is obligated to deliver or submit to the District under this Agreement will be addressed and delivered to the Chief Administrative Officer;
- (c) except in the context of Subdivision, development permit, building permit, or occupancy approval (in which case ordinary District process will govern) all approvals, consents, and expressions of District's satisfaction, or refusal thereof, as applicable, pursuant to the Agreement will be delivered to Kiwanis by the Chief Administrative Officer; and
- (d) all determinations of the District contemplated in this Agreement (including pursuant to section 4.2) will be delivered to Kiwanis by the Chief Administrative Officer.

Nothing in this section precludes the Chief Administrative Officer from referring a matter, approval, consent, or determination to the District's Council.

## 5.0 DEFAULT AND REMEDIES

### 5.1 Notice

- (a) In the event of a default under this Agreement, the District may give to Kiwanis a written notice of default (the “**Notice**”) requiring Kiwanis to cure a default under this Agreement. The Notice must specify the nature of the default.
- (b) Kiwanis will cure the default:
  - (1) within 30 days of receipt of the Notice; or
  - (2) within such longer period as may reasonably be required to cure such default, provided that Kiwanis has advised the District in writing of the time reasonably required to cure the default and is diligently pursuing same.
- (c) In the event of a real or a reasonable perceived emergency, no Notice is required, and Kiwanis will immediately cure the default upon being advised verbally or in writing by the District.

### 5.2 Daily Amount

If Kiwanis fails to correct a default as contemplated in section 5.1, Kiwanis will pay to the District, as a rent charge pursuant to section 5.3, in respect to each incidence of default, within 30 days of receiving a written request by the District, the Daily Amount for every day that the default continues. The Daily Amount will be increased on January 1 of each year by an amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase in the CPI during the immediately preceding calendar year. The Daily Amount is due and payable immediately upon receipt by Kiwanis of an invoice from the District for the same. This section is without prejudice to any other remedy available to the District under this Agreement and at law or in equity.

### 5.3 Rent Charge

Kiwanis hereby grants to the District, with respect to the Leasehold Interest, a rent charge under section 5.2 and section 5.3 of this Agreement and under Section 219 of the *Land Title Act*, and at common law, securing payment by Kiwanis to the District of any amount payable by Kiwanis pursuant to this Agreement. Kiwanis agrees that the District, at its option, may enforce payment of such outstanding amount in a court of competent jurisdiction as a contract debt, by an action for and order for sale, by proceedings for the appointment of a receiver, or in any other method available to the District at law or in equity.

### 5.4 Damages Inadequate

Notwithstanding section 5.2 and section 5.3, Kiwanis acknowledges and agrees that in case of a breach of this Agreement which is not fully remediable by the mere payment of money and promptly so remedied, the harm sustained by the District and to the public interest will be irreparable and not susceptible of adequate monetary compensation. The District may, in its discretion, seek any other remedy that may be available to the District at law or in equity.

## 5.5 No Remedy is Exclusive

No remedy under this Agreement is deemed to be exclusive but will, where possible, be cumulative with all other remedies available under this Agreement, at law or in equity.

## 6.0 GENERAL

### 6.1 Registration

Kiwanis acknowledges and agrees that:

- (a) The covenants and agreements on the part of Kiwanis in this Agreement have been made by Kiwanis as contractual obligations as well as being made pursuant to section 483 of the Local Government Act and as a covenant pursuant to section 219 of the Land Title Act;
- (b) Kiwanis will cause the registration of the section 219 covenant contained in this Agreement against the Leasehold Interest in priority to all financial charges and encumbrances (including mortgages, assignments of rents, liens, options to purchase, and rights of first refusal); and
- (c) this Agreement will be registered as a charge against the Leasehold Interest on title to the Lands, pursuant to section 219 of the *Land Title Act*, and will be noted as a notation on title to the Lands pursuant to section 483 of the *Local Government Act*.

### 6.2 Miscellaneous

- (a) Kiwanis and the District agree that:
  - (1) this Agreement is entered into only for the benefit of the District;
  - (2) this Agreement is not intended to protect the interests of Kiwanis, any tenant, or any future owner, lessee, occupier or user of the Lands, the Development, the Buildings, or any Affordable Rental Unit; and
  - (3) the District 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 Kiwanis.
- (b) This Agreement burdens and runs with the Lands and any part into which any of them may be Subdivided. All covenants and agreements contained in this Agreement are made by Kiwanis for itself, its successors and assigns, and all persons who acquire an interest in the Lands after the date of this Agreement. Without limiting the foregoing, Kiwanis will not be liable for any breach of any covenant, promise or agreement herein in respect of any portion of the Lands sold, assigned, considered or otherwise disposed of, occurring after Kiwanis has ceased to hold the Leasehold Interest in the Lands.
- (c) This Agreement may only be modified in writing, signed by both parties, in registrable form. The modification will only be effective if it is approved both as a modification of a housing agreement pursuant to section 483 of the *Local Government Act* (which requires a bylaw), and

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as a modification of a covenant pursuant to section 219 of the *Land Title Act*. Any modification will be filed in the Land Title Office as a modification of a covenant and as a modification of the housing agreement.

- (d) The rights given to the District by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the District to anyone, or obliges the District to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.
- (e) The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement will not be construed as a waiver of any future or continuing failure, whether similar or dissimilar.
- (f) The District is not obligated to inspect the Lands or to otherwise ensure compliance with this Agreement, nor is the District obligated to remedy any default of this Agreement. A failure by the District to enforce this Agreement will not constitute a waiver of any of the District's rights herein.
- (g) If a Court of competent jurisdiction finds that any part of this Agreement is invalid, illegal, or unenforceable, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that finding or by the severance of that part.
- (h) All notices, demands, or requests of any kind, which a party may be required or permitted to serve on another in connection with this Agreement, must be in writing and may be served on the other parties by registered mail, or by personal service, to the address written on page 1 of this Agreement. All notices to the District must be addressed to the Chief Administrative Officer. Service of any such notice, demand, or request will be deemed complete, if made by registered mail, 72 hours after the date and hour of mailing, except where there is a postal service disruption during such period, in which case service will be deemed to be complete only upon actual delivery of the notice, demand or request; and if made by personal service, upon personal service being effected. Any party, from time to time, by notice in writing served upon the other parties, may designate a different address or different or additional persons to which all notices, demands, or requests are to be addressed.
- (i) Upon request by the District, Kiwanis will promptly do such acts and execute such documents as may be reasonably necessary, in the opinion of the District, to give effect to this Agreement.
- (j) This Agreement will ensure to the benefit of and be binding upon each of the parties and their successors and permitted assigns.
- (k) This Agreement, and any documents signed by Kiwanis contemplated by this Agreement, represents the whole agreement between the District and Kiwanis, and there are no warranties, representations, conditions or collateral agreements made by the District or Kiwanis except as set forth in this Agreement.
- (l) Nothing in this Agreement will constitute Kiwanis as the agent, joint venturer, or partner of the District or give Kiwanis any authority to bind the District in any way.

(m) A reference in this Agreement to approval or consent of the District shall be a reference to approval by the District's Chief Administrative Officer or their designate. Nothing in this section precludes the Chief Administrative Officer from referring an approval or consent to the District's Council.

(n) This Agreement can be signed in counterpart and delivered electronically.

**IN WITNESS WHEREOF**, the parties have executed the Form C to which this Agreement is attached to these Terms of Instrument.

**SCHEDULE A**  
**AFFORDABLE RENT**

| Unit Mix | Average Size (sq. ft) (which may vary up or down by 3%) | Average L1 Rent**** | Average Rent/sq. ft. | % of Market Rent Rate |
|----------|---|---------------------|----------------------|-----------------------|
| Studio*  | 415.8   | \$1,141.29          | \$2.74               | 75%                   |
| 1-bd.*   | 603.1   | \$1,479.28          | \$2.45               | 75%                   |
| 2-bd.**  | 803.7   | \$2,035.85          | \$2.53               | 75%                   |
| 3-bd.*** | 1020.4  | \$2,689.06          | \$2.64               | 75%                   |

\*Floor level adjustment of \$20 per floor for Studio and 1-bd units

\*\*Floor level adjustments of \$30 per floor for 2-bd

\*\*\*Floor level adjustment of \$50 per floor for 3-bd units

\*\*\*\*Rent will reflect square footage of the unit (on the basis of average rent/square foot)

**SCHEDULE B  
ELIGIBLE TENANT**

An Eligible Tenant is a Tenant who meets all the following qualifications:

- (1) has a cumulative household gross annual income from all sources (including employment, disability, retirement, investment, and other) that does not exceed the limits set out below:
  - i. for Dwellings with less than two (2) bedrooms, a gross household income that does not exceed 1.25 multiplied by BC Housing’s Low and Moderate Income Limits for couples without children in BC, as determined by BC Housing from time to time. For 2022, this calculation amounts to:
    - 1.25 multiplied by \$77,430, for a gross household income limit of \$96,787; and
  - ii. for Dwellings with two (2) or more bedrooms, a gross household income that does not exceed 1.20 multiplied by BC Housing’s Low and Moderate Income Limits for families with children in BC, as determined by BC Housing from time to time. For 2022, this calculation amounts to:
    - 1.20 multiplied by \$120,990, for a gross household income limit of \$145,188.

For clarity, “**Low and Moderate Income Limits**” in this Schedule B has the same meaning as set by BC Housing from time to time. As of the date of this Agreement, “Low and Moderate Income Limits” refers to a gross household income that does not exceed the median income [*being 50<sup>th</sup> percentile*], for couples with or without children in BC, as applicable, all as determined by BC Housing from time to time;
- (2) do not currently own an interest in residential real property anywhere in the world, and are living in rental housing or another non-ownership tenure (e.g. living with family);
- (3) do not own assets (including stocks, bonds, term deposits, mutual funds and cash, real estate equity (net of debt), business equity in a private incorporated company, and such other assets as are valued by BC Housing from time to time to determine eligibility for supportive housing) in excess of:
  - i. for 2-bedroom units and for 3-bedroom units: \$400,000.00; and
  - ii. for studios and for 1-bedroom units: \$300,000.00;
- (4) can demonstrate a substantial connection to the West Vancouver community, including (without being exhaustive) in one or more of the following ways:

- i. at least one member of the Tenant’s household has resided in West Vancouver for at least 12 months;
- ii. at least one member of the Tenant’s household is employed in West Vancouver; and
- iii. at least one member of the Tenant’s household is enrolled in a school within the boundaries of the District of West Vancouver,

provided that if, despite reasonable efforts, Kiwanis is unable to find Eligible Tenants who meet the qualification in this paragraph (4), then, upon prior written approval of the District, which will not be unreasonably withheld, Kiwanis may accept otherwise Eligible Tenants who do not have a substantial connection to the West Vancouver community but have a substantial connection to the North Shore community in the ways outlined immediately above. For the purpose of this section “North Shore” refers to the cumulative geographic area of the District of West Vancouver, the District of North Vancouver and the City of North Vancouver.

The District and Kiwanis will meet periodically to discuss if any amendments or adjustments to this Schedule B – Eligible Tenant may be warranted, with the first meeting to take place within the first two years after initial occupancy of the Development.

SCHEDULE C

STATUTORY DECLARATION

|                     |   |   |
|---------------------|---|---|
|                     | ) |   |
| CANADA              | ) | IN THE MATTER OF Unit Nos. _____ - _____ (collectively,   |
|                     | ) | the “Affordable Rental Units”) located at                 |
|                     | ) | _____   |
| PROVINCE OF BRITISH | ) | (street address), British Columbia, and Housing Agreement |
| COLUMBIA            | ) | dated _____, 20____ (the “Housing                         |
|                     | ) | Agreement”) between Kiwanis North Shore Housing Society   |
|                     | ) | and the District of West Vancouver (the “City”)           |
| TO WIT:             | ) |   |
|                     | ) |   |

I, \_\_\_\_\_ (full name),  
of \_\_\_\_\_ (address) in the Province

of British Columbia, DO SOLEMNLY DECLARE that:

I am \_\_\_\_\_ of Kiwanis North Shore Housing Society and have personal knowledge of the matters set out herein;

This declaration is made pursuant to the terms of the Housing Agreement in respect of the Affordable Housing Units for each of the 12 months for the period from January 1, 20\_\_ to December 31, 20\_\_ (the “Period”);

Throughout the Period:

- (a) the Affordable Rental Units, if occupied, were occupied only by Eligible Tenants (as defined in the Housing Agreement);
- (b) all Affordable Rental Units have been rented at Affordable Rent (as defined in the Housing Agreement);
- (c) Affordable Rent has not exceeded 75 % of average market rent in the District of West Vancouver for equivalent units, except as expressly permitted in the Housing Agreement; and



*Appendix 1*

| <i>Unit #</i> | <i>Rented (R)<br/>or<br/>Unrented<br/>(UR)</i> | <i>If rented:<br/>Current rent</i> | <i>If rented: Date<br/>current tenancy<br/>commenced</i> | <i>If rented:<br/>Date of last<br/>rent increase</i> | <i>If rented:<br/>% of last<br/>rent<br/>increase</i> | <i>Number<br/>of<br/>occupants</i> |
|---------------|--|------------------------------------|--|--|---|------------------------------------|
|               |  |                                    |  |  |   |                                    |



*Appendix 2*

*[report to be attached, as and when applicable]*

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**From:** David Marley <domarley52@gmail.com>  
**Sent:** Wednesday, May 11, 2022 9:30 PM  
**To:** correspondence  
**Cc:** Mary-Ann Booth; Craig Cameron; Nora Gambioli; Peter Lambur; Bill Soprovich; Sharon Thompson; Marcus Wong  
**Subject:** Affordable for who and for how long? West Van moves forward with Gordon Ave affordable housing

CAUTION: This email originated from outside the organization from email address domarley52@gmail.com. Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

No reasonable person will question the good intentions of West Vancouver Council in seeking to include a significant number of “affordable” housing units in its proposed redevelopment of District-owned property at 2195 Gordon Avenue. But it has long been well known where such intentions often lead.

In addition to the specified range of household income what, if any, other eligibility criteria will be utilized by the District to determine who may be a candidate for one of the proposed 167 below market rental units? Are there to be different categories of eligible candidates, some who are to be given preference by virtue, say, of the identity of their employer (ie. the District of West Vancouver or the local School District) or the nature of their work (ie. “first responders”)? What happens when the household income of these fortunate tenants, whose rent is being subsidized by local taxpayers, exceeds the allowable ceiling? Will they have to vacate the premises and, if so, how quickly? Will they have a right of appeal to the Rentalsman or whatever provincial agency today oversees landlord-tenant matters?

Who is to administer the selection process respecting applicants and monitor their eligibility status going forward? How are the local taxpayers to have confidence in this administrative regime? What degree of public disclosure will be required of such personal matters as a tenant’s household income? What about their privacy rights? Will taxpayers be asked to simply trust the District administrators? Good luck with that.

The questions could go on and on. Has anyone on Council asked any?

How about priorities? West Vancouver has recently lost or is about to lose two local care facilities. According to the 2021 Census, our community is home to a disproportionate number of seniors. Anyone walking in Ambleside, Dundarave or Horseshoe Bay doesn’t need the Census to tell them this. Four of the five remaining care homes, the two Amicas, Hollyburn and the Westerly are priced well above what many aging locals and their families can afford or ought reasonably to be expected to pay. The Gordon Avenue project is the ideal location for a state-of-the-art, reasonably-priced care facility to be incorporated as part of the redevelopment. The COVID pandemic has made abundantly clear how much such facilities are urgently needed in our country, especially in major urban centres. This is precisely the type of affordable housing which ought to be built on publicly-owned land.

Lastly, the June 13th Council meeting where a decision is evidently to be made respecting next steps for this redevelopment, a decision which may lock local taxpayers into an irrevocable commitment to the developers, is taking place a mere four months before people go to the polls to elect a new Council. It is inappropriate in the extreme for this outgoing Council to cast a vote which may tie the hands of its successor respecting the property in question, a hugely

David Marley

s.22(1)

West Vancouver, BC

s.22(1)

604-926-8994

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gordon-ave-affordable-housing-

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**From:** David Marley <domarley52@gmail.com>  
**Sent:** Tuesday, June 7, 2022 12:25 PM  
**To:** correspondence  
**Cc:** Mary-Ann Booth; Craig Cameron; Nora Gambioli; Peter Lambur; Bill Soprovich; Sharon Thompson; Marcus Wong  
**Subject:** West Van moves ahead with Gordon Ave project

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According to the accompanying news article, it is to be the DWV which will establish the criteria for inclusion on the list of individuals who are to be eligible for consideration as a tenant for one of the limited number of below market rental units in this housing project.

If so, I ask again, what criteria, other than a yearly income within the acceptable range and a “substantial connection to West Vancouver”, are to be employed in determining eligibility of prospective tenants?

I hereby request that my name and contact information not be redacted from this communication.

David Marley

s.22(1)

West Vancouver, BC

s. 22(1)

604-926-8994

Read here: <https://www.northshoredailypost.com/west-van-moves-ahead-with-2195-gordon-avenue-project/>

**From:** correspondence  
**Subject:** FW: Council Correspondence: week ending June 8, 2022

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**From:** Doti Niedermayer <dniedermayer@westvancouver.ca>  
**Sent:** Monday, June 13, 2022 4:24 PM  
**To:** [REDACTED] s. 22(1)  
**Cc:** mayorandcouncil@westvancouver.ca; correspondence <correspondence@westvancouver.ca>  
**Subject:** Council Correspondence: week ending June 8, 2022

Hello [REDACTED] s.22(1)

Thank you for your email of June 6th regarding Arts Planning Visioning which has been referred to me for a reply.

The current facilities are not able to be repaired for the following reasons:

- Current buildings are too small and inadequate for current use, repairing them is not a viable alternative
- The two buildings on the waterfront are flooded every year and can no longer be protected from storm events
- None of the buildings meet accessibility standards
- The District has an asset management program that has determined the three buildings in question cannot be restored adequately
- Other old residential properties have already been removed and arts space has reduced in recent years
- A purpose built facility is the only option if West Vancouver is to continue supporting the arts

The process to determine the need for a new replacement arts and culture facility can be found in the District of West Vancouver Arts & Culture Facilities Plan, June 2019, at the link here:

<https://westvancouver.ca/sites/default/files/Arts%20and%20Culture%20Facilities%20Plan%20Report-June%202019.pdf>

At the July 26, 2021 Council meeting, Council directed staff to “... develop an additional community wide engagement program on next steps for arts and culture facilities in West Vancouver, and the development of a governance model and a fundraising plan for the replacement of the facilities for arts and culture in West Vancouver”.

The process to determine “where the money is coming from” to build a new facility will incorporate a Capital Funding Plan that includes private donations or facility naming opportunities, federal and provincial government grants, and development opportunities. This process is now underway.

The meetings of both the Arts Facilities Advisory Committee’s Governance Subcommittee and Capital Funding Subcommittee are open to the public with the schedule available here: <https://westvancouver.ca/be-involved/committees-groups/committees/arts-facilities-advisory-committee>

Sincerely,  
Doti

**Doti Niedermayer**  
Senior Manager, Cultural Services | District of West Vancouver  
t: 604-921-2938 | c: 604-250-0476 | [westvancouver.ca](http://westvancouver.ca)

.....  
We acknowledge that we are on the traditional, ancestral and unceded territory of the Skwxwú7mesh Úxwumixw (Squamish Nation), səliłwətaʔ (Tsleil-Waututh Nation), and xʷməθkʷəy̓əm (Musqueam Nation). We recognize and respect them as nations in this territory, as well as their historic connection to the lands and waters around us since time immemorial.

**From:** correspondence  
**Subject:** FW: "Arts Planning Visioning"

**From:** [REDACTED] s. 22(1)  
**Sent:** Tuesday, June 7, 2022 5:50 PM  
**To:** correspondence <correspondence@westvancouver.ca>  
**Subject:** FW: "Arts Planning Visioning"

**CAUTION:** This email originated from outside the organization from email address [REDACTED] s. 22(1) Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

**From:** [REDACTED] s.22(1)  
**Sent:** Monday, June 6, 2022 12:15 PM  
**To:** District of West Vancouver Arts <[Arts@westvancouver.ca](mailto:Arts@westvancouver.ca)>  
**Cc:** [REDACTED] s. 22(1)  
**Subject:** "Arts Planning Visioning"

**CAUTION:** This email originated from outside the organization from email address [REDACTED] s. 22(1) Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

Hello Christie,

Thank you for your email regarding "Arts Planning Visioning." I have some comments, none of which are personal to you.

In my opinion the arts situation in West Vancouver is just fine. No funds should be spent developing any further projects. Fix up what we have – hold on to what put West Vancouver on the map in the first place. If current facilities are "in poor condition" and "at the end of life" then – fix them.

I really hope that this current council is not suffering from a selfish desire to mark a new facility as its legacy – But then, this is the same council that allowed the developers at Park Royal to exceed their building permits to overbuild, and then accepted the developer's request to amend the original permission. Shocking.

I am not at all convinced that given the realities of today, an apparent process conducted in 2017 is still consonant with residents' needs and wishes. That was 5 years ago, pre Covid 19 and during different economic times. I suspect our community's priorities have changed in that 5 year period. Moreover, I have resided in West Vancouver for [REDACTED] s.22(1) and I have no recollection of every being consulted about this issue. So, when in your FAQ you state "we asked the entire community" I have to question that. I doubt very much that if West Vancouver residents were polled, a majority would vote for a new facility.

Which raises another question – where is the money coming from to build a new facility? I do wonder. The FAQ refers to "identifying potential partnerships and sources of funding through development" – by that do you mean that developers will or have already been asked to "contribute" funds in order to get the building permits they seek? In my

view, that is nothing short of a conflict of interest. Our council has already bent over backwards to accommodate developers, to the detriment of our community. This would only open those doors wider.

Please ensure that this email is brought to council's and the mayor's attention.

Regards,

s. 22(1)

West Vancouver, BC

s. 22(1)

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**From:** Finance  
**Sent:** Monday, June 13, 2022 6:53 PM  
**To:** s. 22(1)  
**Cc:** correspondence  
**Subject:** 2021 Annual Financial Report

Dear s. 22(1),

Thank you for your email dated June 3, 2022.

The District has fulfilled the requirement regulated by Section 167(Part 6) of Community Charter. The 2021 audited financial statements, along with other required documentation, were submitted to the Ministry on May 13, 2022.

With respect to the annual report, the Community Charter Section 98 and 99 (Part 4) explicitly states the deadlines and contents to be included in the annual report. The deadline for the annual report is June 30 each year. Municipalities are required to have the annual report available for public inspection 14 days before a council meeting or other public meeting. This provides citizens with time to review the annual report, ask questions and prepare submissions.

The District posted the 2021 draft annual report on June 10th for public input, and it is scheduled to be considered at the June 27, 2022 Council meeting.

Council remuneration and expenses report is part of the 2021 Statement of Financial Information, which is included in the consent agenda for the June 27 council meeting.

**Christine Shi** MBA, CPA, CGA  
Manager, Financial Accounting and Reporting | District of West Vancouver  
t: 604-921-3491 | c: 604-209-1695 | [westvancouver.ca](http://westvancouver.ca)





**From:** [REDACTED] s. 22(1) >  
**Sent:** Friday, June 3, 2022 4:40 PM  
**To:** correspondence  
**Cc:** Mary Ann Booth; Peter Lambur; Bill Soprovich; Mark Chan; Sharon Thompson; Marcus Wong; Craig Cameron; Nora Gambioli  
**Subject:** 2021 Annual Financial Report not published

**CAUTION:** This email originated from outside the organization from email address [REDACTED] s. 22(1). Do not click links or open attachments unless you validate the sender and know the content is safe. If you believe this e-mail is suspicious, please report it to IT by marking it as SPAM.

Your Worship,

Today is June 3rd. According to the Community Charter, s. 167, the municipality is required to submit its annual financial report to the Inspector of Municipalities not later than May 15th of the year following the year the annual financial report pertains to. In addition, the municipal government must prepare and publish a report listing the remuneration, expenses and contracts of council (s. 168).

Typically, the annual financial report for the fiscal year ending 12/31/.... would be accompanied by the s. 168 report.

The proposed regular council meeting agenda for June 13th has been posted to the District's web site, but notable for its absence, the agenda does not include agenda items for the audited annual financial report for the year ending 12/31/2021, or the s. 168 council remuneration, expenses and contracts report for 2021.

Can you provide a date by which the annual report (s. 167) and the council remuneration, expenses, and contracts report (s. 168) for fiscal year 2021 will be published this year?

This year being an election year, financial reports assume a larger significance than in any other year of a council's four-year mandate.

Your servant,  
 /s/ [REDACTED] s. 22(1)  
 [REDACTED] s. 22(1), W. Vancouver, [REDACTED] s. 22(1)

[REDACTED] s. 22(1)