

Strata Leasehold Subcommittee Meeting

Meeting Minutes

Wednesday, October 21, 2015

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1) Revised structure for False Creek South Neighbourhood Association/Re*Plan

- Anne Kaye introduced the current updated RePlan structure, which is attached in Appendix 1.
- All community members are invited to participate in the existing working teams.
 - o A particular need for skilled team leads exists in the “Volunteers & Key Supporters” and the “Funding” working teams.
- It was clarified that George Stratis is the president of one of the two commercial stratas in Leg in Boot Square and is keeping the other owners, as well as the other commercial strata informed. No formal working group was struck, since the leases are very similar and the commercial and residential are physically connected.

Action Tasks:

- All members are asked to identify and invite skilled individuals to participate in funding and volunteer coordination

2) Update on outreach strategy with FCS strata enclaves/owners

a. Feedback from delegates on status of conversations with council re: funding and outreach presentations

- The **Lagoons** council has discussed and generally supports funding; a presentation date is set for November 18.
- The **Leg-in-Boot commercial** strata is not interested in confrontation;
- **Fountain Terrace** needs to have its outreach meeting before financial contributions can be discussed;
- **Creek Village** looks forward to hearing more information prior to its AGM;
- **Market Hill** tabled the discussion for the moment as the delegate was travelling;
- **Harbour Terrace** struck an in-house working group to inform its owners and also needs to provide information prior to an ask for funding;
- **Mariner Point** will have a SGM following outreach and request funding;
- **Alder Bay Place** tabled the discussion until the next strata meeting;
- **Marine Mews'** budget-setting meeting is following shortly after this meeting. The AGM is set for late November; and
- **Heather Point** and **Creek Village** may combine their outreach presentations.

b. Draft presentation to enclaves

- Anne gave a run through of the draft presentation to owners. The total duration of the presentation is up to an hour. Attendees should be prepared for a total of two hours at the meeting, including discussion.
- The presentation was well received by the strata representatives. Comments highlighted that:

- The level of complexity is adequate for owners.
- In order to be successful in obtaining funding from owners, it will be important to prepare a budget that explains anticipated funding needs.
- General agreement was voiced for the working team to finalize the presentation and proceed to scheduling outreach meetings.
- With regards to the outreach process, it was suggested to:
 - Document questions at each meeting to prepare and circulate a Q&A.
 - Provide additional printed background information on RePlan and the initiative to help contextualize the conversation. This information could be circulated prior to the meeting.
 - Outreach meetings must be more than a month prior to AGMs in order for funding asks to be included in the strata's budget. Since all AGMs take place between October 2015 and April 2016, as many presentations as possible should take place before the Christmas break.

Action Tasks:

- RePlan to prepare support materials for the outreach presentation:
 - A letter to each Strata Council explaining the request, the rationale, the budget, , the process for owner approval, and the process for getting the funds to the FCSNA.
 - An invitation letter (email/print) and poster template for advertising.
 - RePlan Principles and Backgrounder (White Paper Summary).
 - A summary on the background of the need for funding as a handout at the presentation.
- Peer-Daniel to schedule outreach meetings (meetings to conclude before Christmas).

3) White Paper to inform outreach process

- Peer-Daniel asked delegates for feedback to the White Paper distributed after the last meeting and some minor amendments were suggested.
- The group concluded the paper should primarily be a working document for RePlan and its SLS committee, but also be made available to interested owners. However, for some owners, the level of information may be overwhelming and we could share more distilled information via the briefing note on the White Paper instead.

4) Report on October 13 meeting with City of Vancouver

- Nathan reported that RePlan is currently active on several fronts.
- We are working towards a council motion to ensure staff gets proper guidance and necessary resources to undertake this work with FCSNA/RePlan.
- The highest priority for RePlan is lease renewal, particularly for co-ops with short lease terms.

- With regards to stratas in False Creek South, two meetings with the City's Property Endowment Fund representatives and head of Real Estate took place recently. These regular, collaborative meetings should help to clarify the language in strata lot leases/the Strata Property Act.
- Delegates expressed that it is important to maintain the non-confrontational approach taken towards the City to date.

5) Budget Update

- Jerry presented budget figures for the necessary funding for RePlan activities in 2016.
- It was decided to take the budget discussion forward to the RePlan Steering and Strategy Leadership Group meeting on October 26; the discussion/decision making will be reported back at the next SLS meeting.

6) Next Meeting

- The next meeting is Monday, November 16 at 7:00 pm.

7) Appendices

a. Appendix 1: Revised structure for False Creek South Neighbourhood Association/Re*Plan



WORKING TEAMS:

Community Planning

Communications
& Engagement

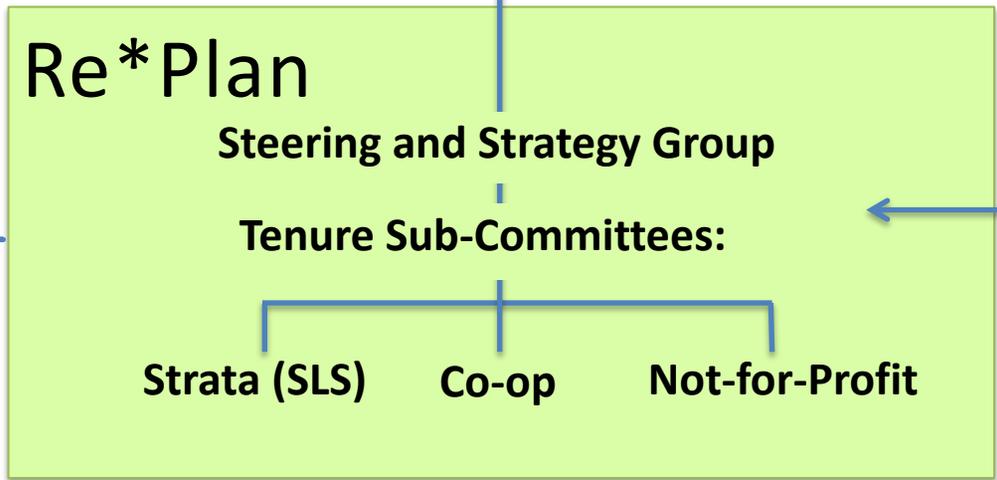
Funding

Governance

COV Relations

Special Research

Volunteers &
Key Supporters



Monthly
Re*Plan
Open
Forums

b. Appendix 2: White Paper Summary

South False Creek Strata Leases

A summary of the issues and potential solutions for strata owners

October 21, 2015

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Introduction

In September 2015, a small group of volunteers working with Re*Plan—a committee of the False Creek South Neighbourhood Association (FCSNA)—wrote a document titled, “White Paper: Historical and Legal Context for False Creek South Strata Leases”. It provides a detailed record of the available information related to leasehold ownership in False Creek South to support Re*Plan’s lease renewal discussions with the City of Vancouver.

The information in the White Paper, and other research completed by Re*Plan, has been used to develop this summary to help clarify the lease situation and outline potential future options for strata owners.

A Brief History of False Creek South Leases

- **1968** – City of Vancouver Council instructed its Planning Department to explore alternative uses for the declining industrial land in False Creek South (FCS). Its goal was to create a mixed-use, medium density area that included market strata condominiums, rental housing and cooperative housing to create affordable homes for a broad demographic of families, singles and seniors.
- **1974** – Council approved a plan for 80 acres of residential and recreational use, retaining ownership over the land through the use of land leases. Leases for strata owners were given for 60 years, with provision for a first rental price review at 30 years.
- **1975 to 1986** – Three phases of construction were completed creating 1,800 homes, a community centre, an elementary school, and two civic marinas.
- **2005** – 118 owners, who were still making monthly lease payments, received notice of large increases at the 30 year lease anniversary. (Other owners had opted to prepay their leases and therefore were not subject to the increases.)
- **2007 to 2010** – False Creek South volunteers worked through negotiation and arbitration to achieve significant reductions in the amounts demanded by the City.
- **2010** – Most of the 118 owners accepted a pre-payment offer from the City, which were less than the amount negotiated through arbitration.
- **2010** – FCSNA established the Re*Plan Committee to work on lease-end and renewal issues.
- **2012** – City of Vancouver Council voted unanimously to initiate the process of lease renewal in collaboration with the False Creek South community.
- **2012** – Re*Plan developed a set of principles to guide its work with the City.
- **2014** – Re*Plan conducted a survey of residents to gather opinions and preferences. 73% of strata owners responded.

- **2015** – At Re*Plan’s request, Mayor Gregor Robertson sent a letter to all residents committing to renegotiate a fair, long-term agreement with leaseholders, in all forms of housing, and to maintain the character of the area.
- **2015** - Re*Plan volunteers began regular meetings with City staff.

Since its inception, False Creek South has been recognized internationally as a model of successful community design. The area continues to provide affordable forms of housing for a mixed demographic of residents. FCS parks, seawall and green spaces now attract millions of visitors each year.

Role of False Creek South Neighbourhood Association & Re*Plan

The False Creek South Neighbourhood Association was created in the early 1980s, as False Creek South was being developed. Representatives from all the stratas (referred to as ‘enclaves’)—built both on leased and freehold land—are members of the Association. FCSNA has continued to act as an intermediary between the City and residents on a range of issues that affect the community. In 2010, it created Re*Plan with a specific mandate to work on lease-end and lease renewal issues with the City of Vancouver.

Principles guiding Re*Plan’s work

Re*Plan gathered input from the community to develop the following principles to guide its work:

- 1) Provide residents with an affordable option to remain in the community beyond lease renewal dates. Certainty around lease renewal is a priority in moving forward.
- 2) Achieve a demographic mix that is similar to the region’s average and with a stronger emphasis on providing more housing for moderate and middle income workers and their families.
- 3) Seek opportunities for increased density while respecting the historic urban design pattern of buildings and open space.
- 4) Continue to embody City of Vancouver initiatives: greenest city, affordable housing, and financial sustainability.
- 5) Model a process for dialogue, decision-making, partnership and change that is inclusive of all stakeholders.

These principles are important because they define *what we want and how we will go about getting it*. The mayor’s letter of commitment to the community includes similar principles, demonstrating that he understands the community’s wishes.

Role of the Strata Leasehold Subcommittee (SLS)

In 2014, Re*Plan's Strata Leasehold Subcommittee was formed to act as a conduit to strata councils and owners, helping ensure everyone has access to information on the issue and the options available to them. The SLS is made up of delegates from all of the strata enclaves. (There are separate subcommittees representing housing co-operative members and residents in rental enclaves.) SLS members will work through their Strata Councils and directly with their neighbours.

The Current Situation

Strata homes in False Creek South

There are 13 strata title developments in False Creek South built on land leased from the City of Vancouver. The following table lists the enclaves, the number of units they contain, and the year their current leases expire:

Enclave Name	# of Units	Lease Expiry
658 Leg-in-Boot Square	18	2036
666 Leg-in-Boot Square	36	2036
Spruce Village	36	2036
Creek Village	56	2036
Heather Point	48	2036
Marine Mews	50	2036
Market Hill Terrace	30	2036
609 Stamp's Landing	3	2036
Alder Bay Place	47	2040
Fountain Terrace	55	2040
Harbour Terrace	58	2040
The Lagoons	89	2046
Mariner Point	143	2046
Total	669	

Rights of owners established through the leases and Strata Property Act

Each enclave is managed by a Strata Corporation, which operates within the framework of the Strata Property Act to maintain the buildings and common areas. Each registered owner of a unit is an individual leaseholder who owns a strata-title lot (a condominium or townhouse), and has the right to use shared common property of the enclave. The lease gives the owner the right to use the land for its stated term. At the end of the lease, the ownership of the land reverts back to the City.

The Strata Property Act and the Lease Agreements are the two main legal tools that define the rights and obligations of the leaseholders (strata owners) and the landowner (the City of Vancouver). The Lease Agreements are contracts made between the City of Vancouver and the leaseholders. The Strata Property Act is a piece of provincial legislation. Generally speaking, the Act takes precedence over the leases.

At the end of the lease the landowner—the City of Vancouver—can renew or terminate the lease. The City’s obligation to buy out leaseholders at the end of the term, or renew the leases, is set out in both the leases and the Strata Property Act.

The clause in the Strata Property Act regarding renewal stipulates that the price will be based on the “current market rental value of the land.... excluding buildings and improvements”.

The wording of the Lease Agreements and the Strata Property Act, regarding purchase of the leaseholders interests at termination, both state that the purchase price offered by the City to the leaseholders will be at “fair market value”, calculated “as if the strata lot lease did not expire”.

The Strata Property Act references regulations that provide the basis for calculating the purchase price. However, these regulations were never written. Therefore, in early 2015, the City of Vancouver asked the Province to provide the missing regulations giving the basis for the calculation, as well as clarifying the leaseholder’s interests in the strata lot on termination.

Re*Plan is now working with the City and the Province to help ensure that FCS leaseholders’ are well represented in the process of amending the Strata Property Act.

Both the lease agreements and the Strata Property Act call for arbitration if the leaseholder and the landowner cannot agree on a price for buy-out or renewal through negotiation.

Maintaining property values

A survey conducted by Re*Plan in 2014 found that 86% of strata owners were concerned about what will happen at lease end. 25% of owners were worried about declining property values, and the majority of those who reported they were considering selling their homes within the next five years cited “uncertainty around lease renewal” as their main reason.

One of the issues contributing to owners’ concerns that property values may decline in the future is that banks and other financial institutions typically amortize mortgages and home-secured loans for five years less than the remaining term of the lease. This will result in increasingly larger monthly payments as the leases run towards their end date. This, in turn, may limit the number of potential buyers and force prices down.

Since its inception in 2010, Re*Plan has been working to get the City of Vancouver's attention on the potential problems that declining property values and owner anxiety may create.

Since the Mayor's written commitment in spring 2015 to work with the community, Re*Plan members are now meeting regularly with City staff to develop options for lease renewal for both strata owners and housing cooperatives, in order to overcome the issue of not being able to secure mortgages with a typical 25-year term.

The Future of Leases in False Creek South

Options outlined in the Leases and the Strata Property Act

The Lease Agreements and the Strata Property Act allow for three possible outcomes when the current leases expire:

- 1) The leases may be renewed under the same terms other than the duration and price
- 2) The City may terminate the leases and buy out the leaseholders' interests
- 3) The City may terminate the lease, convert the land from leasehold to freehold, and offer to sell the freehold interest to the leaseholders

The City has consistently stated that it is not considering option 3 – conversion to freehold.

Early lease renewal or lease extension

Given the information we currently have, Re*Plan believes the optimal outcome for strata leaseholders would be for the City of Vancouver to offer leaseholders the option of purchasing *a renewed lease which substantially extends the term of the current leases*.

Negotiating this outcome within the mandate of this current mayor and council would be ideal to avoid delays associated with re-starting the conversation with a new administration.

Affordable Payment Plans

The price the City might ask for an early lease renewal depends on the valuation model they use and the length of the term offered. Some current owners may not be able to afford a renewed lease.

Re*Plan has researched affordable payment models, for example, deferring payment until the unit is sold or passed on as part of the owner's estate (similar to the Province's property tax deferment scheme) and is intending to advocate for them on behalf of owners.

The 2010 arbitration and how it may help future negotiations

The 2010 arbitration process to determine the market rents that the City of Vancouver could charge the 118 strata owners, who had opted to make monthly lease payments, provides some useful precedents for calculating a mutually acceptable price for lease extensions in the future.

The arbitration panel agreed with residents that the market *rental* price, not the market *freehold* price, should be used to calculate the payments. Furthermore, the panel determined the price should be based on the land rent only, with the building and maintenance costs backed out. The ruling was not binding, however, and it was not actually used by the City to develop its pre-payment offer. The offer (which was lower than the arbitration recommendation) was based on a model that did not use market appreciation as basis for calculating land rents.

Why property tax assessments and market sales are not relevant to evaluation

BC Property Tax Assessments and current market sales are *not* relevant in evaluating the potential cost of a lease extension or renewal, because:

- BC Assessment uses a freehold assessment, not a leasehold valuation, for its annual assessment values. Consequently, strata leaseholders pay municipal taxes based on the freehold value.
- Current sales are also based on the market *sale* value of the land and improvements, and not the market *rental* value of the land alone.

How Community Planning and Land Governance Fit In

The City of Vancouver engages in a community planning process with residents and other stakeholders to define the goals for changes to a specific community, in terms of design, amenities, sustainability, transportation and housing. False Creek South residents have made it clear at several meetings that they want a voice in any changes to our neighbourhood. Re*Plan's principles, echoed in the Mayor's letter, call for maintaining the historic character of the area.

Residents' engagement in the planning process may also contribute some negotiating leverage for lease renewal. For example, if the community came out strongly in favor of adding more density to enable additional units of affordable housing to be built, it may help with negotiations for affordable payment options for renewed or extended leases. Re*Plan has identified some areas in which density could be added without changing the character of the neighbourhood.

The City is obliged by law to act in the interest of all its residents and to seek the "highest and best use" when dealing with its land assets. This is generally defined as getting the best financial return. However, if the City can demonstrate a "public purpose", such as providing non-market housing or affordable home ownership models, it can legally accept a lower financial return. Given Vancouver's expensive property market and the Vision party's stated goals of increasing the supply of affordable housing, there may be an opportunity to negotiate alternative land governance models such as a Community Land Trust.

Leaseholders are the decision makers

The FCSNA and Re*Plan are not in a legal position to represent leaseholders. They can act as advocates for leaseholders but, ultimately, all leaseholders have to make their own decision about renewing their leases.