



## Minutes

### Strata Leasehold Subcommittee (SLS)

**Meeting Date:** Wednesday, March 23, 2016, 7:00 – 9:00 pm

**Location:** Mariner Point Meeting Room

**Attendees:** Jaki Chantler, Cory Lake, Alain Catteau, Richard Creed, Sharon Yandle, Jerry Roy, Robert Boyd, Joseph Skala, Mats Tholin, Richard Marchant, Robert Renger, George Stratis, John Sanders, Lisa May (Chair), R. Hawrylko, Dennis McCann, Ralph Skinner, Peer-Daniel Krause, Nathan Edelson, Paul Ham, Anne Kaye

**Regrets:** Steve Jedreicich, Jan Chevarie, Panos Grames, Jim Taggart, Jim Woodward, Sucha Gill, Cal Towle, Jay Bancroft

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## 1) Update on False Creek South (FCS) Co-ops

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- Richard Vallee updated the group on recent developments among the housing co-ops in FCS.
- In housing co-ops, all owners collectively hold a single lease with the City of Vancouver. Co-ops are also advocating for a lease renewal through RePlan to ensure the continuation of our unique mixed community. Unlike strata leases in FCS, co-op leases do not include a clause for compensation upon termination.
- The City of Vancouver (COV) is currently preparing a framework for renewal of co-op leases that are set to expire in and around 2021. This process is expected to set a precedent for the area as a whole and will, thereby, affect co-ops with leases expiring in 2036 and beyond.
- RePlan is advocating for a land valuation approach that considers the City's social goals. A reduction of land lease costs could be considered if the co-ops can provide support for achieving COV housing objectives.
- Thom Armstrong, Executive Director of the Co-op Housing Federation of BC (CHF BC), will give a presentation on the [Vancouver Community Land Trust Foundation](#), part of CHF BC, on April 11, at 5:00 pm in the [Sitka Square meeting room](#). The Vancouver Community Land Trust Foundation has started construction on what will become a total of 358 rental units across several sites in the city of Vancouver. The rent in these units is expected to average 25% below market value. SLS members are invited to attend. ([More Details Here](#))

## 2) Status of discussions with the City of Vancouver

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- Following Chris Baas' appointment as COV Project Manager for False Creek South, regular FCS Steering Committee meetings of senior COV staff from housing, planning, real estate and finance were initiated. Meetings are chaired by City Manager Sadhu Johnson and take place every three weeks.
- The COV liaison team ( Richard Evans (Chair, RePlan), Sharon Yandle (President, FCSNA), Nathan Edelson and Peer-Daniel Krause (Consultants)) had a first meeting with the group. At the meeting, RePlan communicated that solidifying broad principles for future work is an important first step, which can be achieved via a council motion. As a result, the feasibility of this approach will be discussed at the next Steering Committee meeting.

## 3) Recent conversations with the Province on updating the SPA

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- RePlan was approached by provincial staff from the Housing Policy Branch to provide a position on potential changes to the Strata Property Act (SPA), since an update to the Housing Minister on the status of clarifying lease valuation terminology in the Act was being planned.
- The City would like to adopt a methodology that clarifies the lease end valuation process based on a system used in New South Wales (NSW), Australia, which provides a formula for calculating the value of the interest of leaseholders at the end of the lease term.

- Nathan and Peer-Daniel issued a written statement to Doug Page in the Housing Policy Branch, clarifying RePlan's position regarding changes to the Strata Property Act in this matter. (**See Appendix 1.**) In sum, RePlan does not support changes to the SPA, based on (a) our understanding that owners have an interest in the land that extends beyond the end of the lease, and (b) our interest to renew leases.
- Robert raised some considerable differences between BC and NSW that would impact leaseholders should the Province consider the NSW model. (**See Appendix 2a/b.**)
- The group discussed the need to capture testimony from Bo Fodchuk, the lawyer for Frank Stanzl, the original strata developer in False Creek South, regarding the intention of the original wording of the lease language. The following motion was proposed:

**Motion:** As a recommendation to the Strategy Group, RePlan have lawyer Mike Walker work with Bo Fodchuk to obtain an affidavit to clarify the intent of the language used in lease agreements regarding compensation upon the termination of leases drafted in 1976, which were then enshrined in the SPA. A sum up to a maximum of \$2,000 can be spent. **CARRIED UNANIMOUSLY**

**Action Task:**

- Share Robert's NSW model summary with SLS members (Appendix 2a/b)
- Review Fountain Terrace's schedule outlining costs for lease payments by *unit entitlement*
- Recommend obtaining an affidavit from Bo Fodchuk

#### 4) Endorsement of 2015/16 Strategic Plan

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- Lisa introduced the 2015/16 RePlan Strategic Plan, which has been endorsed by the RePlan Steering & Strategy Group.
- The purpose of the Strategic Plan is to provide a framework to guide our work for the future of False Creek South. The plan is designed to be a dynamic document for assessing progress and making course corrections.
- RePlan will ask for an endorsement of the plan at the next meeting.

**Action Task:**

- SLS members to review the RePlan Strategic Plan in preparation for a more detailed discussion at the April SLS meeting

#### 5) Funding

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- David Cookson, who is currently supporting RePlan's fundraising efforts, has reviewed the grant funding options that are available to RePlan.
- A fair amount of work has gone into exploring requests to the Ivey and the Bullit Foundations. The Ivey foundation does not accept unsolicited offers; however, David will continue to inquire with the foundation on occasion. A first inquiry was submitted to Bullit.
- Dennis provided an update on the status of RePlan's funding. An overview is attached in **Appendix 3.**

Strata	2016 Funding Status
658 Leg-In-Boot Square-Strata	Unclear
666 Leg-In-Boot Square VR551	Open
Market Hill Terrace-Strata VR588	Contributed
Creek Village-Strata VR466	Requested via AGM in April
Heather Point-Strata VR419	Contributed
Marine Mews-Strata VR442	Open
Spruce Village-Strata VR514	Contributed
Alder Bay Place-Strata VR691	Contributed
Fountain Terrace-Strata	Contributed
Harbour Terrace-Strata VR1157	Open
The Lagoons-Strata VR 2096	Requested via AGM in April
Mariner Point Strata VR1343	Requested via SGM
Stamps Landing VR909	Open

## 6) Status report on actions arising from previous meetings

### a) RePlan to invite Christopher Baas (COV Project Manager for FCS) to meet and to request a public announcement on his assignment

Chris positively responded to an invitation to meet with RePlan and the SLS. He will be asked join a meeting when he returns from vacation.

### b) Finance Task Group to discuss the approval process for expenditures

Key to the process will be to obtain an estimate prior to RePlan committing funding.

### c) Goal statement summary for leasehold strata owners (Mats/Richard)

The goal statement was updated and will be uploaded to the [RePlan](#) website.

#### Action Task:

- PD to prepare a final version of the goal statement and upload to the website

## 7) Our Options for Lease Renewal: Discussion

- A draft paper outlining the legal context for lease renewal was introduced as basis for discussion.
- The group suggested the options for lease renewal be communicated in a variety of formats, such as a community-wide forum (initiated by RePlan), small venue-workshops within individual stratas (on their own initiative), as well as a print and online summary. Different formats should be used to engage community members where they are most likely to seek information.

#### Action Task:

- PD to make minor revisions to the draft paper
- PD to work with volunteers to prepare a larger workshop. Richard Marchant, Jackie Chantler, Anne Kaye volunteered their support.

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## 8) Presentation on Community Land Trusts (CLT)

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- Thom Armstrong will give a presentation on the CHF BC CLT on April 11, at 5:00 pm at Sitka Square
- More online information can be found [here](#).

**Action Task:**

- PD to circulate invitation to CHF BC event to strata owners

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## 9) Next SLS meeting

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The next meeting will take place on Wednesday, April 13 at 7:00 pm at 1510 West 1<sup>st</sup> Avenue.

**Action Task:**

- Lisa to reserve meeting room

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## 10) Appendices

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### Appendix 1: FCSNA Preliminary Comments on Possible Amendments to the Strata Property Act

**From:** Nathan Edelson

**Sent:** March 7, 2016 9:49 PM

**To:** Page, Doug OHCS:EX

**Subject:** Re: False Creek South Neighbourhood Association Preliminary Comments on Possible Amendments to the Strata Property Act

Doug,

I am writing to thank you and Veronica for taking the time to speak with Peer-Daniel and me about Re\*Plan's concerns about changing the Strata Property Act at this time.

As we discussed, I am attaching our notes from a meeting our representatives had with Bo Fodchuk. Bo was the lawyer for Frank Stanzl, the developer who built stratas in False Creek South. He proposed the language for the leases and the Strata Property Act to give potential purchasers assurance that their investment would have value should the leases not be renewed. Bo has reviewed these notes. His contacts are *[removed to protect privacy]*.

In addition, I am attaching some draft material Re\*Plan has developed concerning lease termination and renewal. We would very much appreciate any comments you may have as we move to finalizing these documents.

We also would like to extend to you and Veronica an invitation to meet with Re\*Plan's working group on the Strata Leases to discuss these issues further and to help us prepare for our future discussions with the community and with the City.

Do not hesitate to contact me if you have any questions, suggestions or concerns.

Sincerely,

Nathan Edelson

March 23, 2016

On 25 February 2016 at 13:14, Nathan Edelson wrote:

Doug,

I am writing to follow up on your conversation with Peer-Daniel Krause yesterday in which you let us know that Ministry staff are preparing a report to the Executive Committee about possible changes to the Strata Property Act.

As you may know, Peer-Daniel and I met with Veronica Barlee several months ago. We gave her an overview of some of the issues facing the False Creek South community. Two thirds of the housing (co-op, non-profit, strata) is on City-owned land; most of the leases are due to expire over the next 20 to 30 years, several co-op leases in less than 10 years. This is having severe impacts on existing residents as they face uncertainty about their tenure, an inability to affordably obtain mortgages and challenges in borrowing funds for major building repairs.

The False Creek South Neighbourhood Association's RePlan Committee ([www.falsecreeksouth.org/replan](http://www.falsecreeksouth.org/replan)) has also met with staff from the City, BC Housing and others to review the implications of possible changes to the Strata Property Act. Its leadership has concluded that RePlan should not support changes to the Act at this time.

This is in part based on our conversations with the lawyer who represented the original developer Frank Stanzl. He indicated that Stanzl was facing challenges in selling leasehold properties on the area's former industrial lands. The original intent of the wording that was drafted for the leases and which was then put into legislation gave leaseholders rights similar to those of freehold owners. His comments are consistent with the understanding of residents in the area and with the preliminary legal advice we have received, as well as the fact that leaseholders have been taxed from the outset at the same rate as freeholders.

The City's Real Estate and Facilities Management Department researched methodologies for the clarification of lease-end valuation. These were presented to RePlan in November 2015. It is our understanding that the City of Vancouver recommended adopting the NSW (New South Wales) formula for "Compensation payable on termination of leasehold strata scheme," as the regulations referred to in Section 214 (2) (b) of the Strata Property Act for calculating the purchase price of a leasehold tenant's interest on termination.

**We do not think it is desirable to proceed with such a change to the act.**

We understand that if the leases as they presently exist were to be renewed, that is, as separate individual leases with the City, all the conditions must remain the same except for the term and cost of the lease for that term. If any other leasehold structure is to be created, the City would have to terminate each individual lease – as would be the case if the termination of a strata corporation is to be considered for community renewal.

1. RePlan's central focus is on lease renewal under conditions that are affordable to existing residents and others who would like to live near their jobs in Vancouver's Central Area. Thus our focus is not in lease termination per se. **We believe that lease termination and a new lease structure needs to be a simultaneous action** and the old and new systems seamlessly integrated. In other words, our interest in considering lease termination is only in order to facilitate lease continuation. The two are and ought to be inseparable.
2. Further, RePlan approached the City to start negotiating lease renewal more than five years ago. The process is finally beginning to move forward in what the community trusts is in good faith. Proceeding with new regulation at this time may cause greater confusion and uncertainty during negotiations. It may also lead to possible litigation by some owners, given that it has been the understanding of many buyers that strata leaseholders' rights include at least a residual value to the land at the point of termination. Any change in the Act that might serve to reduce the value of the asset that individuals believe they had purchased at fair market value over the last forty years would be of concern to our members and likely of concern to others who are leasing land in other parts of the province.
3. Discussions with the City of Vancouver about the renewal of our leases in some form is our first priority. The adverse effects of enacting regulations that detract from end of lease rights with no certainty that leases will be renewed is of great concern to current residents. We also believe that this course of action would have the effect of inhibiting current serious attempts to retain and increase the stock of truly affordable housing in False Creek South.

Do not hesitate to contact me should you require further information. RePlan may follow up with additional information after its leadership has had an opportunity to further review these issues with its Strata Leaseholder Committee in mid-March.

On behalf of the RePlan Committee of the False Creek South Neighbourhood Association,

Nathan Edelson

## Appendix 2a: NSW Formula for Strata Lot Buyout at Lease Termination

### New South Wales Consolidated Acts

#### STRATA SCHEMES (LEASEHOLD DEVELOPMENT) ACT 1986 - SCHEDULE 2

##### SCHEDULE 2 – Compensation payable on termination of leasehold strata scheme

(Sections 37 (1) (c), 80 (8) (e))

For the purposes of sections 37 (1) (c) and 80 (8) (e), the formula is:

"A" represents the value, at the date of termination of the leasehold strata scheme concerned, of the improvements attributable to a lot,

"B" represents the market value, at that date, of the lot, being the value of the lot at that date calculated on the basis that the lot:

- (a) is held for an estate in fee simple in possession, and
- (b) may be used, whether or not only with development consent, for any purpose the use of the lot for which is not at that date prohibited,

"C" where:  $= E \times \frac{U_1}{U_n}$

"E" represents the site value, at that date, of the parcel the subject of that leasehold strata scheme, being the value of the land included in that parcel at that date calculated on the basis that the land:

- (a) is held for an estate in fee simple in possession, and
- (b) may be used for the purpose of a site for the building or part of the building subject to the scheme, but excluding the value at that date of all improvements within the parcel,

"U1" represents the unit entitlement of the lot, and

"Un" represents the aggregate unit entitlement for that leasehold strata scheme, and

"D" represents the part of factor "B", if any, attributable to the value, at that date, of improvements to the lot effected by the lessor.

Source: [http://www.austlii.edu.au/au/legis/nsw/consol\\_act/ssda1986351/sch2.html](http://www.austlii.edu.au/au/legis/nsw/consol_act/ssda1986351/sch2.html)



## Appendix 2b: Explanation of NSW Formula for Strata Lot Buyout at Lease Termination

By SLS Member Robert Renger, March 29, 2016

1. The NSW formula approach is to start by appraising the leasehold strata lot as if it were a freehold unit. This value ("B" in the NSW formula) is the sum of the leaseholder's interest plus the lessor's (City's in our case) interest in the strata lot.
2. To determine the leaseholder's interest in the strata lot (i.e. the compensation payable, "A" in the NSW formula), it is necessary to subtract the lessor's interest in the strata lot ("C" in the NSW formula) from the freehold market value of the strata lot.
3. In the NSW formula, the unimproved value of the land which is the site of the strata development ("E" in the NSW formula) represents the aggregated total value of the lessor's (City's) interests in all of the strata lots in that particular strata development. This total land value needs to be determined and then divided up into separate land values for each of the separate strata lots. Then the land value for each strata lot (the lessor's interest, "C" in the NSW formula) is subtracted from the freehold market value of the strata lot ("B" in the NSW formula), leaving the leaseholder's interest in the strata lot (i.e. the compensation payable to the leaseholder "A" in the NSW formula).
4. In the NSW formula the total land value is divided up into separate land values for each of the separate strata lots, based on each strata lot's unit entitlement.
5. The NSW also includes a variable "D" representing the value of any improvements the lessor has made to the strata lot, which is subtracted from the buyout price.

### COMMENTS ON THE NSW FORMULA

The City of Vancouver has suggested the provincial government adopt the NSW for "Compensation payable on termination of leasehold strata scheme," as the regulations referred to in Section 214 (2) (b) of the Strata Property Act, for calculating the purchase price of a leasehold tenant's interest on termination. RePlan opposes this model (see Appendix 1 above).

Further, the NSW formula does not match the leasehold system in BC, due to the following differences:

1. To avoid an overvaluation of the land which is the site of the strata development ("E" in the NSW formula), its value in BC would need to be established on the following basis:
  - The land is unimproved
  - The land can be used ONLY for the leasehold strata development that was developed (not 100% clear in the NSW wording)
  - The land is valued on the basis that it can only be used for leasehold tenure (different from the NSW wording, because in BC the tenants' interest in the Strata Lot is to be valued as if the lease did not expire)

2. To ensure equity in how the total unimproved land value (which is subtracted from the leaseholders' total compensation) is apportioned to the individual strata lots the following conditions have to be met:

- In NSW, unit entitlements are apportioned on the basis of each strata lot's market value at the time of development, whereas in BC, unit entitlements are apportioned on the basis of each strata lot's unit size (floor area) at the time of development
- Using BC unit entitlements in the NSW formula would result in each strata lot giving up the same dollar amount per sq. ft. of unit size to the lessor—to pay for the lessor's interest in the land—regardless of how good or bad that strata lot's location on the site was (e.g. waterfront versus non-waterfront, view versus non-view townhouses and apartments, and lower units in high-rises). A measure of strata lot value (like NSW unit entitlement) not strata lot size (BC unit entitlement) has to be used to apportion the value of the land which is subtracted from the value of each strata lot.

3. Variable "D" in the NSW formula represents the value of improvements to the strata lot made by the lessor, but there is no apparent reason for including this variable in a formula in the BC context.

## Appendix 3: RePlan Financial Status: February 2016

### Treasurer's Report for the Month Ending February 29, 2016

The uncommitted available cash for the False Creek Neighbourhood Association's core business is \$8,050.94.

Membership dues invoices totalling \$5,915.00 were received in February, which includes an extra \$5 from one enclave. The remaining \$3,820.00 has yet to arrive.

The \$5,000 non-redeemable term deposit expires on March 11, 2016. I recommend allowing this term deposit to roll over upon maturity into a new one-year non-redeemable term deposit at the 1.2% member's rate.

Currently \*RePlan is taking advantage of the FCSNA tax loan provision in the amount of \$1,905.15 to pay for the planning consultant's January and February services. The first strata cheque for \$1,820.78 just arrived in the mail and was deposited on Tuesday, March 1. Invoices totalling \$13,896.85 were sent to two more stratas approving funding request, which brings the total funding approval to \$24,794.50.

**False Creek South Neighbourhood Association Financial Status**  
February, 2016

<b>FCSNA Core Business Balance Sheet</b>			
<b>February, 2016</b>			
	<b>February</b>	<b>January</b>	<b>Change</b>
#5 Non Redeemable 2016-03-11	\$5,000.00	\$5,000.00	\$0.00
#15 Cashable 2016-11-01	\$10,265.62	\$10,265.62	\$0.00
Community Services Account #1-Core Business	\$8,051.53	\$4,076.29	\$3,975.24
<b>Vancity Subtotal</b>	<b>\$23,317.15</b>	<b>\$19,341.91</b>	<b>\$3,975.24</b>
Vancity Membership	\$124.57	\$124.57	\$0.00
Membership Dues Accounts Receivable	\$3,820.00	\$9,730.00	-\$5,910.00
*RePlan Loan Receivable	\$1,909.15	\$0.00	\$1,909.15
<b>Accounts Receivable Subtotal</b>	<b>\$5,729.15</b>	<b>\$9,730.00</b>	<b>-\$4,000.85</b>
<b>Total Assets</b>	<b>\$29,170.87</b>	<b>\$29,196.48</b>	<b>-\$25.61</b>
Outstanding cheques	\$50.00	\$52.00	-\$2.00
<b>Accounts Payable Subtotal</b>	<b>\$50.00</b>	<b>\$52.00</b>	<b>-\$2.00</b>
FCSNA Equity	\$29,120.87	\$29,144.48	-\$23.61
<b>Total Liabilities</b>	<b>\$29,170.87</b>	<b>\$29,196.48</b>	<b>-\$25.61</b>

<b>FCSNA Core Business Operating Statement</b>		
<b>February, 2016</b>		
	<b>Month</b>	<b>YTD</b>
Memberships dues received	\$5,915.00	\$5,915.00
Other revenue	\$0.00	\$407.55
Current month interest	\$0.00	\$0.56
<b>Total Revenue</b>	<b>\$5,915.00</b>	<b>\$6,323.11</b>
Expenses	\$29.20	\$79.20
<b>Total Expenses</b>	<b>\$29.20</b>	<b>\$79.20</b>
<b>Surplus/(Deficit)</b>	<b>\$5,885.80</b>	<b>\$6,243.91</b>

<b>*RePlan Balance Sheet</b>			
<b>February, 2016</b>			
Community Services Account #1-*RePlan	\$0.00	\$525.01	-\$525.01
FCSNA Grant	\$0.00	\$2,000.00	-\$2,000.00
<b>Vancity Subtotal</b>	<b>\$0.00</b>	<b>\$2,525.01</b>	<b>-\$2,525.01</b>
Vancity Grant Accounts Receivable	\$25,000.00	\$25,000.00	\$0.00
Enclave Accounts Receivable	\$24,794.50	\$10,924.65	\$13,869.85
<b>Accounts Receivable Subtotal</b>	<b>\$49,794.50</b>	<b>\$35,924.65</b>	<b>\$13,869.85</b>
<b>Total Assets</b>	<b>\$49,794.50</b>	<b>\$38,449.66</b>	<b>\$11,344.84</b>
Miller Thomson Accounts Payable	\$12,391.60	\$12,391.60	\$0.00
FCSNA Loan Payable	\$1,909.15	\$0.00	\$1,909.15
<b>Accounts Payable Subtotal</b>	<b>\$14,300.75</b>	<b>\$12,391.60</b>	<b>\$1,909.15</b>
*RePlan Equity	\$37,402.90	\$26,058.06	\$11,344.84
<b>Total Liabilities</b>	<b>\$35,493.75</b>	<b>\$26,058.06</b>	<b>\$9,435.69</b>

<b>FCSNA Core Business Operating Statement</b>		
<b>February, 2016</b>		
	<b>Month</b>	<b>YTD</b>
<b>Total Revenue<sup>(2)</sup></b>	<b>\$0.00</b>	<b>\$2,000.00</b>
<b>Total Expenses</b>	<b>\$4,434.16</b>	<b>\$4,434.16</b>
<b>Surplus/(Deficit)</b>	<b>(\$4,434.16)</b>	<b>(\$2,434.16)</b>

<sup>(1)</sup> The payable and receivable categories were incorrectly identified in the January financial statements.

<sup>(2)</sup> The revenue from the FCSNA grant was not included in the January financial statements.