

False Creek South Leasehold Strata Issues

Meeting #3 (Continuation of the Non-Binding, without Prejudice Discussions from Meetings #1 and #2)

Wednesday, September 27th, 2017, 1900 to 2100

CityStudio Vancouver

Present:

Strata Leasehold Delegates:

Tom Beechinor (Lagoons), Tom Gibbons (Fountain Terrace), Panos Grames, Monty Woods (Spruce Village), Rosalie Hawrylko (666 Leg in Boot Square), Trevor Kaatz (Stamps Landing), Anne Kaye (Chair of the SLS), Jaki Chantler (Alder Bay Place), Cory Lake (Mariner Point), Richard Marchant (Vice-Chair of the SLS), Marta Hutton (Creek Village), Rob Renger (658 Leg in Boot Square), John Sanders (the Lagoons), Josef Skala, Sharon Yandle (Marine Mews), George Stratis (Commercial Leg in Boot Square), Jim Taggart (Commercial and residential Stamps Landing), Mats Tholin, Jerry Roy (Heather Point), Nathan Edelson, Daniel Ward (*RePlan),

City of Vancouver Staff: Bill Aujla (Chair, General Manager, Real Estate and Facilities Management), Chris Baas (Project Manager, Business Planning and Project Support), Greg Hamilton (Manager, Property Endowment Fund), Karis Hiebert (Planner, City of Vancouver)

Meeting Minutes

Introduction

Bill welcomed delegates to the meeting and reviewed the agenda - Overview, Leaseholder Interest in Strata Lot (LISL), Rent calculation, and Discussion of Term. Draft minutes from the last meeting are not yet available, and will be ready by next meeting for approval. Feedback from the first meeting has been incorporated. Bill welcomed Karis Hiebert from the Planning Department as an observer.

1. Chris Baas - Overview

Chris began with the recognition of the goal that FCS be a vibrant, residential, mixed income and livable community. He noted that no changes to current leases can occur unless jointly agreed to by the leaseholder and the City. There are other concurrent processes happening; Karis is leading the Planning part and she will circulate relevant information as needed.

Options for leaseholders must be sensitive to the various desires and life stages of residents. These will be taken into consideration when developing options, with the understanding that it will be difficult to satisfy everyone.

A slide showing the different related work streams that the City is undertaking was presented (community planning, affordable housing, resident retention and protection). The City is researching options for future land governance. **2. Leaseholder Interest in the Strata Lot (LISL)**

LISL is defined as the amount the lessor needs to pay the lessee should the lessor end the existing lease when the existing term expires. It is important to achieve clarity for leaseholders and the City about how it will be calculated. Being able to quantify it will lead to options - e.g. there may be ways to transfer the value into a new lease or extension, or possibly for leaseholders to borrow against that payment (for example, a lump sum could be paid when the lease is terminated, or the payment amount could be used as collateral if requesting funds from financial institutions for maintenance). Another scenario could be that if a new building is

built, residents could have the first right of refusal and may have the option to convert the end of lease payment to long-term market rental. This option would allow residents to remain in the community, in the spirit of addressing different interests. Nothing is definitive yet; it is possible that new buildings could be built before the end of the existing leases.

Chris then presented the relevant section from earlier leases about Termination:

“Where the LESSOR exercises its right to purchase under section 25.01 (a), the purchase price of the LESSEE’S interest in the STRATA LOT shall be its fair market value and, for the purposes of assessing its fair market value, the interest in the STRATA LOT shall be evaluated as if the lease did not terminate and the purchase price shall be arrived at as of the date of TERMINATION or non-renewal of this lease.”

Delegates and the City need to have a good understanding of this concept in order to communicate it effectively to neighbours and owners.

The City then mentioned research that was commissioned in 2015 and previously shared with *RePlan. Four top appraisers were hired and asked how to value the LISL given the language of the agreements. The resulting four options were presented for background information; the City is open to other ideas.

1. New South Wales (NSW) approach

Lessee’s interest = market value, as if it was freehold, less the market value of the land.

2. Rental project

Lessee’s interest = market value as if freehold rental project, less the market value of the land (notwithstanding that these are not rental projects).

3. Depreciated improvements

Lessee’s interest = the cost to rebuild brand new, multiplied by some depreciation based on age of the building.

4. Revenue streams

Lessee’s interest = the capitalized value of future rental stream, less the capitalized value of the future rental stream of the land.

The appraisers found that the value to the lessee / cost to the City would be highest under the NSW approach, which uses more objective criteria and provides more certainty than others that use subjective criteria, and are more flexible. It was noted that using numbers to show the relative differences between the approaches would be helpful in order to explain clearly to neighbours. Questions were raised about the use of BC assessment data, and the inclusion of the valuation of the land vs. that of only buildings and improvements.

Delegates noted that they do not agree with the underlying premise of any of the four models presented and requested that a fifth option be added, aligned with current selling/buying practices where the value is a percentage of freehold. ACTION: The City will raise this with the appraisers. A balance needs to be found between leaseholders and the City’s expectations of the value of LISL

The City welcomes suggestions from delegates of other appraisers to bring in, noting that they could be contracted by the City.

Once the basis for, and calculation of LISL is agreed too, options for affordability and transferring equity can be explored.

3. Rent calculation

Chris presented three possible methodologies to calculate future land rent. The calculation approach will determine potential future lease prices.

1. Return on investment (used in 2010 arbitration)

Net potential income as if a rental building (income minus operating costs), less the expected return on improvements (expected rate of return x replacement cost if new x depreciation factor).

2. Rate x land values

Ground rate = market value of land x rate of return for land

3. Comparison approach

Uses comparable leased properties, with adjustments for differences.

The first approach was used in the Arbitration award, when it was decided that 90% of the improvement value depreciates at the end of a 60-year lease, so at 30 years, 45% depreciation was assumed (for the purposes of determining rent between 2006 and 2016). The interest rate used was 7.2%, as in 2006. These numbers are accessible on the public record.

It was noted that depreciation of each building could be different, and that different parts of a building depreciate at different rates (boiler, roof, etc.). Some assumptions had to be made in 2006.

The second approach was favored by the City during the arbitration, and was rejected by the panel. The challenges associated with using the third approach were recognized. Since this report, both SFU and UBC have completed long-term leases, which can be explored for comparison, although this approach remains complicated due to the subjective nature of adjustments.

While the three rent determination methods incorporate aspects beyond pure numbers, it is the City's experience that taxpayers tend to focus solely on the financial implications of past agreements with tenants.

Delegates asked about the rent prepayment option that was offered to lessees subject to the 2006 rent review. The first prepayment program was offered in the 1980s and calculated the prepayment amounts based upon the future rental streams of the land, as well as different factors for each strata lot (size, number of bedrooms, water view, floor, etc). The second program (first offered in 2012) took place after the rent arbitration and considered inter-temporal equity (so that residents that pre-paid under the first program were not disadvantaged by the price offered under the second program). The City looked at the first cost of each strata lot prepayment under the first program and brought those forward in time based on the average increase in real estate land value in Vancouver since the first program ended.

It was noted that the rental amount due under the lease is different from any prepayment option that the city offered residents in the past. The City considers the fair market value of a new 99 year lease as 95% of the freehold price of the land, and, on a 60 year lease, the fair market price is 75% of the freehold price of the land. Delegates asked if the condition of the land mattered when calculating price (risk of flooding, environmental condition). ACTION: City to share formula used for latest prepayment program.

4. Term

Term is defined as: The length of a new lease, lease extension, or lease renewal.

It was noted that the longer the term, the higher the cost of the lease would be, and that it is easier to make changes at the end of a term, rather than during it. While delegates disagree, the City's position is that best practices align the term with the economic life of the building.

The City explained that building life (cost to maintain a building, not tied to land) is different than economic life of building (other potential uses, tied to land). Residents and the City may have different views on appropriate lease length. A delegate mentioned that lease terms should not coincide with life expectancy of the buildings. For a 99 year lease, the economic life expectancy of a building will be shorter than the lease, and can provide opportunities for redevelopment.

The City has goals to both maintain a livable neighbourhood, and also to provide more affordable housing, either through infill and redevelopment. Standards exist (such as US Housing) to define the economic life of a building which could be used to trigger redevelopment.

Discussion

- Affordability and long-term livability are different questions - a short lease will be more affordable but is contrary to the goals of the community. Some buildings may not in good shape as they approach the end of their lease.
- A hybrid model was suggested where extensions could be negotiated, and include language about a redevelopment option that is applicable at the end of building life.
- It was noted by delegates that leasehold ownership is a successful model because of the sense of perpetuity, and should be protected.
- There was discussion that residents can be more comfortable with a longer lease if there is a method to come to agreement either to terminate or move that lease, redevelop before the lease expires, or keep paying to stay part of community. Long leases can be extended with options to jointly decide how to break the lease, and can include buyout provisions that are fair to both sides.
- A delegate noted that the creation of the community originally saw opposition, which was overcome by courageous actions, and a risk-taking mindset by the decision makers of the day. Such a risk taking mindset would be welcome today.
- The City reiterated that all solutions must address the challenges of different interests and be defensible to all Vancouverites.
- A delegate noted that there is rigorous data available on the *RePlan website detailing characteristics of the community that lives there (age, etc) that could be useful in tailoring options to specific types of strata lessees.
- A delegate noted that rent for any extended term also needs to consider the increased cost of developing on infill land; in response, City staff noted that the City has extensive experience in cleaning contaminated soils via the Olympic Village developments.

5. Next Steps

ACTION: The City will explore contracting a facilitator for the next meeting to begin brainstorming ideas. **ACTION:** City will connect with Anne and Richard on work needed in advance of the next meeting.

It was suggested by delegates that the next meeting include a presentation of the methodologies using sample numbers, and also of different payment options, including the fifth option suggested (percentage of freehold).

Meeting adjourned at 9:00pm

ACTION ITEMS		RESPONSIBLE
1	The City will explore contracting a facilitator for the next meeting to begin brainstorming ideas	COV
2	Consider sharing methodology for rent prepayment program 2	COV
3	Research if NSW method has been used in NSW	COV
4	Consider smaller working groups	COV / Delegates

DECISION LOG	
1	Defer meeting 2 minutes adoption until meeting 4
2	
3	