



District of West Vancouver

# **Millennium Development Housing Agreement**

## **Bylaw No. 4393, 2004**

**Effective Date – October 04, 2004**

District of West Vancouver

# Millennium Development Housing Agreement Bylaw No. 4393, 2004

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District of West Vancouver

# Millennium Development Housing Agreement Bylaw No. 4393, 2004

A bylaw to enter into a housing agreement under section 905 of the *Local Government Act*

WHEREAS the District of West Vancouver and Millennium Limited Edition Homes Ltd. have entered into a purchase and sale agreement dated July 23, 2004 pursuant to which Millennium is to purchase certain land from the District;

AND WHEREAS in accordance with that agreement, Millennium and the District are to enter into a housing agreement under section 905 of the *Local Government Act* to restrict the use of some of the land to be purchased by Millennium;

The Council of the District of West Vancouver enacts as follows:

## Part 1 Citation

- 1.1 This bylaw may be cited as Millennium Development Housing Agreement Bylaw No. 4393, 2004.

## Part 2 Housing Agreement

- 2.1 The District of West Vancouver is authorized to enter into a housing agreement under section 905 of the *Local Government Act*, substantially in the form attached to this bylaw as Schedule A, with Millennium Limited Edition Homes Ltd. or its nominee, in respect of the land located at 643 Marine Drive, West Vancouver, B.C. and legally described as: PID: 014-020-831, Lot 51, Except, Firstly: Part in Reference Plan 2711, Secondly: Part on Highway Plan 30 District Lot 1039 Plan 2127.
- 2.2 The Mayor and Clerk are authorized to execute and deliver the housing agreement.

## Schedules

Schedule A – Housing Agreement

READ A FIRST TIME on September 13, 2004

READ A SECOND TIME on September 13, 2004

READ A THIRD TIME on September 13, 2004

SECOND READING RESCINDED on September 27, 2004

THIRD READING RESCINDED on September 27, 2004

READ A SECOND TIME AS AMENDED on September 27, 2004

READ A THIRD TIME AS AMENDED on September 27, 2004

ADOPTED by the Council on October 04, 2004

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*[Original signed by Mayor]*

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Mayor

*[Original signed by Municipal Clerk]*

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Municipal Clerk

## Schedule A – Housing Agreement

### Millennium Development Housing Agreement Bylaw No. 4393, 2004

THIS AGREEMENT dated for reference \_\_\_\_\_, 2004 is

**BETWEEN:**

**MILLENNIUM LIMITED EDITION HOMES LTD.** (Inc. No. BC0659284), ●  
(the "Owner")

**AND:**

**THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER**, at 750 – 17<sup>th</sup> Street, West Vancouver, B.C. V7V 3T3  
(the "District")

**GIVEN THAT:**

- A. The Owner is the registered owner in fee simple of the land and all improvements thereon or thereto located at 643 Marine Drive, West Vancouver, B.C. and legally described as PID: 014-020-831, Lot 51, District Lot 1039 Plan 2127, Except Firstly: Part in Reference Plan 2711, Secondly: Part on Highway Plan 30 (hereinafter referred to as the "Land",
- B. The District sold the Land to the Owner for the purpose of constructing and operating on the Land a building for residential rental accommodation,
- C. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the District in respect of the use of land, construction on land or the subdivision of land,
- D. Section 905 of the *Local Government Act* permits the District to enter into a housing agreement with an owner of land, which agreement may include terms and conditions regarding the occupancy, tenure, and availability of dwelling units located on the lands,
- E. The Owner and the District wish to enter into this Agreement to restrict the subdivision and use of, and construction on, the Land, on the terms and conditions of this agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 905 of the *Local Government Act*;

THIS AGREEMENT is evidence that in consideration of \$1.00 and other good and valuable consideration paid by the District to the Owner (the receipt of which the

Owner acknowledges), the Owner covenants and agrees with the District, in accordance with section 905 of the *Local Government Act* and section 219 of the *Land Title Act*, as follows:

## **ARTICLE 1 - SUBDIVISION, USE AND BUILDING RESTRICTIONS**

### **1.1 Subdivision, Use and Occupancy**

- (a) The Land and any improvements from time to time thereon or thereto shall not be subdivided by any means whatsoever, including, without limitation, by subdivision plan, strata plan or any scheme involving shared interests in land.
- (b) Every residential dwelling on the Land must be rented or leased, or available for rent or lease, as a residence, on a month to month basis or by an agreement having a term not exceeding three years including any rights of renewal.
- (c) No residential dwelling on the Land may be occupied except by an individual who occupies pursuant to a lease or rental agreement that meets the requirements of section 1.1(b).
- (d) The Land must not be built upon except in accordance with Development Permit No. 03-009 and, without limiting the foregoing, the only building that may be constructed on the Land shall be a building having 4-storeys containing 16 residential units (4 per floor) with a minimum unit size of 590 sq.ft. and a maximum unit size of 890 sq.ft.

### **1.2 Specific Performance**

The Owner agrees that the District is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement. The Owner agrees that this is reasonable given the public interest in restricting the occupancy of the Land in accordance with this Agreement.

### **1.3 Notice of Housing Agreement**

For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes both a covenant under section 219 of the *Land Title Act* and a housing agreement entered into under section 905 of the *Local Government Act*;
- (b) the District is required to file a notice of housing agreement in the LTO against title to the Land; and
- (c) once such a notice is filed, this Agreement, as a housing agreement under section 905 of the *Local Government Act*, binds all persons who acquire an interest in the Land.

## **ARTICLE 2 – GENERAL**

### **2.1 No Effect On Laws or Powers**

This Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the District under any enactment or at common law, including in relation to the use or subdivision of the Land;
- (b) impose on the District any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
- (c) affect or limit any enactment relating to the use or subdivision of the Land; or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.

### **2.2 Covenant Runs With the Land**

Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the District in accordance with section 219 of the *Land Title Act* in respect of the Land and this Agreement burdens and runs with the Land and binds the successors in title to the Land and binds every parcel into it is subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

### **2.3 Waiver**

An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

### **2.4 Interpretation**

In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (c) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement.
- (d) the word "enactment" has the meaning given to it in the *Interpretation Act* (British Columbia) on the reference date of this Agreement;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) reference to a "party" or the "parties" is a reference to a party, or the parties, to this Agreement and their respective successors, assigns, trustees, administrators and receivers; and
- (g) reference to a "day", "month" or "year" is a reference to a calendar day, calendar month, or calendar year unless otherwise expressly provided.

## **2.5 Further Acts**

The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.

## **2.6 Severance**

If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, 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 holding or by the severance of that part.

## **2.7 No Other Agreements**

This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.

## **2.8 Enurement**

This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

## **2.9 Deed and Contract**

By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

END OF DOCUMENT