

# TORONTO STAFF REPORT

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February 25, 2005

To: Community Services Committee

From: Commissioner of Community and Neighbourhood Services

Subject: Vila Gaspar Corte Real Inc. – Withdrawal of Funds from the Social Housing Stabilization Reserve Fund and Approval of a Loan  
(Ward 12 – York South-Weston)

Purpose:

To provide approval to the General Manager, Shelter, Housing and Support to (a) withdraw \$2,473,000.00 from the Social Housing Stabilization Reserve Fund and lend these funds to the receiver and manager of the housing project owned by Vila Gaspar Corte Real Inc. for required capital repairs at 33 Gabian Way, (b) apply for a court order approving the terms and conditions, including those for repayment, of a second mortgage and a general assignment of rents, and (c) apply for the prior written consent of the Minister of Municipal Affairs and Housing as required under the Social Housing Reform Act, 2000 (SHRA).

Financial Implications and Impact Statement :

Approval of this report would commit a loan of \$2,473,000.00 from the City of Toronto. Subject to the court's approval, the loan will be non-interest bearing and not repayable until the earlier of the date (i) that the mortgage on the Property is due to mature in 2027, or (ii) such mortgage is redeemed. Thereafter, the loan will bear interest at a rate equal to the prime lending rate charged by the City's leading banker plus one percent and be subject to a repayment schedule that would amortize the loan over a period of fifteen (15) years, subject to the right of Vila Gaspar Corte Real Inc. to pre-pay the loan at any time without interest or penalty. The interest rate and repayment schedule will be renegotiable, subject to further Council approval.

Funding for the loan would come from the Social Housing Stabilization Reserve Fund that was established for the purpose of mitigating the financial exposure associated with the devolution of social housing. One of the key functions of the fund is to offset capital reserve shortfalls where there are urgent capital repair needs.

As of December 31, 2004, the uncommitted balance of the Social Housing Stabilization Reserve Fund is \$41.18 million.

An adjustment is to be made to the 2005 budget for Shelter, Housing and Support to accommodate this withdrawal. In accordance with the requirements of paragraph 227-4 of Chapter 227 (Reserves and Reserve Funds) of the City of Toronto Municipal Code, the Chief Financial Officer and Treasurer has determined that the use of the Social Housing Stabilization Reserve Fund is an appropriate funding source for the loan.

The Chief Financial Officer and Treasurer has reviewed this report and concurs with the financial impact statement.

Recommendations:

It is recommended that:

- (1) authority be given to the General Manager, Shelter, Housing and Support (the “General Manager”) to:
  - (a) withdraw \$2,473,000.00 from the Social Housing Stabilization Reserve Fund required for capital repairs at 33 Gabian Way (the “Property”) and lend these funds to the receiver and manager of the housing project owned by Vila Gaspar Corte Real Inc. (“Vila Gaspar”);
  - (b) apply for court approval of the terms and conditions, including those for repayment, of a second mortgage and a general assignment of rents on the Property, subject to the following terms and conditions:
    - (i) the loan will be non-interest bearing and not repayable until the earlier of the date (the “Commencement Date”) (1) that the first mortgage on the Property is due to mature in 2027, or (2) such mortgage is redeemed;
    - (ii) starting the Commencement Date the loan will bear interest at a rate equal to the prime lending rate charged by the City’s leading banker plus one percent and be subject to a repayment schedule that would amortize the loan over a period of fifteen (15) years, subject to the right of Vila Gaspar to pre-pay the loan at any time without interest or penalty;
    - (iii) the interest rate and repayment schedule will be renegotiable by Vila Gaspar, subject to further Council approval; and
    - (iv) such other terms and conditions that are satisfactory to the General Manager, Shelter, Housing and Support, and in a form acceptable to the City Solicitor;
  - (c) apply for the consent of the Minister of Municipal Affairs (the “Minister”) required under Section 95(3) of the *Social Housing Reform Act, 2000*;

- (2) the loan of \$2,473,000.00 be deemed to be in the interests of the City of Toronto in accordance with section 107 of the *Municipal Act 2001*, S.O. 2001, Chapter 25;
- (3) the 2005 budget for Shelter Housing and Support be increased by \$2,473,000.00 gross and \$0 net and be funded by a withdrawal from the Social Housing Stabilization Reserve Fund to provide a loan to the receiver and manager of the Property owned by Vila Gaspar Corte Real Inc. for required capital expenditures at 33 Gabian Way;
- (4) the Province be requested to reimburse the City of Toronto for the \$2,473,000.00 needed for capital repairs at 33 Gabian Way;
- (5) this report be referred to Policy and Finance Committee for its consideration; and
- (6) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

Vila Gaspar Corte Real Inc. (“Vila Gaspar”) has been operating since 1992 providing mixed-income community based non-profit housing at 33 Gabian Way, near the intersection of Eglinton Ave. West and Keele Street. The building comprises 248 apartment and townhouse units for families; tenants of about 155 units pay a rent geared-to-income (RGI) while the remainder pay a market rent. The building at 33 Gabian Way was built in 1992 under the provincial “Homes Now” non-profit housing program. The City pays Vila Gaspar subsidy of about \$2.4 million annually in accordance with the provisions of the *Social Housing Reform Act, 2000* (SHRA). Vila Gaspar was downloaded to the City on May 1, 2002.

The Social Housing Stabilization Reserve Fund was established by Council at its meeting of October 2, 3 and 4, 2001, as a discretionary reserve fund of the City of Toronto for the purpose of mitigating the financial exposure associated with the devolution of Social Housing. One of the key functions of the fund is to offset capital reserve shortfalls where there are urgent capital repair needs.

The operating framework prohibits Vila Gaspar from mortgaging the Property without the prior written approval of the Minister of Municipal Affairs and Housing (the “Minister”). The Minister’s guidelines require Service Managers to apply for such consent on behalf of the housing provider.

Comments:

Council has been advised on several occasions about the capital repair liability being transferred to the City from other levels of government. After the project’s transfer in May 2002, City staff met with the housing provider a number of times as part of the normal course of business. Financial and governance issues were identified as areas of concern. In early 2003, City staff conducted a site inspection that identified poor maintenance practices and abnormally high utility costs. The provider was advised to take action on these areas and asked to conduct a building

condition assessment. After months of inaction on the provider's part, the City's social housing Administrator exercised one of the City's remedies under *Social Housing Reform Act, 2000* by appointing Mintz & Partners Limited ("MPL") as the receiver and manager of Vila Gaspar Corte Real Inc. on February 12, 2004 to preserve and protect the property, assets, business and undertaking of Vila Gaspar and to control their receipts and disbursements. The SHRA provides that the period of time for which a receiver and manager is appointed for a housing project shall not exceed one year, and that the receivership terminates one year after the date of the appointment unless the Superior Court of Justice orders otherwise. On February 9, 2005 the City obtained an order extending the appointment of MPL as receiver and manager until further order. The powers of the receiver and manager under the order include the power to mortgage the assets of Vila Gaspar out of the ordinary course of business, subject to the approval of the court.

Late in 2004, due to the existence of immediate capital repair needs and operational issues, the City provided \$287,000 in additional subsidy to the receiver and manager in accordance with its authority under the SHRA. The receiver/manager conducted a building condition assessment and capital reserve fund study in December 2004. This study identified serious deficiencies in the integrity of the underground parking garage and identified numerous violations of the building code, fire code and City of Toronto by-laws that must be addressed immediately. Staff of the Social Housing Unit reviewed the study and concurred with the results.

Normally, any capital repair requirements are funded by a housing provider through a capital reserve fund that has been built up by annual allocations from operations. In the case of Vila Gaspar Corte Real Inc., financial difficulties had been encountered and they were not able to adequately contribute to their capital reserve fund. The housing provider is currently carrying an accumulated deficit that means that it does not have the financial ability to solve its urgent capital repair needs.

It is therefore recommended that the urgent repairs be funded by the City from the Social Housing Stabilization Reserve Fund. One of the key purposes of this Fund is to provide funding for repairs for projects with urgent capital repair needs. The following table shows an estimated cost of the needed repairs:

Repair Needed	Estimated Cost
Parking Garage	\$880,000
Ramp & Playground surfaces	23,000
Exterior painting/Wall repairs	55,000
In suite repairs	46,000
Mechanical Equipment repairs	282,000
Exterior brick repairs (hi-rise & townhouse)	220,000
Windows, caulking & glazing (hi-rise & townhouse)	327,000
Wood wall panels (townhouse)	61,000
Professional fees (est.)	133,000
Sub-Total	2,027,000
GST (rounded)	142,000
15% contingency (rounded)	304,000
Total	2,473,000

The above chart shows the full GST costs despite the fact that Vila Gaspar may qualify for a GST rebate. City staff have also recommended that a 15 percent contingency be built in to address potential cost overruns experienced during construction. Funding will only be advanced as milestones are achieved and unused funds will be returned to the City as per the terms of the loan agreement. Work will begin as soon as the necessary approvals are obtained.

City staff are recommending that the principal and interest loan repayment be deferred until the first mortgage has matured in 2027. Deferring repayment ensures that Vila Gaspar continues to provide affordable housing as per the terms of the operating framework of the SHRA.

### Provincial Commitments

At its meeting of October 3, 4 and 5, 2000, Council was advised that “The Province appears to be refusing to consider or take responsibility for a due diligence process on the condition and capital repair requirements of the public housing stock and the non-profit and co-operative housing portfolio”. Similar statements about the financial risks associated with the capital repair liability being downloaded to the municipality were the subject of the Social Housing Business Transfer Plan approved by Council in May 2001 and reiterated in October 2001 when Council considered funding strategies to mitigate social housing devolution risk.

In May 1, 2002, the administration of Vila Gaspar was transferred to the City. MMAH did not indicate at that time that there were any governance, financial or technical issues with the housing provider. After putting a receiver/manager in place in February 2004 to take action on areas of concern, a building condition assessment was undertaken that indicated serious deficiencies in the underground parking garage and identified numerous violations of the building code, fire code and City of Toronto by-laws that must be addressed immediately. Given the outstanding issues when the project was transferred to the City, it is recommended that the Province be requested to reimburse the City for the \$2,473,000.00 in capital repairs.

### Conclusion:

Council approval is required to withdraw \$2,473,000.00 from the Social Housing Stabilization Reserve Fund to conduct the urgently needed repairs to the building at 33 Gabian Way owned by Vila Gaspar Corte Real Inc.; a non-profit housing provider. The 2005 budget for Shelter Housing and Support will need to be increased by \$2,473,000.00 gross and \$0 net.

Given the governance, financial and technical issues identified after the point of transfer, it is recommended that the Province be requested to reimburse the City for the \$2,473,000.000 capital repairs needed at 33 Gabian Way.

The City will apply for court approval for a second mortgage on the Property. The City should approve the loan, as it will allow the receiver and manager for the Property owned by Vila Gaspar to address the urgently needed repairs to the building and ensure the continued health and safety of the tenants. Ministerial approval of the second mortgage for Vila Gaspar is required

pursuant to Section 95(3) of the SHRA. The City will submit a request to the Minister of Municipal Affairs to seek approval for the second mortgage.

Work will begin as soon as necessary approvals are obtained.

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Commissioner of Community and Neighbourhood Services