

**35 Raglan Ave - Draft Plan of Condominium Conversion
Application – Final Report**

Date:	December 14, 2007
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21 – St. Paul's
Reference Number:	06 141784 STE 21 CD

SUMMARY

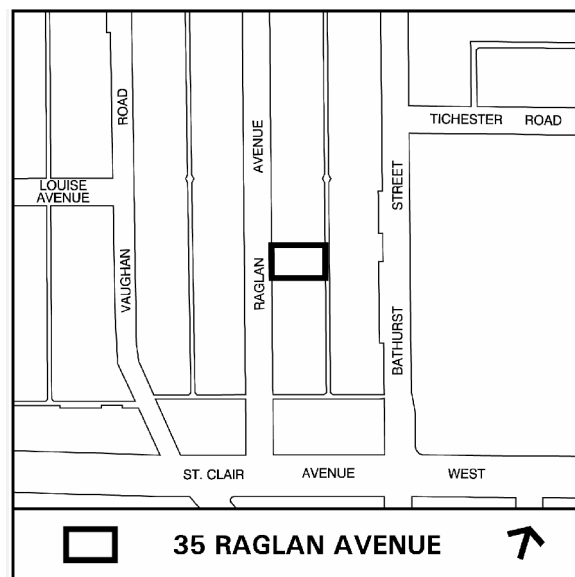
An application has been submitted to permit the conversion of an existing 32-unit residential co-ownership building at 35 Raglan Avenue to condominium.

As this application involves fewer than six rental units, an Official Plan amendment is not required. Also approval under the City’s Rental Housing Demolition and Conversion By-law is not required as the application was made before the new provisions under the City of Toronto Act came into effect. The application, however, needs to be considered under the Condominium Act and Planning Act, and as approval authority for such applications had not been delegated at the time of application, Council’s approval is required. This report reviews and recommends approval of the Draft Plan of Condominium applications subject to certain conditions being met. The application has been appealed to the Ontario Municipal Board. A hearing date has not yet been set.

RECOMMENDATIONS

The City Planning Division recommends that City Council:

1. authorize the City Solicitor to attend at the Ontario Municipal Board (the



“OMB) hearing in this matter together with such other City Staff as may be appropriate, to support the application subject to the imposition of the conditions set out in Attachment 3;

2. require the owner to fulfill the conditions of Draft Approval of Condominium set out in Attachment No.3, including the execution and satisfactory registration of any agreements deemed necessary by the City Solicitor to the satisfaction of the City’s Chief Planner, prior to the City’s consent for final registration and authorize the City Solicitor to prepare any necessary agreements to secure the conditions, as the City Solicitor deems necessary;
3. authorize the City Solicitor to make stylistic and technical changes to the Conditions of Draft Approval of Condominium as may be required; and
4. authorize and direct City Officials to take necessary actions to give effect thereto.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

Proposal

The applicant is proposing to convert an existing 32-unit co-ownership building to condominium. No new construction is proposed.

The building was originally constructed as a four storey rental apartment building in 1960 and converted to co-ownership in 1988. All of the 32 apartments are two-bedroom units.

The conversion from co-ownership to condominium will permit individual ownership of each unit with common areas being shared by all owners. This approval will allow the unit owners to achieve much easier access to conventional mortgage financing and will improve their ability to sell their units.

All units in the building are currently occupied by co-owners, with the exception of four that are owned, but currently rented out to tenants. The applicant has advised that all owners and tenants of the existing four rented units are in favour of the units being converted to condominium. Under provincial law, any tenants residing in the building at the time of registration cannot be evicted for the owner’s or purchaser’s personal use.

The applicant proposes that the building will be managed and will function in a fashion similar to what now exists. Currently, the superintendent’s suite, hallways, elevator, landscaped area all form part of the common areas within the building and are managed by the co-ownership corporation.

Site and Surrounding Area

The subject property is comprised of a 958.5 m² parcel on the east side of Raglan Avenue, half a block north of St. Clair West. Refer to Attachment No.1 for further project data.

The topography of the site slopes back and towards a lane to the east. Land uses surrounding the subject property consist of the following:

North: 9-storey apartment building, Raglan Avenue

South: Raglan Avenue, 2-storey detached house

East: rear laneway, 4-storey and 13-storey apartment buildings, Bathurst Street

West: Raglan Avenue, 7-storey apartment building

LEGISLATIVE AND POLICY FRAMEWORK

The following provides a brief description of the planning legislation that must be reviewed in this application.

Condominium Act

The *Condominium Act* states that the provisions of Sections 51, 51.1 and 51.2 of the *Planning Act* that apply to a plan of subdivision also apply to plans of condominium.

Planning Act

Section 51 (24) of the *Planning Act* sets forth that the City must consider in determining whether to allow the draft plan of subdivision (condominium). Specifically, and relevant to this application, this section requires that:

“in considering a draft plan of subdivision (condominium), regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the municipality and to:

- a) the effect of the proposed subdivision on matters of provincial interest as referred to in Section 2;
- b) whether the proposed subdivision is premature or in the public interest;
- c) whether the proposed plan conforms to the official plan and adjacent plans of subdivision, if any;
- d) the suitability of the land for the purposes for which it is to be subdivided; and
- e) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining lands”.

Provincial Policy Statement

Issued under the authority of Section 3 the *Planning Act*, the Provincial Policy Statement, 2005 provides policy direction on matters of provincial interest related to land use planning and development. Housing policies in the Provincial Policy Statement provide for an appropriate range of housing types and densities to meet the requirements of current and future residents, and the provision of housing in locations with appropriate levels of infrastructure and services. Council is required to make decisions on planning matters that are consistent with the Provincial Policy Statements.

Official Plan

The Official Plan for the City of Toronto designated the subject site Apartment Neighbourhoods. Apartment Neighbourhoods are made up of apartment buildings and parks, local institutions, cultural and recreational facilities, and small scale retail, service and office uses that serve the needs of area residents.

Under the Official Plan (policy 3.2.1.8), the conversion to condominium of any rental property is generally discouraged unless the building(s) contains fewer than six rental units or all of the units have high-end rents. As the subject building contains only four rented units, the relevant conversion policy of the Official Plan is satisfied.

Zoning

The property is zoned RM 2 in the former City of York Zoning By-law. This zoning allows for multiple dwelling units including apartment buildings, townhouses and duplex and triplex houses.

The parking provisions that apply to the property are discussed under the Comments section of this report.

Site Plan Control

No new construction is proposed, therefore, Site Plan Control does not apply.

City of Toronto Act

Typically, approval to convert residential rental property containing six or more dwelling units is now required under the new Rental Housing Demolition and Conversion By-law enacted on July 19, 2007 under Section 111 of the new City of Toronto Act. However, since this application was filed prior to the proclamation of the new Act (January 1, 2007), the provisions of the By-law do not apply.

Reasons for Application

Section 9(2) of the *Condominium Act* provides that Section 51 of the *Planning Act* applies to an application for plan of condominium approval. The proposed conversion of 35 Raglan Avenue from a co-ownership building to a residential condominium must be considered under the criteria set forth in Section 51(24) of the *Planning Act*. One of the criteria of Section 51 (24) is whether the application conforms to the Official Plan.

City of Toronto By-law 229-2000 delegated authority for the giving of draft condominium approvals under section 50 of the *Condominium Act* to the Chief Planner, except for applications involving the conversion of rental housing. The authority to grant draft condominium approval for these applications has rested with Council. The delegation by-law was recently amended (in conjunction with the adoption of the Rental Housing Demolition and Conversion By-law on July 19, 2007), so as to allow the Chief Planner to consider draft plans of condominium involving the conversion of fewer than six rental units. However, as this application was initiated under the previous delegation rules, it is being forwarded for Council's consideration.

Consultation

A meeting was held on October 16, 2007 with the entire co-ownership board and their consultants at City Hall to discuss the application and the need for a more in-depth parking study. The owners were all in favour of the application and recognize the need and advantage of having their traffic and parking consultant undertake a more comprehensive parking study of the neighbourhood. The co-owners expressed the need for condominium conversion as only a few financial lending agencies offer mortgages for co-ownership buildings and generally require higher down-payments.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

COMMENTS

Security of Tenure

Under Section 51 of the *Residential Tenancies Act*, where a building containing rental units is converted to condominium, sitting tenants cannot be evicted on the basis that either the landlord or new condominium owner require personal use of the unit for themselves or a member of their immediate family. However, after the first tenant vacates the unit, any future tenant would not be entitled to the security of tenure provisions and could be evicted on the basis of personal use. The result is that over time as tenant turnover occurs, there would be an eventual loss of security of tenure rights following a conversion to condominium.

In many cases, tenants living in co-ownership or equity co-operative buildings are given more protection than those living in condominiums, as they cannot be evicted for the co-owners' personal use. However, there are several exceptions to this rule. Section 72(2)

of the *Residential Tenancies Act* will allow for a tenancy to be terminated for a co-owner's (landlord's) personal or family's use in a few limited instances, including where the current co-owner or his/her immediate family (spouse, parents or children) have previously occupied the unit. In the case of 35 Raglan Avenue, the applicant has indicated that all four of the rented units were previously occupied by the current co-owners or their immediate families.

One of the reasons for preserving the co-ownership status of a building is to protect the security of tenure for existing tenants. However, where this security of tenure has already been lost due to a co-owner's previous occupancy, the retention of these units as a co-ownership becomes less important.

In this particular case, it appears that security of tenure for the four existing tenants could improve. Any tenant residing in the building at the time of condominium registration cannot be evicted for the owner's or purchaser's own use.

Rental Housing – Other Issues

It is not known at this time whether conversion of the building would have a significant impact on property taxes, and by extension, rent levels. The tax rate would not change as a result of conversion, as the property is currently assessed under the residential tax class, which is the same class applied to residential condominiums. However, the conversion to condominium would cause the assessed value of the units to increase, likely resulting in higher property taxes. If the property taxes do increase, the owner of each unit is typically permitted to apply to the Landlord and Tenant Board for a rent increase above the guideline, in order to pass the tax increase on to the tenant through a rent increase.

Similarly, a higher assessed value (aside from the potential increase in property taxes) could potentially, over time place some upward pressure on the existing rents to pay higher mortgage costs and associated fees.

There is a related concern with some conversion proposals, that substantial capital expenditure work will be undertaken in order to make the buildings more attractive to prospective buyers. Although existing tenants may be expected to pay for this work in the form of above guideline rent increases, they may not directly benefit from the changes to the building. In order to provide some safeguards for the existing tenants in these situations, a condition of condominium approval has been added.

Reserve Fund Study

Under s.27 of O.Reg. 48/01 of the *Condominium Act*, the owner is required to undertake a comprehensive reserve fund study. The study shall include both a physical analysis of the building components and needed repairs, and a financial analysis of recommended contributions to the reserve fund. As this proposal involves the conversion of a reasonably large rental building that was constructed almost 50 years ago, it is recommended that the study be undertaken prior to the registration of the plan of

condominium. This will enable first purchasers of the units to have a timely and meaningful disclosure of the physical condition of the property and costs of needed repairs, prior to finalizing their purchase.

Parking

The subject property has no parking facilities for the 32 co-equity dwelling units located in the existing four storey apartment building. A review of the City's parking requirements indicates that 32 spaces are required.

A parking study was required to demonstrate how the parking demand generated by this site will be accommodated. The parking impacts associated with the development were assessed by the applicant's traffic consultant, Mark Engineering in their November 19, 2007 letter to the owner.

The parking study indicates that the subject property currently leases 12 parking spaces at 37 Raglan Avenue and that there are 5 and 12 spaces available for lease at 40 Raglan Avenue and 1500 Bathurst Street, respectively. In addition, the study indicates that there are 160 on-street parking permits available within parking permit area 13F to satisfy any future parking demands generated by this project. City Works and Emergency Services, Transportation Planning reviewed the parking study and concurred with the consultant's conclusions that the non-provision of parking to serve this existing residential building will not adversely affect parking operations in the area.

Planning Assessment

The creation of co-ownerships (including equity co-operatives) through the conversion of rental buildings has been a significant concern for the City of Toronto. City staff estimates that well over 100 rental buildings have been lost to this tenure form over the past few decades. These co-ownerships were established through a provincial incorporation/registration process, which for the most part did not require municipal approval (except for the period from 1986 to 1998 when the *Rental Housing Protection Act* applied to such proposals). The new *City of Toronto Act* now enables City Council to better regulate this activity, by making it an offence to convert rental buildings to co-ownership without a City permit.

In the last several years Council has approved the subsequent conversion of a limited number of existing co-ownerships to condominium where the subject buildings have contained only a few tenant-secure rental units.

As previously mentioned, the building at 35 Raglan Avenue contains 32 residential units, four of which are rented. As four of units were previously occupied by current co-owners, the tenants in those units are not protected from personal use evictions and therefore there is less concern about the conversion of the property.

Given the limited number of rental units, an Official Plan Amendment is not required. Similarly, it is considered that the conversion is not inconsistent with matters of provincial interest or considered to be premature or against the public interest (as identified in the *Planning Act* and Provincial Policy Statement).

Conclusion

For the reasons stated above, it is recommended that the proposed conversion of the subject co-ownership building be approved.

Approval of the Draft Plan of Condominium is recommended subject to specific conditions, including the completion of a comprehensive reserve study, and the establishment of a reserve fund prior to the registration of the plan of condominium.

CONTACT

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SIGNATURE

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Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Application Data Sheet

Attachment 2: Draft Plan of Condominium

Attachment 3: Conditions of Draft Plan of Condominium Approval

Attachment 1: Application Data Sheet

APPLICATION DATA SHEET

Application Type: Draft Plan of Condominium Application Number: 06 141784 STE 21 CD
Details: Application Date: June 1, 2006

Municipal Address: 35 RAGLAN AVE, TORONTO ON
Location Description: PL 875 BLK D PT LTS 8 & 9 **GRID S2105
Project Description: Maintain 4-storey apartment building with 32 dwelling units.

Applicant:	Agent:	Architect:	Owner:
MAINLINE PLANNING JOSEPH PLUTINO			BLOORWOOD CONSTRUCTION INC IN TRUST

PLANNING CONTROLS

Official Plan Designation:	Apartment Neighbourhood	Site Specific Provision:
Zoning:	RM2	Historical Status:
Height Limit (m):		Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	958.4	Height:	Storeys:	4
Frontage (m):	24.42		Metres:	12.923
Depth (m):	39.28			
Total Ground Floor Area (sq. m):	726.1			Total
Total Residential GFA (sq. m):	2178.3		Parking Spaces:	0
Total Non-Residential GFA (sq. m):	0		Loading Docks:	0
Total GFA (sq. m):	2178.3			
Lot Coverage Ratio (%):	75			
Floor Space Index:	2.27			

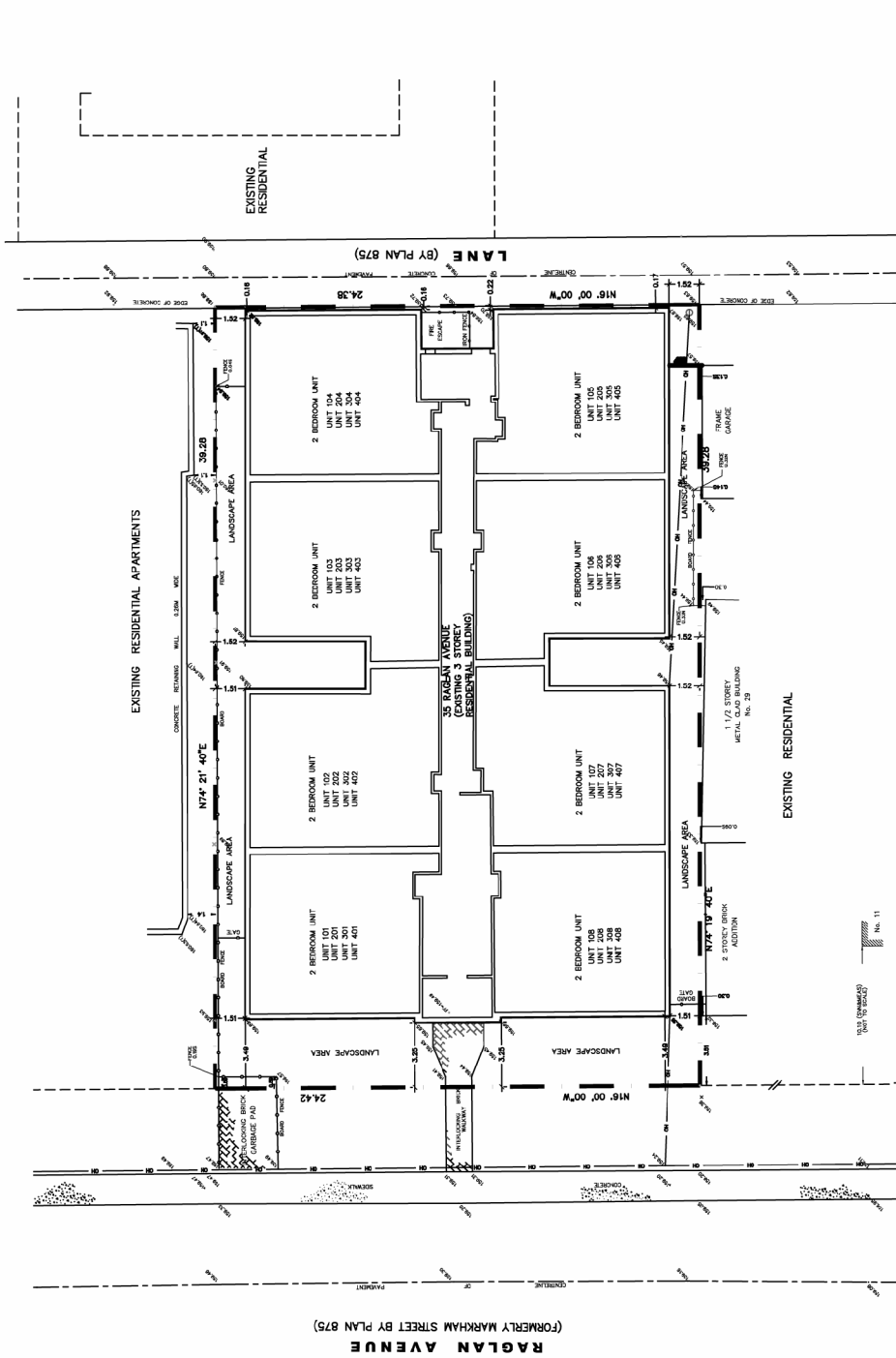
DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:			Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	2178.3	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	32	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	32			

CONTACT: **PLANNER NAME:** **Barry Brooks, Senior Planner**
TELEPHONE: **(416) 392-1316**

Attachment 2: Draft Plan of Condominium



35 Raglan Avenue

Site Plan
 Applicant's Submitted Drawing

File # 06_141784

Not to Scale
 11/17/06

Attachment 3: Conditions of Draft Plan Approval

Conditions of Draft Plan of Condominium Approval

The owner shall meet the following conditions prior to the City's consent for final registration of the plan of Condominium:

1. The plan of condominium (Declaration and Description) shall be registered within 3 years from the date Council authorizes this Draft Plan of Condominium, otherwise the approval shall lapse and be of no further force and effect unless an extension is granted by the City pursuant to Section 51(33) of the *Planning Act*.
2. The owner shall, prior to the registration of the plan of condominium (Declaration and Description), at its own expense not to be passed on to the tenants of the building, carry out and complete a comprehensive reserve fund study, as defined in s. 27 of O. Reg 48/01 made under the *Condominium Act, 1998* as a "comprehensive study", including the matters required in condition 4 below, to the satisfaction of the Chief Planner and Executive Director.
3. The persons conducting the physical analysis of the comprehensive study described in conditions 2 and 4 shall include both an architect registered as such and holding a certificate of practice within the meaning of the *Architects Act* and a professional engineer registered as such and holding a certificate of authorization within the meaning of the *Professional Engineers Act*.
4. In addition to the requirements under the regulations made under the *Condominium Act, 1998*,
 - (a) the financial analysis component of the comprehensive study shall include a simple, easily read table setting out, by unit type, the recommended dollar amount of contributions to the reserve fund that will be required to be paid annually by each individual unit owner for each year covered by the study (not less than 30 years) based on the reserve fund required to be established by the owner in accordance with condition 4(b) below.
 - (b) the physical analysis component of the comprehensive study shall include in addition to the component inventory and assessment of each item within the component inventory, a detailed list of,
 - (i) the repairs and components to be replaced as a result of outstanding work orders issued by the City of Toronto,
 - (ii) the repairs and components to be replaced in order to bring the building into compliance with c. 629, Property Standards, of the City of Toronto Municipal Code, and

- (iii) any other repairs and components to be replaced which in the opinion of the consultant(s) carrying out such study should be completed by the owner prior to registration of the plan of condominium (Declaration and Description) against the lands; and
 - (c) in addition to their signatures, the persons conducting the comprehensive study in respect of the property shall include the following statement in the study:

“Notwithstanding that our fee for this study will be paid by the Owner (or Condominium Corporation as the case may be) and that we have prepared this study for the Owner (or Condominium Corporation as the case may be), we acknowledge that the Condominium Corporation which will be created upon registration of the plan of condominium and the purchasers and prospective purchasers of units within the building are relying upon this study and the opinions and findings expressed herein, and consent and agree to such reliance.”
- 5. The owner shall, prior to registration of the plan of condominium (Declaration and Description), at its own expense, complete each of the repairs and replace each of the components set out on the lists compiled pursuant to conditions 4(b) (i), (ii) and (iii) above as detailed in the comprehensive study, and provide to the Chief Planner and Executive Director a certificate from the persons carrying out the study confirming all of the said repairs and replacements have been satisfactorily completed.
- 6. The owner shall, prior to registration of the plan of condominium (Declaration and Description), at its own expense, establish a reserve fund for the benefit of the condominium corporation to be created in an amount not less than the greater of,
 - (a) the amount recommended in the comprehensive study required in conditions 2 and 4 above, and
 - (b) the amount required pursuant to the *Condominium Act, 1998*.
- 7. In the event the Owner of the Site has entered into one or more agreements to convey any of the proposed units, the owner shall, prior to the registration of the plan of condominium (Declaration and Description) provide it's solicitors confirmation that the disclosure statement required to be delivered to every person who purchases a unit or a proposed unit pursuant to Section 72 of the *Condominium Act, 1998*, did in addition to the matters specified in such Act,
 - (a) include a copy of the table required to be prepared in condition 4(a) above as updated and signed by the person who carried out the financial analysis component of the comprehensive study required in condition 2 to reflect

the actual reserve fund established by the owner pursuant to condition 6 above, and

- (b) that such updated table include the statement required in condition 4(c) above, or

alternatively, if the Owner has not entered into any agreement to convey one or more units, the owner shall provide its solicitors confirmation such is the case.

- 8. The Declaration and Description shall contain wording satisfactory to the City Solicitor to ensure the following conditions:

- (a) The condominium corporation shall, at its expense update the table required pursuant to condition 4(a) above on an annual basis commencing with the first reserve fund study conducted by the condominium corporation after the registration of the condominium, so as to reflect the actual reserve fund maintained by the corporation, and shall send a copy of each updated table to each unit owner and to the corporation's auditor as part of the notice required pursuant to Section 94(9) of the *Condominium Act, 1998* as well as retaining a copy for its records.

Nothing herein shall be interpreted as requiring the original author of the table to author the subsequent tables required by this condition but the table shall be prepared by a person authorized by the regulations under the *Condominium Act, 1998* to carry out the financial analysis component of a reserve fund study and each updated table shall include the statement required in condition 4(a) above;

- (b) Prior to entering into an agreement of purchase and sale respecting the sale of a unit, the unit owner shall provide a copy of the most recent table delivered to them pursuant to condition 4(a) above to the prospective purchaser, failing which the purchaser of such unit may rescind the agreement of purchase and sale before accepting a deed to the unit being purchased that is in registerable form;
- (c) On receipt of a request from a prospective purchaser of a unit, the condominium corporation shall, within 10 days of the request being made, provide a copy of the most recent reserve fund study.
- (d) Conditions 4(a), (b) and (c) above shall cease to apply on the date that is one year following the date the condominium corporation has,
 - (i) conducted its first comprehensive reserve fund study (a "comprehensive study") and,

- (ii) sent the required notice to the owners and copies to the auditor arising from such study in accordance with Section 94(9) of the *Condominium Act, 1998*.
- 9. The provisions in the Declaration and Description dealing with conditions 8(a) to (d) above, inclusive shall not be amended without the written consent of the City of Toronto.
- 10. The owner of the Site shall provide a tax certificate which confirms that all municipal taxes have been paid in full.
- 11. The owner of the Site agrees not to pass on, in the form of rent increases to tenants of the building residing in units on or before the date of registration of the condominium, any costs associated with the renovations or alterations of the building to comply with the conditions herein and which are related to converting the buildings or readying the buildings for condominium, or any increase in property taxes due to a change in the assessed value of the property identified in this application which may occur due to the condominium registration.