

Clause embodied in Report No. 9 of the Midtown Community Council, as adopted by the Council of the City of Toronto at its meeting held on December 4, 5 and 6, 2001.

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**Life Lease Developments -
Christie Gardens
(St. Paul's - Ward 21)**

(City Council on December 4, 5 and 6, 2001, adopted the following recommendations:

“It is recommended that:

- (a) the Chief Administrative Officer be requested to provide a method of tracking and reporting to Council on City contributions of land and other in-kind contributions for affordable housing and child care; and*
- (b) the joint report dated December 3, 2001, from the Commissioner of Corporate Services, the Commissioner of Urban Development Services and the Acting Commissioner of Community and Neighbourhood Services, embodying the following recommendations, be adopted:*

‘It is recommended that:

- (1) the residual City interest in the Property (i.e. remaining following the expiry of the term of the ground lease in 2082) be declared surplus, the intended manner of disposal of such residual interest be by way of transfer to Christie Gardens on the terms outlined in the body of this report, and all steps necessary to comply with Chapter 213 of the Municipal Code, be taken;*
- (2) consent be granted to Christie Gardens, pursuant to the existing ground lease, to commence construction of 84 residential apartment units, 4 additional rental units, and to renovate existing facilities at the seniors complex, on the terms set out in the body of this report; and*
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.’ ”)*

The Midtown Community Council requested the Commissioner, Urban Development Services and the Commissioner, Corporate Services, in consultation with the City Solicitor, to submit a report directly to Council on December 4, 2001, regarding planning and lease issues related to the Life Lease development of Christie Gardens, such report to address ways and means by which development can begin while lease issues continue to be addressed.

(City Council on December 4, 5, and 6, 2001, had before it, during consideration of the foregoing Clause, the following joint report (December 3, 2001) from the Commissioner of Corporate Services, the Commissioner of Urban Development Services and the Acting Commissioner of Community and Neighbourhood Services:

Purpose:

To declare the residual interest in the Property surplus and to provide the consent necessary to permit the construction by Christie Gardens Apartments and Care Inc. ("Christie Gardens"), of an additional 84 residential apartment units, 4 additional rental units and to renovate existing facilities at the seniors complex.

Financial Implications and Impact Statement:

The recommendations in this report will result in increased revenues from real property taxes attributable to the increased density of the premises. In addition, an amount equal to the increased value in the land will be contributed by Christie Gardens by way of providing an increase in the number of rent-geared-to income units, up from 9% to 25%. In addition, Christie Gardens will be providing an indirect benefit to the City by making approximately three (3) million dollars' worth of improvements and enhancements to the existing facility, thereby improving the social housing operations on the site.

Recommendations:

It is recommended that:

- (1) the residual City interest in the Property (i.e. remaining following the expiry of the term of the ground lease in 2082) be declared surplus, the intended manner of disposal of such residual interest be by way of transfer to Christie Gardens on the terms outlined in the body of this report, and all steps necessary to comply with Chapter 213 of the Municipal Code, be taken;*
- (2) consent be granted to Christie Gardens pursuant to the existing ground lease to commence construction of 84 residential apartment units, 4 additional rental units, and to renovate existing facilities at the seniors complex, on the terms set out in the body of this report; and*
- (3) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.*

Background:

At its meeting held on November 20, 2001, the Midtown Community Council requested the Commissioner of Urban Development Services and the Commissioner of Corporate Services, in consultation with the City Solicitor, to submit a report directly to Council on December 4, 2001 regarding planning and lease issues related to the life lease development of Christie Gardens, and requested that such report address ways and means by which the development can begin while lease issues continue to be addressed. This report responds to the directive to report directly to Council at its December meeting.

Through land acquisitions from the Province of Ontario and The Municipality of Metropolitan Toronto, the former City of Toronto developed a 19.4 acre site that consisted of lands formerly occupied by Lambert Lodge and Frankel Steel Company. The Frankel/Lambert site was bounded on the east by Christie Street, on the south by CPR tracks and Ontario Hydro lands, on the west by Shaw Street, and on the north by Melita Avenue. The acquisition of the site by the City was achieved by bulk mortgage financing. The Property was the last parcel of the Frankel/Lambert project developed by the City in the late 1970's and early 1980's.

The City, as landlord, entered into a ground lease of the Property dated August 12, 1983, and amended November 25, 1983 (the "Lease"), with Christie Gardens, a non-profit corporation, for a 99 year term expiring on August 25, 2082. The Lease provided for prepaid rent in the amount of \$2,113,000. Under the Lease, Christie Gardens is allowed to use and operate the Property, on a non-profit basis, as a nursing home, rest home and senior citizens apartments. In accordance with the Lease, Christie Gardens completed construction of a building and other improvements, all in accordance with CMHC-approved plans and specifications, in 1985.

Christie Gardens has now sought the approval of the City of Toronto as landlord to allow for the construction of 84 life lease apartments, 4 additional rental apartments, and additional improvements on the Property. The proposed apartments would be built in a new 10 storey building on the Property and in 3 new storeys to be added to the existing 7-storey building. Christie Gardens has also made application to the City as landlord to allow the lease to be further amended to permit the registration of a 4 unit leasehold condominium on the Property to create separate units for each of its facilities: rental apartments, nursing care, retirement care, and life lease units.

On July 27, 1999, Christie Gardens applied to the City of Toronto to amend the Official Plan and Zoning By-law to renovate and expand the existing building to permit the additional development on the site, comprised ultimately of the 4 rental apartment units, 84 life lease units and accessory uses. At its meeting on October 3, 4 and 5, 2000, and its Special Meetings held on October 6, 10, 11 and 12, 2000, City Council adopted Clause No. 3 of the Toronto Community Council Report No. 16, thereby authorizing an amendment to the Official Plan for the former City of Toronto and Zoning By-law amendments to permit the construction of the proposed development. Site plan approval for the proposed development was given in August, 2001. In addition Christie Gardens has obtained demolition and other permits for the alterations to the Property.

In addition to its role as owner and landlord of the Property, on May 1, 2002, as part of the devolution of social housing, the City of Toronto will assume responsibility for the administration and funding of the social housing program operated by Christie Gardens pursuant to the Social Housing Reform Act. The MMAH, as administrator of the operating agreement originally entered into between CMHC and Christie Gardens, has consented to the placing of a second mortgage to finance the construction of the proposed development

Comments:

Christie Gardens has advised City staff that it has already pre-sold 84% of the life lease units at market value. The funds are to be used to construct the life lease units, with a portion of the proceeds, in the approximate amount of Three (3) Million dollars, to be utilized for various improvements to the other portions of the site, including improvements to the kitchens, elevators, security, air handling, deliveries and visitor parking, all of benefit to the social housing component of the site. Christie Gardens expresses an urgent and financial need to commence construction as soon as possible (ie. in light of commitments it has made relating to construction and completion).

When the Lease was originally negotiated, the prepaid rent for the entire term was \$2,113,000. The increased height and density of the Property approved by the City in 2000 has increased the value of the Property by approximately \$1,920,000.

Both the Metropolitan Toronto and former City of Toronto Official Plans contain policies intended to make gains in the supply of rental and affordable housing, and to preserve the existing supply of rental housing. To achieve these policy objectives, the City employs a number of tools including the use of the city-owned property as well as achieving housing benefits in exchange for additional permissions from the City. There are a number of development applications now before the Ontario Municipal Board, where affordable rental housing or money for such housing is being sought as a public benefit. The permission currently sought by the tenant at 600 Melita Crescent should carry with it the provision of public benefits related to affordable housing.

One of the public benefits which could be provided to the City is to ensure that the CMHC subsidized units on the Property remain available to low and moderate income individuals and families. Christie Gardens is currently providing geared-to-income subsidy to residents of 19 of the current 217 apartment units (9%). The City's interest in increasing the stock of geared-to-income housing would be served by requiring that Christie Gardens increase its geared-to-income component in the apartments from the current 9% to 25%. The value of increasing the percentage of rent-geared-to-income units from 9% to 25% would generally equal the increased value of the land resulting from the proposed units over the entire remaining term of the Lease.

Another public benefit which could be provided is to make the RGI units more widely accessible. Housing providers with federal Operating Agreements are not bound to accept applicants from City of Toronto's Housing Connections waiting list. Currently, Christie Gardens maintains a private waiting list for their units. The City's interest in providing geared-to-income housing to applicants would be better served if, while Christie Gardens is increasing its percentage of the

apartments in the geared-to-income category to 25%, every second vacancy in the 217 (or 221 if the additional 4 get built out) seniors rental apartments would be selected from the Housing Connections waiting list, and once the goal of 25% rent-geared-to-income units has been achieved, then all vacancies in Christie Gardens' rent-geared-to-income units would be selected from the Housing Connections waiting list.

Upon completion of the construction of the life lease units, Christie Gardens had intended, for financing purposes, to register the complex as a four-unit leasehold condominium. It is not a requirement of either CMHC or the second lender that the Property be registered as a leasehold condominium. However, it is the policy of the former City of Toronto to restrict the conversion of rented residential buildings to condominium, until the vacancy rate reaches 2.5%. Currently the vacancy rate is only 0.9%. The new City has also adopted a similar conversion policy which is now before the Divisional Court, and the Ontario Municipal Board. There has been no rationale provided for incorporating the existing rental portions of the property (e.g. rental apartments, retirement and nursing home) under the proposed condominium. To do so, would be contrary to the City's in-force condominium conversion policy and undermine the City's position in respect of condominium conversions (a number of which are currently before the OMB), and development applications involving the demolition of rental property.

The proposed life lease arrangement raises a number of consumer protection and other issues which, due to their novelty, have not yet been tested. Permitting a life lease development on land owned by the City would appear as though the City had sanctioned life leases as an appropriate form of housing arrangement whereas it would be premature to do so.

While reviewing the issues in order to prepare this report, a meeting with Christie Gardens was convened to relay staff's concerns and to determine if any mutually supportable position could be found. As a result of those discussions, and in light of the exceptional circumstances, staff and Christie Gardens have come to the proposed resolution recommended below for Council's consideration, and Christie Gardens has agreed in writing to the terms and conditions outlined:

- (a) the operating agreement currently between Canada Mortgage and Housing Corporation ("CMHC") and Christie Gardens (the "Operating Agreement") be amended to provide that, on a self-funded basis, Christie Gardens shall fill every second vacancy in the existing seniors rental apartments with an applicant from the Toronto Social Housing Connections waiting list ("Housing Connections") until 25% of the 217 (or 221 if the 4 new get constructed) apartment units in the facility are occupied by residents paying geared-to-income rents (such phase-in to commence as of April 1, 2003), and thereafter all geared-to-income unit vacancies shall be filled from Housing Connections;*
- (b) the Operating Agreement will be amended to require that the self-funded 25% RGI be maintained throughout the life of the Operating Agreement, and Christie Gardens agrees to the registration of a further Agreement on title to extend for a further 60 years beyond the expiration of the Operating Agreement, the self-funded 25% RGI requirement, based on requirements from time to time of the City-administered social housing programme;*

- (c) *both the Operating and further Agreement to require that, as a minimum, 217 (or 221 if the additional 4 are constructed) rental units be maintained, and that any increase in the rental stock at the site will also be subject to the self-funded 25% RGI requirement;*
- (d) *Christie Gardens shall make renovations and repairs to the existing facility housing the social housing component of the Property in the amount of \$3M and shall not pass this cost through into the rents;*
- (e) *the application for approval for leasehold condominium will be immediately withdrawn;*
- (f) *the Operating Agreement and further agreement to be effective for a further period of sixty (60) years provide that Christie Gardens will not make application to convert the rental facility nor any of the units therein to condominium;*
- (g) *the residual interest in the Property (following the expiry of the Lease in 2082), be declared surplus and the intended manner of disposal be by way of transfer to Christie Gardens for nominal consideration and otherwise on the terms outlined in this Report;*
- (h) *no application for condominium status on the non-rental portion of its site will be made until such time as Christie Gardens is the freehold owners of the site;*
- (i) *Christie Gardens and City staff will work together in drafting and implementing a Shared Facilities Agreement defining the relationship between the existing facilities and the proposed new development;*
- (j) *Christie Gardens take all steps necessary to assist in the implementation of the foregoing;*
- (k) *Christie Gardens agrees that no portion of the life lease development may be occupied until all of the foregoing has been implemented;*
- (l) *Christie Gardens agrees to indemnify the City for any and all costs, damages and liabilities arising as a result of or in any way connected with Christie Gardens' choosing to proceed to develop the site without first having settled and executed agreements embodying the foregoing; and*
- (m) *such other terms and conditions as may be deemed appropriate by the Commissioner of Corporate Services, the Commissioner of Urban Development Services, and the Commissioner of Community and Neighbourhood Services, all in a form satisfactory to the City Solicitor.*

Conclusions:

Approval of the proposed expansion of the Christie Gardens seniors complex on the basis as recommended would not only provide increased revenue to the City by enlarging the tax base, but will also achieve increased provision of geared-to-income housing for low and moderate income seniors. Additional benefits are that rental housing stock will not be converted to condominiums, and that public access to geared-to-income units will be improved.

The City Solicitor has been consulted in the preparation of this report.

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