

114 Vaughan Road - Condominium - Final Extension Report

Date:	September 1, 2016
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21 – St. Paul's
Reference Number:	06-136042 STE 21 CD

SUMMARY

This application involves the conversion of a 32-unit residential co-ownership building to condominium ownership at 114 Vaughan Road. The draft plan of condominium application was first approved by City Council in April 2008, subject to certain conditions being satisfied. Initially, 5 years were given to allow the applicant to satisfy these conditions. In August 2013, City Council granted an additional 3 years for the applicant to address the required conditions prior to the approval's lapsing date of October 9, 2016.

This report seeks City Council's approval to extend this deadline by a further two years to ensure that all outstanding work is addressed, the reserve fund study is updated and the condominium is registered on or before October 9, 2018.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council extend the Draft Plan of Condominium approval for 114 Vaughan Road based on the conditions that were



approved at City Council's meetings of April 29, 2008 and October 8, 2013, amended as set out in Attachment No. 1 to the report (dated September 1, 2016) from the Director, Community Planning, Toronto and East York District, generally in accordance with the City's current standard conditions, including the establishment of a new deadline which would allow the draft conditions to be satisfied by October 9, 2018, to be amended as necessary to the satisfaction of the Chief Planner in consultation with the City Solicitor.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

An application was submitted in June 2006, to convert an existing 32-unit co-ownership residential building at 114 Vaughan Road to condominium ownership. As several of the units had been used for rental purposes, City Council approval was required for both the Draft Plan of Condominium Approval and an Official Plan Amendment. At its meeting of April 29, 2008, City Council adopted the report from the Director of Community Planning, Toronto and East York District, recommending approval of these applications. Subsequently, the applicant received City Council's approval (at its meeting on October 8, 2013) to defer the deadline to satisfy the conditions and register the condominium. That deadline is set to expire on October 9, 2016.

COMMENTS

Registration of this condominium has not yet occurred and the applicant is requesting additional time to update the comprehensive reserve fund study undertaken in 2011, and to satisfy the remaining conditions of approval. While many repairs and renovations have been undertaken, the applicant has not yet been able to complete all the work necessary to satisfy the conditions due to the scope and magnitude of the work. These outstanding items include major exterior renovations, some of which are required to improve the building and bring it into full compliance with the City's current property standards by-law. Accordingly, it is recommended that draft plan approval be extended and a revised time limit be established which will require that the draft plan conditions be met by October 9, 2018. This will provide up to two more years for the conditions to be satisfied.

In addition to the change in the expiry date, several minor revisions have been made to the original conditions. The most notable one involves a change to condition 14 to clarify the number of parking spaces that must be maintained on-site for exclusive use of the

owner-occupants and tenants. These changes are generally in accordance with the City's current standard conditions for Draft Plan of Condominium approval.

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SIGNATURE

Gregg Lintern, MCIP, RPP
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ATTACHMENTS

Attachment 1: Revised Conditions and Lapsing Provision

Attachment No. 1:

REVISED CONDITIONS AND LAPSING PROVISION

City File No.: 06-136042 STE 21 CD

Revised August 30, 2016

1. The plan of condominium (Declaration and Description) shall be registered by October 9, 2018, otherwise the approval shall lapse and be of no further force and effect.
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 an updated 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. The table required pursuant to Condition 4(a) shall be contained in the disclosure statement pursuant to Section 72(3)(e) of the *Condominium Act*.
3. The physical analysis of the comprehensive study described in conditions 2 and 4 herein shall be conducted by 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 6 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. Prior to the registration of the plan of condominium (Declaration and Description), the owner shall provide to the satisfaction of the Chief Planner and Executive Director a letter from its solicitor confirming that the amount required to be contributed to the reserve fund is being held in trust, and that the solicitor has received instructions to contribute such funds to the reserve fund once it has been established.

The owner shall contribute to the reserve fund, once established, for the benefit of the condominium corporation to be created, an amount not less than the greater of,

- (a) the amount recommended in the updated comprehensive study required by 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 its solicitor’s 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, pursuant to condition 8 below, and signed by the person who carried

out the financial analysis component of the comprehensive study required in condition 2 above or by a person authorized by the regulations under the *Condominium Act, 1998* to carry out the financial analysis component of a reserve fund study to reflect the amount to be contributed to the reserve fund and being held in trust 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 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 at the same time as the corporation is required to conduct a reserve fund study, 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) The condominium corporation shall attach to any status certificate a copy of the most current table pursuant to Condition 4(a) above.
- (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, make available 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 Declaration shall contain a clause stating that the provisions in the Declaration dealing with conditions 8(a) to (d) above, inclusive shall not be amended without the written consent of the approval authority, under the *Condominium Act, 1998*.
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.
12. The owner of the Site shall enter into a Condominium Agreement satisfactory to, and at the discretion of, the City Solicitor whereby the owner agrees to ensure that all tenants of the building residing in units on or before the date of registration of the condominium, are entitled to the right of security of tenure and the right of first refusal as referred to in section 51 of the *Residential Tenancies Act, 2006*, and that such rights will continue to be offered by the current owner and subsequent purchasers despite any changes to such Act.
13. Prior to the registration of the plan of condominium (Declaration and Description), the owner shall provide the Chief Planner and Executive Director written confirmation that written notice has been provided to all existing tenants that,
 - (a) Registration of the condominium is imminent;
 - (b) The owner has provided sitting tenants a copy of Condition 11 above; and
 - (c) That the owner has provided sitting tenants with a copy of the relevant provisions under the *Residential Tenancies Act, 2006* concerning their security of tenure and right of first refusal.
14. The Declaration and Description shall contain wording advising owners that no less than 16 parking spaces must be provided and maintained on the site for the exclusive use of the owner-occupants and the legal tenants of tenanted residential units.