



Member Motion

City Council

Motion without Notice

MM38.35	ACTION			Ward: 16
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Authority to amend the Section 37 Agreement for 844 Don Mills Road, 1150 and 1155 Eglinton Avenue East to exempt CMHC, CMHC approved lenders and subsequent transferees from certain Section 37 Obligations - by Deputy Mayor Denzil Minnan-Wong, seconded by Councillor Ana Bailão

** Notice of this Motion has not been given. A two-thirds vote is required to waive notice.*
** This Motion is subject to referral to the North York Community Council. A two-thirds vote is required to waive referral.*
** This Motion has been deemed urgent by the Chair.*

Recommendations

Deputy Mayor Denzil Minnan-Wong, seconded by Councillor Ana Bailão, recommends that:

1. City Council authorize the appropriate City officials to enter into and register on title an agreement to amend the Section 37 Agreement dated December 20, 2018, registered as Instrument No. AT5050933, as amended by agreement dated July 5, 2021 and registered as Instrument No. AT5787415, in a form satisfactory to the City Solicitor, as follows:

a. add the following definitions to the Section 37 Agreement:

“Approved Lender” means a lender designated as an approved lender by CMHC in accordance with the National Housing Act (Canada) and the regulations thereunder that is a mortgagee of the Affordable Rental Housing Units to be provided on Block 5A pursuant to a certificate of insurance issued by CMHC.

“CMHC” means Canada Mortgage and Housing Corporation established by the Canada Mortgage and Housing Corporation Act, R.S.C. 1985, c. C-7, as amended; and

b. add the following paragraph, following section 14.2:

"Notwithstanding anything in this Agreement to the contrary, CMHC, an Approved Lender, any transferee from CMHC or an Approved Lender, or any subsequent successors in title to Block 5A will only be responsible for obligations specifically pertaining to Block 5A, and will not otherwise be bound as Owner under this Agreement, where any of such persons becomes the Affordable Rental Housing Owner. For clarity, for the purpose of this paragraph, subsequent successors in title to Block 5A only pertains to Affordable

Rental Housing Owners that follow CMHC, an Approved Lender or their transferees on title."

2. City Council direct the City Solicitor to prepare such amendments to the registered Section 37 Agreement and any other such amendments determined necessary to implement City Council's decision on this matter, on terms satisfactory to the Chief Planner and Executive Director, City Planning and in a form satisfactory to the City Solicitor.

Summary

On December 20, 2018, the City entered into an agreement pursuant to Section 37 of the Planning Act, R.S.O. 1990, c. P.13, as amended, registered as Instrument No. AT5050933 on January 10, 2019, to secure the provision of certain facilities, services and matters in return for increases in the height and density of development on the Site. This agreement was amended on July 5, 2021, which amending agreement was registered as Instrument No. AT 5787415.

The current owner intends to convey Block 5A to a not-for-profit housing provider for the construction, provision and operation of an affordable rental housing building. It is possible that the Canada Mortgage and Housing Corporation or an approved lender designated by Canada Mortgage and Housing Corporation in accordance with the National Housing Act (Canada) will finance the development of Block 5A. Canada Mortgage and Housing Corporation has requested that in the event that it, or an approved lender, becomes owner of Block 5A that they, their transferees and thereafter subsequent transferees, be exempt from the Section 37 obligations other than those directly pertaining to Block 5A and the construction, provision and operation of the affordable rental housing within that Block. An amendment to the Section 37 Agreement is required to facilitate this request.

This matter is urgent as the amendment will facilitate the progression of affordable housing development on this site.

Background Information (City Council)

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