



## Robson Legal Services

Business. Corporate. Real Estate.

May 29, 2023

Cowichan Valley Regional District  
by email to [ds@cvrd.bc.ca](mailto:ds@cvrd.bc.ca)

**Attention: Board of Directors**

Dear Sirs and Mesdames,

Re: Application for Board's Approval of Strata Conversion

We represent Parhar Holdings Business Park Ltd. (the "**Developer**") in connection with the phased strata development located at 5301 Chaster Road, Duncan, British Columbia (the "**Development**"). We write to submit the proposed plan for strata phase 6 (the "**Proposed Phase 6 Strata Plan**") for approval by the board (the "**Board**") of the Cowichan Valley Regional District (the "**CVRD**") in accordance with section 242 of the *Strata Property Act* (the "**Act**").

We enclose the following:

- the CVRD's Development Application Form, completed with the relevant particulars;
- the Survey Plan Certification for the Proposed Phase 6 Strata Plan;
- an excerpt from section 242 of the Act; and
- the Application to Deposit the Proposed Phase 6 Strata Plan, with space at page 3 for endorsement by the Board's authorized signatory.

### 1. Factual Background

We understand that the Development currently comprises seven completed buildings and some vacant land on which the Developer intends to construct three additional buildings. The Development is subject to various Development Permits issued by the CVRD, and we understand that the CVRD has monitored the Developer's compliance with applicable bylaws and building regulations.

Five of the completed buildings are already included in Strata Plan EPS1665. The sixth completed building is the building included on the Proposed Phase 6 Strata Plan, and it is identified as "Building 8" on the preliminary site plan attached as Schedule B to a Development Permit issued by the CVRD on November 23, 2020 (file number DP18D04) (that building, the "**Subject Building**"). Upon deposit of the Proposed Phase 6 Strata Plan, the Subject Building would be added to Strata Plan EPS1665. Ultimately, the Developer intends to add the four remaining buildings to Strata Plan EPS1665, as well.

We understand that the completed buildings within the Development are all occupied by businesses and used for commercial purposes. We understand that the Subject Building, which was completed in 2022, is not a residential building and is not occupied by any residential tenant.

We recently applied to deposit the Proposed Phase 6 Strata Plan at the Land Title Office. However, the Land Title Office refused to register the Proposed Phase 6 Strata Plan because of section 241 of the Act, which we reproduce below:

**Endorsement of nonoccupancy**

- 241** (1) If a strata plan includes a building that has not been previously occupied, the plan must be endorsed by a British Columbia land surveyor certifying that the building has not been previously occupied.
- (2) The endorsement must be dated not more than 180 days before the date the strata plan is tendered for deposit.

Unfortunately, delay in receiving approval of the Proposed Phase 6 Strata Plan from the Ministry of Transportation and Infrastructure made it impossible for the Developer to tender the Proposed Phase 6 Strata Plan for deposit within the 180-day period contemplated by that section.

## **2. Legal Background**

In effect, the Land Title Office considers the Subject Building to be a “previously occupied building”. To deposit the Proposed Phase 6 Strata Plan, then, the Developer must rely on section 242 of the Act, which deals with the conversion of previously occupied buildings to strata titles.

We have enclosed an excerpt containing the provisions of section 242 that we believe are relevant in this case. We note the following:

- paragraph 242(1)(b) provides that the Board is the applicable “approving authority”;
- subsection 242(2) requires the Developer to submit the Proposed Phase 6 Strata Plan to the Board;
- subsection 242(3) provides the Board with authority to approve the Proposed Phase 6 Strata Plan;
- subsection 242(5) provides that the Board must not approve the Proposed Phase 6 Strata Plan if the Subject Building does not substantially comply with the CVRD’s bylaws and with the applicable building regulations; and
- subsection 242(6) provides certain considerations which the Board must take into account when deciding whether to approve the Proposed Phase 6 Strata Plan.

## **3. Our Request**

So that the Developer may comply with its obligations under the Act and proceed with construction of the remaining buildings at the Development, we hereby submit the Proposed Phase 6 Strata Plan to the Board for approval under section 242 of the Act. Given that subsections 242(5) and (6) are directed toward matters such as bylaw compliance, building code compliance,

ensuring an adequate supply of rental housing, and preventing evictions of residential tenants – none of which is an issue in this case – we submit that the Proposed Phase 6 Strata Plan ought to be approved without any terms or conditions.

If the Board approves the Proposed Phase 6 Strata Plan, please arrange for Board's authorized signatory to sign the enclosed Application to Deposit Plan where indicated at page 3 and to make the original, signed document available for pickup at your offices located at 175 Ingram Street, Duncan.

Should you have any questions or any desire for further submissions, please contact the undersigned by telephone at 250-466-9664 or by email at [lance@robsonlegal.ca](mailto:lance@robsonlegal.ca).

Yours truly,

Lance N Robson Law Corporation



Per: Lance Robson, Lawyer



## Robson Legal Services

Business, Corporate, Real Estate.

May 31, 2023

Cowichan Valley Regional District

by email to [ds@cvrld.bc.ca](mailto:ds@cvrld.bc.ca)

### Attention: Board of Directors

Dear Sirs and Mesdames,

Re: Application for Board's Approval of Strata Conversion

Further to our letter dated May 29, 2023 and subsequent correspondence from your staff, we write to provide additional submissions relating to the mandatory considerations listed in subsection 242(6) of the *Strata Property Act*. Capitalized terms used in this letter have the meanings given to them in that prior letter.

#### **Consideration 1: the priority of rental accommodation over privately owned housing in the area**

This consideration is irrelevant, as the Proposed Phase 6 Strata Plan includes commercial real estate only and its registration will not affect the supply of either rental accommodation or privately owned housing in the area.

#### **Consideration 2: any proposals for the relocation of persons occupying a residential building**

This consideration is irrelevant, as the Proposed Phase 6 Strata Plan involves commercial real estate only and no proposal is made to relocate persons occupying a residential building.

#### **Consideration 3: the life expectancy of the building**

This consideration favours approval of the Proposed Phase 6 Strata Plan, as construction of the Subject Building completed just last year.

#### **Consideration 4: projected major increases in maintenance costs due to the condition of the building**

This consideration favours approval of the Proposed Phase 6 Strata Plan, as *no* increases in maintenance costs are projected due to the condition of the Subject Building.

#### **Consideration 5: any other matters that, in the Board's opinion, are relevant**

While we cannot claim to know what matters the Board may consider relevant, we note the following fact which favours approval of the Proposed Phase 6 Strata Plan: but for the Ministry of Transportation and Infrastructure's delay in reviewing and approving the Proposed Phase 6 Strata Plan (as required by section 224 of the Act), the plan would have been tendered for deposit at the

Land Title Office within the 180-day period contemplated by section 241 of the Act and the Board's approval would have been unnecessary.

Should you have any questions or any desire for further submissions, please contact the undersigned by telephone at 250-466-9664 or by email at [lance@robsonlegal.ca](mailto:lance@robsonlegal.ca).

Yours truly,

Lance N Robson Law Corporation

A handwritten signature in blue ink, appearing to read 'Lance Robson', is written over the printed name.

Per: Lance Robson, Lawyer