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Subject: DCL Waiver Review

Attachments: [DCL Report by Chief Risk Officer 8th Decmber 2016.pdf](#)

Greetings Mayor and Council,

To give you an update on the ongoing investigation into the DCL waiver issue, our Chief Risk Officer has completed his interviews of the transaction in question. His report which is an assessment of the issue, key findings and recommendations from interviews is attached. Given the interest from the public and media, the report will be released publicly this afternoon.

Staff are currently conducting an internal audit of past DCL waiver projects. The audit will be completed by January 2017. The objective of the audit is to ensure that all 29 DCL waivers issued since 2009 are accurate, in compliance with applicable policies, and appropriately authorized.

Don't hesitate to reach out if you have questions, suggestions, or concerns.

Best
Sadhu

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Review of DCL Waiver Issue for the Charleson Project

December 8th, 2016

Submitted by:

Robert Bartlett

Chief Risk Officer, City of Vancouver

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Terms of Reference

This review of the process for administering the Development Cost Levy (“DCL”) waiver for for-profit affordable rental housing is based on interviews and a limited review of documents. The review focuses on a DCL Waiver that was granted to a development (the “Charleson Project”) that did not qualify for the waiver. This review was completed over a short time line in order to ascertain if there is a significant risk that another unqualified project would be granted the for-profit affordable rental housing waiver (the “DCL Waiver”). The review related only to the DCL Waiver process.

Executive Summary

The key objective of this investigation was to assess the process that resulted in the DCL Waiver being granted to Charleson Project and to ascertain if there is a significant risk that another unqualified project would be granted the DCL Waiver. This investigation found that City staff approved the DCL Waiver for the Charleson Project in error. The Planning Department conducted an initial assessment of the other DCL Waivers granted in the program. They found that there was no evidence of fraudulent activity and this error is an isolated incident. Several factors contributed to the error. These factors include; a transition to new rules, a lack of appropriate oversight and a need to improve documentation.

This Report provides a list of immediate actions to address these findings. These Actions span across Process, Approval and Authority changes and utilise both internal and external stakeholders to ensure the error will not be repeated.

Legislative Background of DCL Waiver for Rental Housing

The DCL Waiver is authorized by the Vancouver Charter, and is detailed in the City's DCL By-laws. The DCL Waiver provides a financial incentive to developers that produce for-profit affordable rental housing.

Council first authorized a DCL Waiver in July 2009, as a key part of a pilot project called Short Term Incentives for Rental ("STIR"), that ended in December 2011. Council evaluated STIR, and in 2012 adopted the Secured Market Rental Housing Policy (now referred to as Rental 100) which continued the DCL Waiver program. Council amended the DCL Bylaws on December 3, 2013 to provide greater certainty for applicants and the public regarding what developments qualify for the DCL Waiver.

Prior to December 3, 2013, the DCL Waiver review/approval process started with Planning and Development Services, Housing, and Real Estate Services staff assessing the affordability of proposed projects against the requirements for the waiver in the DCL Bylaws. This review happened during the permit approval process. Under that process, the Assistant Director of Development Services, the Associate Director of Real Estate Services, the General Managers of Planning and Development and Community Services, and the City Manager would each review and approve the (i) project financial pro forma, (ii) proposed market rents and (iii) decision to waive the DCL for each project.

The December 3 2013 amendments meant that DCL Waivers would no longer be granted at the discretion of the City Manager. Instead, the criteria in the DCL Bylaws would be specific. The assessment for determining eligibility for DCL Waivers is now conducted by staff as part of the rezoning and/or Development Permit process, using the criteria set out in the DCL Bylaws.

Under the DCL Bylaws, all of the following criteria must be met in order for a project to receive the waiver:

1. Projects are 100% secured market rental housing.
2. Unit sizes are modest.
3. Finishings and construction costs are modest.
4. Initial rents cannot exceed a stipulated average rent for newer rental units.

Current DCL Process

A Project Coordinator in the Planning, Urban Design and Sustainability Department (the "Planning Department") provides information by completing part of a Development Cost Levy Worksheet and sending it to the DCL Coordinator in the Development Services, Building and Licensing Department (the "Development Department"). The information in the worksheet includes the proposed size, use of the floor areas in the building, number and type of units, and the location.

The DCL Coordinator then calculates the DCL. The amount payable is determined by Bylaw and depends on the building use, permit timing, and location of the project. The amount changes yearly and is set by Council.

If a project includes rental housing and is eligible for a DCL Waiver, the DCL Coordinator confirms with the Community Services Department, Housing Policy and Projects Business Unit (the "Housing Department") that the project is eligible for a DCL Waiver. The Housing Department reviews the proposed project and compares it to the DCL Waiver requirements in the DCL Bylaws.

Once the Housing Department completes its review, it sends an email to the DCL Coordinator stating whether the project is eligible for a DCL Waiver. DCL Waivers are rare. Only four projects granted for a DCL Waiver in 2014, including the project that triggered this inquiry.

There is no formal process to inform the DCL Coordinator of a DCL Waiver. The DCL Coordinator is informed of a DCL Waiver by either the Project Coordinator or the Housing Department.

The DCL Coordinator calculates both the DCLs payable and the DCL Waiver, if applicable. The DCL Coordinator uses a reference table, which is based on the rates approved by Council.

Background of Incident

The development approval process for Charleson Project began in 2013. The process for this particular application took place during transition period. This transition period was a short length of time during the shift from the STIR program to the Rental 100 program. Due to the project size and the need to rezone, the project required Council approval. Council approved the project. In the staff presentation to Council, it was clear that the project was not eligible for a DCL Waiver.

As part of the development process, a DCL Worksheet was sent to the DCL Coordinator by the Project Coordinator in the Planning Department. The DCL coordinator calculated both the DCL for the City of Vancouver and a Development Cost Charge (DCC) for Metro-Vancouver services that is based on the number of units as well as floor size. The DCL Coordinator bills both amounts to the Developer before the building permit is issued.

The DCL Coordinator who reviewed the Charleson Project has retired and has not been interviewed. However, there is an email dated October 22, 2014 from the DCL Coordinator to the Housing Department that asks two questions. It is our interpretation that; the first question related to whether a change in the number of units was allowed, presumably to ensure the correct calculation of the DCC. The second question requested whether the DCL Waiver applied to the Charleson project. The email reply from the Housing Department appears to answer only the first question but was apparently interpreted to conclude a DCL Waiver should be approved.

Based on this communication, the DCL Coordinator granted a DCL Waiver to the Charleson Project that reduced its DCLs from \$4,611,692.93 to \$3,052,939.60 (a DCL Waiver of \$1,558,753.33). However, the project did not meet the requirements for a DCL Waiver.

This mistake occurred during a transition period. The transition period, as aforementioned above, was a short length of time during the shift from the STIR program to the Rental 100 program. The development approval process for the Charleson Project began before the DCL Bylaws were amended. The DCL Waiver was granted after the DCL Bylaws were amended.

The Planning Department has completed a review of the other 29 projects granted a for-profit affordable rental housing DCL Waiver from January 1, 2009 to December 5, 2016. The Planning Department confirms that the DCL Waivers for all 29 of these projects were properly administered.

Immediate Actions Taken Once This Issue Was Raised

1. City Manager requested the Risk Department to investigate this issue.
2. The Housing Department suspended DCL Waivers until this review was complete.
3. Risk Department conducted interviews across all three departments involved, in order to understand the issue and determine the severity of the error.
4. Planning Department reviewed all DCL Waivers from 2009 to date.

Key Findings

1. The development approval process for the Charleson Project began under one DCL Waiver process, but was completed under another which likely contributed to this error.
2. Based on the information collected over this period, it is our opinion that this is an isolated incident. There is no evidence of fraudulent activity.
3. The Planning Department found that the DCL Waivers for all 29 other projects were properly administered.
4. The process for evaluating and approving DCL Waivers needs improvement and is not properly documented.
5. Accountability for administering the DCL Waiver is split across three departments.
6. The DCL Waiver is not approved or reviewed by a Manager in any of three departments.

7. The DCL Coordinator is not consistently informed of projects under consideration for a DCL Waiver.
8. The Housing Department does not send a standard document to the DCL Coordinator approving the DCL Waiver.

Recommendations

To immediately improve the DCL waiver process, the following measures are now underway, or will be shortly:

Process Actions

Strategic Planning and Program Management Business Unit (in Finance Department) (“SPPM”) will lead an initiative commencing the week of December 6th. SPPM will develop and implement the following process improvements:

1. Document the DCL Waiver process across the three responsible departments.
2. Develop a standard process to identify DCL Waivers to the DCL Coordinator, including revising the DCL Cost Levy Worksheet to ensure clarity between the Project Coordinator in Planning and the DCL Coordinator in By-Law Administration.
3. Housing Department communication of the DCL Waiver approval to the DCL Coordinator should include a standard form and standard language.
4. Appropriate approval process that clearly documents the required approvals for a DCL Waiver and embeds standard best practice controls.

Approval Actions

SPPM will lead an initiative commencing the week of December 13th. SPPM will develop and implement the following Approval improvements:

1. Housing Approval: A Housing Department Manager will approve all DCL Waivers before the waiver is sent to the DCL Coordinator.
2. Planning Approval: A Planning Department Manager will approve and validate all DCL invoices that include a DCL Waiver before issuing the DCL invoice.

Authority Actions

SPPM will lead an initiative commencing the week of December 13th. SPPM will develop and implement the following Authority actions:

1. Designate the Planning Department as being accountable to the City Manager for the entire development process, including administration and final approval of all DCL Waivers.
2. The General Managers of Planning, Housing, and Development Departments approve all DCL Waivers.

City of Vancouver Internal Audit

1. An internal audit of DCL Waivers will commence the week of December 6, 2016 and will be completed in January 2017. The objective of the audit is to ensure that all 29 DCL Waivers issued since 2009 are accurate, in compliance with applicable policies, and appropriately authorized.
2. Internal Audit should validate the revised process including review, approvals, and documentation of DCL Waivers once the Strategic Planning Program Department has completed its work.

External Audit Peer Review

KPMG will peer review Internal Audit's work.

KPMG work will include:

1. Review the Internal Audit plan.
2. Review the Internal Audit Report.

Short to Mid-Term Recommendations

1. Create a program to refresh training for staff across all departments in:
 - DCL By-Laws
 - Interdepartmental DCL process
 - Authority and thresholds of DCL process signoff
2. Regular training refresh for all staff involved in the DCL Waiver process

RELATED DOCUMENTS

- Council Report for 1396 Richards Street Rezoning (Charleson project).
- 2015 DCL Annual Report
- Vancouver DCL Bylaws

END of REPORT