

**CAPITAL REGIONAL DISTRICT
Regional Planning Services Department**

Staff Report to the Regional Planning Committee
Meeting of Wednesday, November 17, 2004

SUBJECT:

Regional Housing Trust Fund – Legal Opinion on SLP and Proposed Service Establishment Bylaw

BACKGROUND:

- June 16/04: RPC directs staff to prepare a model Regional Housing Trust Fund (RHTF) bylaw and covering business case letter to member municipalities, based on the results of the committee's discussions, including a description of the pros/cons of using the Housing Corporation's existing supplementary letters patent (SLP), or a new service establishment bylaw.
- August 11/04: The Board directs staff to refer the RHTF business case and draft establishment bylaw, and the existing supplementary letters patent (SLP) to the regional solicitor for review and comment on any necessary amendment prior to broader circulation.
- November 5/04: Letter from regional solicitor Lorena Staples and revised service establishing bylaw received.

DISCUSSION:

The regional solicitor was asked to respond to five questions related to the RHTF (Attachment A). Lorena Staples has prepared a comprehensive response to these questions (Attachment B). Also, she has prepared for the CRD's consideration a revised draft service establishment bylaw that aims to incorporate the suggestions and revisions that she makes in her review (Attachment C).

In summary, the regional solicitor finds that:

- The draft bylaw does not indicate any method of cost recovery as required by legislation. Her revised draft bylaw includes a cost recovery provision in section 4 that covers all possible cost recovery options.
- It doesn't matter how a participating area raises its funding contribution as long as it is a method permitted under section 803 of the *Local Government Act* (LGA), and as long as it is a method listed as an option in the service establishing bylaw.

- A participating area could access its funding contribution for a current budget year and apply it to a local affordable housing project if this purpose is included within the description of the service in the establishment bylaw. The criteria for how the monies would be dispersed should be set out in the service administration bylaw.
- The existing SLP will not accomplish or accommodate the proposed goals of the RHTF as set out in the business case. The funds raised under the SLP can only be used by the CRD itself or by advancing funds to a corporation that it has created under section 3 of the SLP (i.e.: the CRHC). Powers conferred under the SLP cannot be expanded by a service administration bylaw.
- Bequests, gifts and donations can be received as long as the service establishing bylaw sets this out as one of the options for cost recovery.
- Another option may be to convert the SLP to a service establishing bylaw under section 774.2 (3) (a) of the LGA, that would combine the powers of the SLP with those of a regional housing trust fund. However, this would require participation of all municipalities and electoral areas, so that the service areas for both the SLP and the housing trust fund are identical. If this course is selected, a service administration bylaw could be adopted solely for the purpose of making a policy for the administration of the service.
- The guidelines for the service administration bylaw seem appropriate for the purposes stated.

The solicitor's letter makes the point that there are not two options to implement the RHTF as described in the business case, but only one: a new service establishing bylaw either for a stand alone trust fund service or for a service that incorporates the powers currently housed in the SLP (land banking etc.). Proceeding with the SLP will not enable the CRD to undertake the purposes stated in the business case for the RHTF.

Three options appear to be available:

1. To circulate the revised service establishing bylaw with a request to councils to indicate their interest in a) establishment of the RHTF, and b) willingness to proceed on the basis of the draft service establishing bylaw;
2. To circulate a further revised service establishing bylaw that incorporates the functions set out in the SLP, with a request to councils to indicate their interest in a) establishment of the RHTF, and b) willingness to proceed on the basis of the draft service establishing bylaw; and,

3. To activate the powers of the SLP in the 2005 budget year as a first step, and consider options for a regional housing trust fund at a later date.

RECOMMENDATIONS:

That the Regional Planning Committee recommend either option 1, option 2 or the circulation of draft service establishing bylaws under both options for consideration by member councils and electoral areas.

RGS CONSISTENCY:

RHAS is an implementation initiative of the RGS, and responds to its direction in initiative 3.2.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION:

Mark Hornell, MCIP
Director of Regional Planning Services

EXECUTIVE DIRECTOR'S COMMENTS:

W.M. Jordan, Executive Director