



# CITY OF KELOWNA

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## COUNCIL POLICY MANUAL

APPROVAL DATE: 2005/09/12

RESOLUTION #: R1039/08/11/24

REPLACING #: R922/00/11/20; R892/1999/11/01; R-1981/04/14; R-1980/08/05; R856/05/09/12

DATE OF LAST REVIEW: November 2008

SUBJECT: STRATA CONVERSION OF EXISTING OCCUPIED BUILDINGS/STRATA PROPERTY ACT

1. Any strata conversion application submitted under the provisions of the *Strata Property Act* for consideration of the Municipal Council or the Subdivision Approving Officer/Chief Building Official in their capacity of Approving Authority shall be accompanied by a Statutory Declaration duly sworn and executed encompassing the following matters:
  - a) That all tenants affected by any proposed strata conversion be advised by the owner that an application for a strata conversion has been made to the City of Kelowna under the provisions of the *Strata Property Act* to stratify by way of a strata plan the building occupied by the said tenants.
  - b) That the owner of any proposed residential strata conversion include in the said Statutory Declaration any proposals for the relocation of persons occupying the said building(s).
  - c) That the owner of any strata conversion, provided he intends to place the strata units on the open market for sale, give the present tenant or tenants a first refusal to purchase prior to giving any notice to the tenant or tenants to vacate the said strata unit or units. (The intent of this provision is to permit the owner to retain the right to sell any strata conversion unit without obligation to present tenants in specific situations such as a sale to members or relatives of his family in estate situations where an "in-house" private sale may be made without the unit being placed on the open market for sale.)
  - d) THAT the applicant of any residential strata conversion application provide all tenants with information from the "Guide for Landlords and Tenants" under the "Residential Tenancy Act" in order to advise all tenants of their rights with respect to termination of their tenancy in the event that they are not given the opportunity or do not wish to purchase the strata unit which they occupy.
  - e) That the applicant of any multiple housing strata conversion application provide all tenants of the building proposed to be stratified with a letter, at least 10 days prior to the matter being presented to Council for their consideration, advising the tenants the date and time of the council meeting at which such application is to be considered and that any tenant(s) who deem their interest to be affected by such strata conversion may appear before Council and express their views regarding such conversion.



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2. Applications for strata conversion of previously occupied buildings shall not be considered when:
  - a) The lot is incorrectly zoned.
  - b) The lot is zoned RU6, but the lot area as required by the Zoning Bylaw is not sufficient for two dwelling housing use.
  - c) The lot is zoned RM3, RM5 or RM6, but the existing building has a greater floor area ratio than that permitted by the Zoning Bylaw under the **Development Regulations** section.
3. The Municipal Council has delegated the approving authority under section 242(10) of the *Strata Property Act* to the Inspection Services Manager for the proposed stratas of previously occupied buildings classified as Two Dwelling Housing, Commercial, Industrial and Institutional.

The Inspection Services Manager shall not approve the proposed stratification unless the building substantially complies with City Bylaws and the British Columbia Building Code. The Inspection Services Manager shall also consider the following in making his decision:

- (a) the priority of rental accommodation over privately owned housing in the area,
- (b) any proposals for the relocation of persons occupying a residential building,
- (c) the life expectancy of the building,
- (d) projected major increases in maintenance costs due to the condition of the building

Municipal Council is the approving authority for Multiple Housing (three units and greater) as regulated in section 242 of the *Strata Property Act*.

REASON FOR POLICY: To address the rights of existing tenants when buildings are stratified, to outline when applications for strata conversion of residential buildings will not be considered and to state the limits and conditions of the Inspection Services Manager when approving stratas.

LEGISLATIVE AUTHORITY: *Strata Property Act, Residential Tenancy Act, Council Resolution.*

PROCEDURE FOR IMPLEMENTATION: Applications for stratification are received and processed through the Inspection Services Department.