

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 23, 2018

Item 22, Report No. 18, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on May 23, 2018.

22 EARLY TERMINATION OF PRE-CONSTRUCTION CONDOMINIUM PROJECTS

The Committee of the Whole recommends:

- 1) That the recommendation contained in the following report of the City Solicitor dated May 8, 2018, be approved;**
- 2) That the following deputations be received:**
 - 1. Ms. Cecilia Yung, Fraser Street, Thornhill;**
 - 2. Mr. Adriano Volpentesta, America Avenue, Maple;**
 - 3. Mr. Francis Appiah; and**
 - 4. Ms. Ina Cici, Ron Attwell Street, Toronto; and**
- 3) That Communication C7, from Ms. Carmela, dated May 8, 2018, be received.**

Recommendations

- 1. That this report be received for information.**

Item:



Committee of the Whole Report

DATE: Tuesday, May 08, 2018

WARD(S): ALL

TITLE: EARLY TERMINATION OF PRE-CONSTRUCTION CONDOMINIUM PROJECTS

FROM:

Claudia Storto, City Solicitor

ACTION: FOR INFORMATION

Purpose

To advise Committee of the Whole as to TARION's role in connection with inquiries concerning the marketing, presale, and cancellation of pre-construction condominium projects.

Report Highlights

- At the Council meeting of April 11, 2018, staff were directed to contact TARION with respect to its role in the marketing, presale, and cancellation of pre-construction condominium projects.
- TARION has confirmed that agreements of purchase and sale for new homes typically contain early termination provisions (related to, among other things, financing and building/zoning permits) in favour of vendors; along with requirements respecting the return of deposits to purchasers.
- While TARION has the power to conduct investigations of vendors/builders, it does not have the power to compel vendors to waive their rights under early termination conditions or to complete a project.

Recommendation

1. That this report be received for information.

Background

At the Council meeting of April 11, 2018, staff were directed, by way of a member's resolution, to:

1. Formally request the Ontario Ministry of Government and Consumer Services to review the process by which pre-construction condominium projects are marketed and sold as well as the ability of developers to terminate agreements of purchase and sale as a result of the cancellation of a condominium project; and
2. Contact TARION in respect of its role in this matter and report back to Committee of the Whole in May 2018.

Previous Reports/Authority

N/A

Analysis and Options

TARION administers the Ontario New Home Warranties Plan Act, R.S.O. 1990, c. O.31 and associated regulations (collectively, the "Act"). TARION regulates certain aspects of Ontario's new home building industry, including the registration and licensing of new home builders and vendors as well as the resolution of warranty disputes.

Staff have contacted TARION to seek confirmation of its role in the marketing, presale, and cancellation of pre-construction condominium projects. TARION has confirmed the following:

- Agreements for the purchase and sale of new homes typically contain conditions in favour of the vendor which, if not satisfied, may allow for the vendor to terminate the agreement. Standard early termination conditions include those related to vendor financing and obtaining building/zoning permits.
- Early termination conditions are a private contractual matter between a vendor and a purchaser. They must be clearly described in the TARION Addendum to the agreement of purchase and sale and vendors must take all commercially reasonable steps in order to satisfy early termination conditions.
- TARION protects deposits paid by purchasers for condominium units up to a maximum of \$20,000. As of January 2018, deposit protection coverage was expanded to include other types of payments (for example, upgrades). Payments made to reserve a condominium unit prior to signing an agreement of purchase and sale are not protected.
- TARION's powers are derived from the Act. The Act does not provide TARION with the power to compel vendors to waive their rights under early termination conditions or to complete a project.
- TARION has the power to conduct investigations of vendors/builders. The results of these investigations may impact a vendor/builder's license, however they would not affect purchasers (or the remedies available to them) that have had projects cancelled as a result of the exercise of an early termination condition.

Staff are also in the process of drafting a formal written request to the Ministry to review the legislation governing the marketing, presale, and cancellation of pre-construction condominium projects. This correspondence will be delivered shortly.

Financial Impact

There is no immediate financial impact with respect to staff's communication with TARION regarding the cancellation of pre-sale condominium projects.

Broader Regional Impacts/Considerations

There are no Regional issues directly at stake.

Conclusion

Staff contacted TARION to seek confirmation of its role with respect to the marketing, presale, and cancellation of pre-construction condominium projects. TARION has confirmed that agreements of purchase and sale for new homes typically contain early termination provisions in favour of vendors. While TARION has the power to conduct investigations of vendors/builders, it does not have the power to compel vendors to waive their rights under early termination conditions or to complete a project.

Attachments

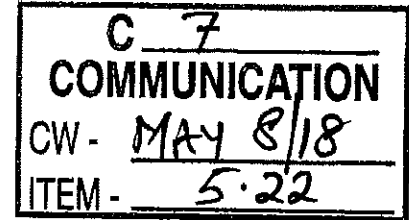
N/A

Prepared by

Michael Toshakovski, Director, Legal Services, ext. 8851

Britto, John

From: carmela carm < >
Sent: Tuesday, May 8, 2018 10:07 AM
To: Clerks@vaughan.ca
Cc: Britto, John
Subject: Item #5.22 Early Termination of pre con condo



Please find attached a few questions
For today's meeting

1) Submissions:

After Official Site amendment of the project was approved in June 2014, the following subsequent submission was filed at the city

Zoning By-law Amendment Z.15.021 – submitted Oct 2015

Draft Plan of Subdivision – 19T-13V006 – submitted June 2016

Site Development File DA. 13.021 – submitted April & May 2017

- a. What were the above stated submission dated as far back to 2015 not approved until Jan 2018?
- b. Is this length of time typical approval timeline in city of Vaughan?
- c. If not, Is the city responsible for this hold up of this project?

2) Tower A & Tower B Building permits had been submitted in Nov 2016, Tower C & Tower D (Cosmos III) were submitted in Dec 2017, deficiency letters had been issued for these building permit submissions. Further more, these files remain open after cancellation of the project:

- a. Why did the city accept and review building permit application BEFORE site plan approval is granted?
- b. Why are these building permit files still open as of end April 2018?
- c. Why are these files allowed to be remain open for such long period of time?

3) Liberty recently Planning Applications were submitted on 28 Feb 2018 by number company directly associated with Liberty Development Inc. for 2901 Highway 7 (Cement Plant location), adjacent to the development across Maplecrete Road:

Official Plan Amendment OP.18.005

Zoning By-law Amendment Z.18.009

Draft Plan of Subdivision – 19T-18V005

- a. It seems the developer's interest remain in continual development of the lots flanking Maplecrete Road. In varies report / studies (for example, urban design brief), the adjacent cosmos condo site was identified as Planned High-rise mixed use development. Recently there are activities observed on site and it seems the site is getting prepared for shoring and excavation.

Has any point since the cancellation of the project has the city clarified with the developer if their intention is to continue developing the Cosmos Condo lot?

b. Is the city at all concerned that the developer and the vendor is going to repeat the same trick they used at Cosmos Condo in this new development? Attracting buyers to enter into pre-construction development by advertising the benefit of situated in heart of VMC and not delivering the project as promise?

4 what does the city plan to do to prevent this in the future?

5 How does the city intend to do business with Liberty moving forward on future VMC projects?

Signed by many of the Liberty cancelled Cosmos project & many of which are Vaughan citizens

Sent from my iPhone

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Prepared by

Michael Toshakovski, Director, Legal Services, ext. 8851