

Amendments to Council Policy No. C09-001, Residential Lot Sales – Contractor Allocations

ISSUE

Saskatoon Land is requesting amendments to Council Policy No. C09-001, Residential Lot Sales - Contractor Allocations, for which City Council approval is required.

RECOMMENDATION

That the Standing Policy Committee on Finance recommend to City Council:

1. That the proposed amendments to Council Policy No. C09-001, Residential Lot Sales – Contractor Allocations, be approved; and
2. That the City Clerk be requested to update Council Policy No. C09-001 as outlined in the report of the Chief Financial Officer dated December 3, 2019.

BACKGROUND

Council Policy No. C09-001, Residential Lot Sales – Contractor Allocations (Policy), became effective March 30, 1981, with the most recent update on August 27, 2018. The purpose of the Policy is to assist in fostering competition and diversity in the home-building industry by ensuring a fair and equitable allocation of lots owned by the City of Saskatoon to contractors.

Section 4.2(b) requires Saskatoon Land to recommend changes to the Policy as required.

DISCUSSION/ANALYSIS

Third-Party Warranty

Subsection 3.3(g) of the Policy requires that all Eligible Contractors on Saskatoon Land's contractor list maintain membership in a recognized home warranty program and provide proof annually. In addition, Saskatoon Land requires that contractors provide warranty certificates on every new home built in order to help ensure purchasers are protected on their investment in a new home. Warranty generally covers purchasers on defects in work and materials, as well as structural defects, including foundations.

The process to register a home under a warranty program can vary significantly, as it is based on the sale of a home to a home purchaser - not the contractor. Eligible Contractors may not start construction on a house immediately after signing an Agreement for Sale, or a completed home can be on the market for a significant period of time before selling to a home purchaser. As a result, Saskatoon Land staff is required to repeatedly review and monitor contractors for final sales in order to request the certificates.

In discussion with the Saskatoon & Region Home Builders' Association, its builder members are asked to provide proof of membership with a third-party home warranty provider as a requirement for maintaining their membership. Financial institutions also

require a new home warranty certificate as part of the mortgage approval process, making Saskatoon Land's additional review a redundant process.

The requirement to have all Eligible Contractors provide yearly confirmation of third-party warranty membership to Saskatoon Land would not change; however, to reduce some of the redundancy in enforcing third-party home warranty, Saskatoon Land is proposing that the requirement for builders to provide a certificate on every individual home be removed from policy.

Eligible Contractor Inventory

Section 3.7 of the Policy limits contractor inventory to no more than 40 lots that are vacant and/or not completed to the backfill stage of construction. This was brought into policy during a time when there were limited criteria in place on who could become a contractor, and was used to prevent any one contractor from carrying too many undeveloped lots.

Saskatoon Land is continuing to review the presale of single-family lots as suggested by the 2017 Land Internal Audit. This new allocation method would not eliminate the lot draw process relied upon by small- and medium-volume builders, but would be a system that meets the needs of a large-volume builder. Under a presale allocation, it would be possible that a contractor may purchase blocks of lots consisting of more than 40 lots, which would be in violation of the current Policy. In order to properly facilitate use of the new sales method, Saskatoon Land is recommending the removal of the maximum 40-lot inventory requirement from Policy.

Removing this specific requirement is not expected to be problematic as there are other Policy requirements in place that prevent contractors from assembling excessive vacant inventory, which include:

- Section 3.2 (c) - states that Saskatoon Land can determine the number of lots it shall offer to any contractor at any time; and
- Section 3.5 - the Time to Build Requirement will continue to ensure builders do not assemble excessive amounts of vacant inventory.

The build time requirement of three years will remain in effect, ensuring that contractors do not hold more lots than they can build on over that time period. In cases where contractors do not complete construction on their inventory, they are prevented from purchasing more lots until they are in compliance with the build time requirement.

Furthermore, the slower new home market experienced over the last few years has required builders to weigh each lot purchase carefully, resulting in self-regulation of inventory levels.

Lot Assignments

Current Policy allows the assignment of two lots between Eligible Contractors with the consent of Saskatoon Land, which has provided benefits and extra flexibility to contractors.

Under agreement terms, the assignee assumes the responsibilities of the original Agreement for Sale of a lot, and the assignor relinquishes all ownership of the same lot under the Agreement for Sale. Discussions regarding compensation of the lot transfer are determined between the relevant contractors and do not include Saskatoon Land.

Because an assignment allocates all the rights and responsibilities of an Agreement for Sale from one contractor to another, many contractors (assignees) who take over a lot and the terms of the agreement are immediately suspended due to non-compliance with build times or amounts owing. In these cases, the assignee is aiding Saskatoon Land in ensuring that a home will be built on a lot, but at the same time, Saskatoon Land is penalizing them for taking over a lot that is in arrears.

In cases where an assignee would be suspended for taking over a lot, Saskatoon Land is recommending a grace period in which the assignee can complete the terms of the agreement before becoming suspended. Interest on the lot would continue to be charged as per the terms of the Agreement for Sale. This period of time would give the assignee the ability to attain financing, market the lot, and have a home design prepared for the lot.

Proposed Policy Amendments

As detailed in Appendix 1, Saskatoon Land is proposing the following amendments to accommodate the concerns noted in this report:

- Section 3.3 (g) - remove the requirement of Eligible Contractors providing an individual new home warranty certificate for a specific dwelling on each purchased lot;
- Section 3.7 - remove this section regarding the maximum inventory of 40 lots; and
- Section 3.8 - allow contractors additional time for making final payment on a lot that is overdue and taken over from an assignment, to avoid being suspended by Saskatoon Land.

IMPLICATIONS

There are no financial, legal, social, or environmental implications identified.

NEXT STEPS

If the amendments are approved, Saskatoon Land will advise Eligible Contractors of the changes.

APPENDICES

1. Proposed Amendments – Council Policy No. C09-001, Residential Lot Sales – Contractor Allocations

REPORT APPROVAL

Written by: Jeremy Meinema, Finance and Sales Manager
Reviewed by: Frank Long, Director of Saskatoon Land
Kerry Tarasoff, Chief Financial Officer
Approved by: Jeff Jorgenson, City Manager

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