



Galiano
Conservancy
ASSOCIATION

C E L E B R A T I N G

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December 6, 2019

To Whom It May Concern,

This letter is to clarify the GCA's role in the current affordable housing proposal being put forward by the Gulf Islands Galisle Affordable Rental Housing Society (GIGARHS) with regard to the Community (Heritage) Forest lands owned in trust by the Galiano Club.

SUMMARY:

- The GCA, along with Habitat Acquisition Trust (HAT), jointly hold a covenant giving them power to enforce some restrictions on the use of the Community Forest lands.
- That covenant includes a provision for subdividing a small portion of the land to be used for affordable housing.
- However, a conflict in the wording of the covenant currently prevents any such subdivision from going forward, in a manner unintended and unanticipated by the original authors of the covenant.
- GCA and HAT have agreed in principle, at the request of the Galiano Club, to resolve this conflict, and to allow for the potential to create a single, small affordable housing lot.
- This decision ensures consistency with the commitments made by the GCA and HAT boards in 2005 when the covenant was registered, and in 2008 when the management plan for those lands was agreed to.
- Making this change allows decisions regarding the specific proposal put forth by GIGARHS to be made by the community and the Islands Trust.

CONTEXT:

The Community Forest Lands were created back in 2005 and transferred to the Galiano Club to hold in trust for the Galiano Community. The bylaws responsible for the creation of these lands provided modest development rights on Forest zoned land in exchange for community benefit. The subdivision known as the Sticks Allison extension was created totalling 13 residential lots and two community parks, now managed by the Galiano Island

Parks and Recreation Commission. The strata development known as “Montague Heights” was also created, allowing for the development of an additional eight houses and cottages.

The remaining undeveloped land, roughly 75% of the original Forest Lots or 126 hectares, was transferred to the Galiano Club, in trust for the Galiano Community. The bylaws clearly defined the parameters for how these lands were to be managed and benefit the community, with provisions for protecting ecological values, contributing to our local economy through sustainable forestry, allowing for public access on a trail network and providing the option to further subdivide a portion of the land for the express purpose of affordable housing.

GCA ROLE:

To ensure that the Galiano Club managed these lands as intended by the bylaws, in perpetuity, a covenant, or legal agreement registered on the title of the land, was created between the Club, The Galiano Conservancy and Habitat Acquisition Trust. The covenant re-iterates the intended uses of the land, including for affordable housing, and gives the covenant holders, GCA and HAT, the power to monitor and enforce the restrictions.

GCA and HAT have been working with the Galiano Club since 2005, when the covenant was registered, to ensure that the land is being managed as intended.

In 2008 a management plan for the Community Forest was created by the Galiano Club. It was adopted through a vote by its membership and was then ratified by the Covenant Holders, GCA and HAT. The plan included the designation of a special zone located along the Georgia View Road extension, where any subdivision for affordable housing could occur. This zone was chosen in consultation with the GCA for its suitability for such a use, including consideration of ecology, hydrology and minimizing forest fragmentation.

A CONFLICT IN WORDING:

The covenant explicitly gives the Galiano Club the right to subdivide the Community Forest lands to provide one or more small lots for affordable housing use. It stipulates that the new lots must be transferred to a society whose primary purpose is the provision of affordable or seniors housing (such as GIGARHS).

The covenant also restricts the amount of land that can be subdivided and the minimum lot size that can be created. The minimum lot size is simple and is 2 hectares. The amount of land is more complicated: it states that no more than 1% of the total Forest zoned land, on all of Galiano, that has been re-zoned to Community Forest in return for development rights, can be designated for affordable housing.

At the time the covenant was written, it wasn't clear how much land would be re-zoned to Community Forest, but it was contemplated that this might be many hundreds of hectares, and that there might therefore be several 2+ hectare affordable housing lots created. The covenant holders at that time agreed that this was part of the intended community benefit, and proceeded to register the covenant.

Since that time, many hundreds of hectares of Forest land have indeed been re-zoned for development. However, only 161 hectares were re-zoned *specifically using the Community Forest provision in the bylaws*, after which that option was removed from our bylaws and other, similar mechanisms were put in place instead (with residential development being granted in exchange for land going to BC Parks, instead of to a local organization).

Because of the narrow way in which the covenant was written, only those 161 hectares get counted when measuring the amount of re-zoned Forest land. Since 1% of 161 hectares gives a *maximum* of 1.61 hectares, which is less than the *minimum* lot size of 2.0 hectares, it is not possible to subdivide a lot for affordable housing without violating the covenant.

THE RESOLUTION:

In September 2019, the Galiano Club requested that GCA and HAT amend the covenant in a manner which allows for the intended affordable housing benefit to be realized.

The Covenant Holders recognize that the conflict in wording must be resolved in order to bring certainty to the landowner, and to functionally enable the intent of that section of the covenant, which is to allow for subdivision to meet a community need.

As the figure "1% of the lands" is a relative figure, but 2 ha is a real number, the Covenant Holders are sure that the drafters of the covenant expressly wished to ensure that lot sizes would be no smaller than 2 ha. However, given the imperative to also respect the intent of the cap of 1%, the Covenant Holders cannot support the subdivision of an area larger than 2 ha.

In consideration of this, the Covenant Holders have agreed to allow for the potential to subdivide and rezone a single, 2 ha, not-for-profit, affordable housing lot.

GCA and HAT feel this decision is in keeping with the intent of the covenant and the bylaws it was modeled after, is consistent with the original decisions made by their Boards, and allows the important decisions regarding the need for affordable housing and suitability of the proposed Community Forest location to be where they belong: in the hands of the Galiano community through a carefully considered and fully informed local government process.