



THE MUNICIPALITY OF THE VILLAGE OF LIONS BAY

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Report, Determination of Secondary Suites Surcharge

January 10th, 2011

Introduction

To summarize, the Secondary Suite Surcharge for the Village of Lions Bay was determined through a lengthy and integrated process of research, discussions within Council, consultation with the public and looking at comparatives in municipalities around us. This is described below.

Initial Research – Intent of Surcharge: a “Fair Contribution”

- November, 2008 - Examined OCP clauses around Secondary Suites
 - The OCP clause spoke of a “fair contribution to the cost of Village services.” The concept of overall fairness to residents – suite-owners and other Lions Bay homeowners - thus became a major element in Council thinking. Tenants in a residence not only consume water, produce garbage and things to be recycled, and use sewers. They also park cars, creating needs for enforcement and increased wear on the roadsides, which creates a need roadside maintenance by the Village. They use parks, producing garbage there and their children use playground equipment. They have dogs whose barking or excrement can create needs for the Village to take action. They make calls to the Village office for information. In short, tenants behave just like other residents of Lions Bay, and use and receive the same broad spectrum of Village services.
 - Not all of the above can be costed out even by experts, and for much of these services no precise figures were available. Yet the OCP called for “fairness”.
- November, 2008 – April, 2009. Continued research, culminating with a first presentation to Council.
 - The two Councillors contacted numerous municipalities in regard to bylaws, policies and practices. They also consulted a definitive study done by Ministry of Community Development, looking at the regulations and policies regarding Secondary Suites in eight municipalities, ranging from large to small. The study explained the levels of surcharges in use in these municipalities, how they were administered and what the rationales were for them.

First Presentation to Council, and Key Concepts for “Fair Contribution”

- March 2, 2009 First presentation to Council, at Committee of the Whole.
 - This presentation noted that the major concerns expressed within Lions Bay about Secondary Suites to that date, including before the Council’s election of 2008, had included: fairness of utility billings, fairness of property taxes, tenant parking, bylaw enforcement in regard to Secondary Suites and the behavior of tenants, and Secondary Suite registration. It noted that while some municipalities imposed a flat fee on landlords who own a Secondary Suite, the generality of municipalities around Lions Bay were charging some version of a Secondary Suites surcharge with the calculation tied to the overall cost of utilities. The level of comparatives for a surcharge ranged from nothing in Whistler – an outlier as municipalities go because of its very severe housing restrictions - to 100%.
 - In the discussion around this presentation, as well as later discussions, the concept of achieving “overall” fairness to Lions Bay residents came to make sense to Council. The OCP called for “a fair contribution”. Fairness is not just a matter of being fair to landlords in terms of whatever charge was imposed, but being fair to other residents whose neighborhoods have over time been densified for the economic benefit of landlords, without notice to the Village or consultation with themselves. The OCP was certainly positive in regard to Secondary Suites, as Council is, but in a balanced way – it did reflect a general sense that landlords should be contributing more to overall costs than they have, for many years.
 - Arriving at what would be acceptable to most residents as “fair” became for Council a combination of sounding out the public, discussion between Council colleagues, looking at comparatives in municipalities around us, and individual Council members’ judgment and common sense.
- September 14, 2009, Council strategic planning meeting
 - It was agreed that a Zoning bylaw amendment would be put in place for Fall, 2010, and a Secondary Suite administration program, including a surcharge or fee of some sort, would be put in place for the 2011 financial year.
- Oct. 14, 2009, first public meeting on Secondary Suites
 - The slides presented the two portfolio Councillors’ reasoning as follows. “There is no way to calculate the increase in costs of municipal services due to tenants ... (Garbage Sewer Water Roads, maintenance in playgrounds & parks, parking/plowing, bylaw enforcement, etc). So this is what other municipalities are doing.” Some rates for the fee or surcharge elsewhere were quoted, as comparatives. Residents were invited to contact both Councillors afterwards, with questions or comments, including about the surcharge. The presentation was put onto the Village website.
- March 1, 2010, Council meeting

- Councillor Ronsley announced that action on the bylaw/policy was about to commence, as had been decided in September, 2009.

Establishment of Timetable, Hearing from the Public

- March 15, 2010, Committee of the Whole
 - Councillors Ronsley and Akerhielm tabled a report on Secondary Suites – “Update, and Proposed Timing, Program”. It outlined the proposed dates for consultation with the public, and was put onto the Village website. It noted that the first service-related charges for landlords would be in place for the budget of 2011.
- April 19, 2010, Council meeting
 - Councillors Ronsley and Akerhielm made a presentation on what was known to that point of the costs, benefits, and risks of legalizing Secondary Suites, and how a program to administer them might operate. In the Public portion of the meeting, Councillors Ronsley and Akerhielm made the following points.
 - The average Lions Bay household in 2009 paid \$4,321 in taxes and utilities
 - If Council imposed a \$500 flat fee suite surcharge on a suite, or roughly \$400 through an extra 50% on garbage, recycling, water
 - Landlord would pay in total less than 12% more in total taxes and utilities, towards the cost of Village services
 - To most residents, this would seem a “fair share”
 - Tenants use the full range of Village services
 - Not recommended to try to calculate or allocate actual increase in costs of municipal services due to tenants
 - There is no accepted methodology and insufficient data
 - Key is “fair share” – qualitative anyway
 - What Other Municipalities Do”
 - Either charge extra percentage payment on municipal utilities (water, garbage, recycling) – 40% to 100% is common
 - Or charge flat fee for having suite – 0 in Whistler, \$300 in West Vancouver plus cost of business license, \$500 in many municipalities
 - Cons: Requires Fees and Charges bylaw, and new administrative process to chase a landlord who does not pay
 - Recommended an extra percentage on cost of utilities: water, garbage, recycling
 - Administratively simple – we are already billing for these rates. We have a process if landlord does not pay
 - Recommendation was for 100% extra utilities charge on an illegal suite, and 50% extra charge on a registered suite – creates incentive to register
 - Principles were suggested for Council, during the process of developing legislation and interacting with the public. These were keeping affordable housing available in Lions Bay, having landlords make a fair contribution toward the costs of Village services as

called for in the OCP, and encouraging compliance with Village legislation, so landlords who voluntarily comply do not feel that others are getting away with non-compliance. Achieving these goals in a balanced way became the Council focus.

- The two Councillors' research had shown that achieving compliance with Secondary Suite legislation, including payment of the surcharge, is a widespread challenge for municipalities. A related presentation was dealt with in the In Camera portion of the meeting; among other things it dealt with was surcharges in relation to compliance issues,.
- As a comment, among other municipalities, only Abbotsford seemed to have achieved a considerable degree of compliance with suite "registration" and voluntary payment of Secondary Suite surcharges. Abbotsford did so by active means, such as hiring students to track down Secondary Suites and report them to the City administration. Legal counsel had advised that unless Council was active in its thinking on compliance, there would likely be non-compliance. However, in discussions at Council in subsequent meetings it was felt that this kind of active tracking down of landlords, as practiced in Abbotsford, would not be in line with Lions Bay culture, and would create administrative issues.
- After this date, Secondary Suites were being regularly discussed at Council, as the emerging policy was shaped with resident input, additional research requested by Council, and discussion and debate at Council.
- May 5 – Second public meeting with residents on draft bylaw amendments.
 - Notes were put onto the website, with a summary of all the issues raised by residents.
- May 11 – E-Post to all residents
 - Councillors Ronsley/Akerhielm sent out their report and draft recommendations, taking into account resident feedback after May 5 meeting. The "Secondary Suites Administration" report was posted on the Village website. Appended to it was a complete list of issues raised by residents from October, 2009 until May 11, 2010, including comments on the proposed surcharge.

Interactions with the Public, Weighing Public Opinion

- May 17 and subsequent Council meetings (May 31, June 7, June 14):
 - In these discussions, Councillors discussed resident opinions and weighed them using their best judgement. There was long and vigorous debate at Committee of the Whole and Council meetings. The surcharge was one of the main topics of interest.
 - Some residents felt that a surcharge would be fair. Others completely rejected it on the grounds that:
 - 1. No mathematical calculation, based on Village costs or accounting, could show that any proposed level was "fair". However, the majority on Council had already agreed on

not trying to arrive at a surcharge level using mathematics. Council aimed to arrive at an appropriate “fair” level for all residents overall, through listening, looking at comparatives and judgment.

- 2. Any surcharge would drive tenants out of the Village. Council took this very seriously and the two Councillors analyzed the impacts of various levels of the surcharge. This analysis would eventually be sent out on June 15th in a E-post, for resident comment.
- 3. Fees for actual use, including metering of water, should be the method of billing residents. Current utility rates are set on the basis of residences, irrespective of the household’s actual use of utilities – this was felt to be inherently unfair.
- The surcharge was proposed to be set at a certain level of the utilities rate, which was done simply for administrative purposes – to avoid creating a new billing system. For this reason, residents arguing against the surcharge focused on how much of a given utility would be used by tenants. It tended to get lost in the argumentation that tenants create other demand for Village services through need for parking bylaw enforcement, repair of shoulders of the roads, etc, and that fairness to other residents of Lions Bay was a consideration.
- Council had to weigh the opinions of those residents it heard from, against quieter opinions in support which it received, and to use its judgment. There were four public meetings - with the largest attendance being about 20 people - as well as a Public Hearing. Many statements in public meetings, and e-mails from residents, questioned the surcharge on the grounds summarized above. However, the majority of residents of Lions Bay did not turn out to meetings and did not express themselves on the issue. The majority on Council felt that the OCP’s call for “a fair contribution” from landlords very likely reflected the generality of public opinion in Lions Bay.
- There was understanding by Council that some residents, particularly those owning suites, wished to see a new fee-for-use system set up in place of the current method of billing for utilities. However, establishing and charging fees for use of individual Village services would be highly impractical, administratively. Water metering is extremely costly to set up. Monitoring the number of bags of garbage produced by a household is impractical. Establishing the levels of fees for individual services (bylaw enforcement, road repairs) would be even more controversial than the proposed Secondary Suites surcharge. Any new fee structure of this type would affect every resident of the Village, not simply landlords. A simplistic form of billing, averaged across residences, is how most municipalities charge for utilities. A new surcharge sent out with this billing would be simply the most practical approach.
- Finally, a significant decision by Council during this period was not to require upgrades in illegal suites, but to “grandfather” them by policy. Council accepted landlords’ arguments that requiring upgrades could result in Secondary Suite closures and loss of affordable housing.
- May 21st, 2010– E-Post to residents
 - This summarized what happened at the May 17th Council meeting. It included a note that the “map” for moving forward would include a surcharge on Secondary Suites.

- May 29th, 2010 – Third public meeting with residents on Secondary Suites.
 - Notes on what residents said, including about the surcharge, were put up on the Village website.
 - A detailed slide on comparative Secondary Suite surcharges in municipalities around Lions Bay was included in the presentation, so that residents could see comparatives.

Whistler	0
Pemberton:	\$375
Squamish:	\$540
West Vancouver	\$250/\$400 (2010)
Vancouver	\$193
Coquitlam	\$693 illegal / \$277 legal
North Vancouver	\$407
District of North Van	\$452
Burnaby	\$300

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- June 10th, 2010 - “Issues and Responses”
 - This summarized all resident issues raised from October to May 29th, together with responses by Council to these. It was put onto the Village website. It covered the Secondary Suite surcharge as well as other topics.
- June 15th – E-Post “Update re grandfathering and suite surcharges”
 - This captured discussions at Council on June 7th and 14th. It presented tables showing how various levels of surcharges for suites might affect residents, and asked for resident comment.
- June 23rd – E-Post with Secondary Suites Policy draft attached
 - Sent to residents, the E-Post flagged that a suite surcharge would be applied to the solid waste/water/recycling/green waste billing in January, 2011 to help cover the cost of Village services. Exempted from this surcharge would be owners of suites that are unoccupied, or suites that are housing immediate family members.

Final Policy Decision on Level of Surcharge

- July 19th – Bylaw adopted by Council and Secondary Suites Policy adopted effective Sept 20th.
 - The Policy established that the level of Secondary Suites surcharge would be 40% of the usual charge for waste/water/recycling/green waste billing in January; in 2010 it would have been \$332 in 2010. This level for the surcharge was determined based upon the factors outlined above: the comparatives within the region, what Council had heard from residents regarding the risks of setting a surcharge too high, discussions at Council and the judgment of most Councillors regarding what would be fair overall to residents of Lions Bay. The policy was put up onto the Village website.

- September, 2010 and onward
 - A “Secondary Suites Demystified” session was presented for landlords and interested parties on September 13, 2010. It included numerous slides on the Secondary Suite surcharge including how it would be calculated, indicating its approximate level.

Resolution of Council to Bring Surcharge into Invoicing Process

- On December 6th, 2010, Council passed the following resolution, to bring the Secondary Suite Surcharge into the annual utilities invoicing process for 2011.
- RESOLUTION
 - Whereas Council on July 19, 2010 after due debate and in discussion adopted a Policy on Administration/. Enforcement of Zoning Bylaw regulations in regard to Secondary Suites which included the following clause, from page 6, item 6:
 - “The Secondary Suite surcharge is intended to cover, as per Priority 3-c, a fair contribution to the cost of Village of Lions Bay Services. The Surcharge will be added to the annual charges (before the prompt payment discount) for solid waste, recycling, yard waste and water user fees. These are set by bylaws establishing fees for each applicable service, usually passed in January of each year. The level of the surcharge will be 40% of the regular billing.”
- Resolution
 - Moved by Councillor Akerhielm
 - Seconded by Councillor Ronsley
- Resolved that:
 - Council direct staff to prepare a bylaw to bring the Secondary Suites Surcharge into effect in accordance with the above policy, said surcharge to be charged annually beginning in 2011, and shown simply as a Secondary Suite Surcharge in the billing.