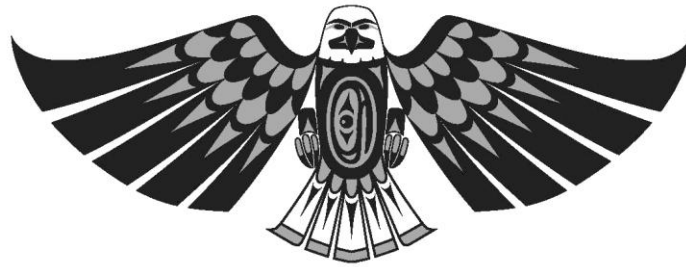


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TSAWWASSEN FIRST NATION
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Tsawwassen First Nation

**Policy for the Disposition of Falcon Way Subdivision
Lots and Rental Units**

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Authority

- 1.1. This policy is established pursuant to Section 4 of the *Land Act*, which stipulates that the Executive Council is responsible on behalf of the Tsawwassen Government for the administration of Tsawwassen Lands.
- 1.2. Whereas section 51 (2) of the *Land Act* authorizes the Executive Council to dispose of a Tsawwassen Fee Simple Interest (TFSI) in Tsawwassen Public Lands to a Tsawwassen Member for residential purposes without a community approval, this Policy will serve as a guide to ensure that such dispositions are made in a fair and transparent manner.

2. Definitions

“completion” means a unit that has received an occupancy permit or a unit that is near completion and satisfies any requirements of the Director of Lands;

“Falcon Way Subdivision” means those residential lots located along Falcon Way (lots 1 to 34, Plan BCP38131);

“Falcon Way Subdivision List” means a list of Tsawwassen Members that have applied for a lot in the Falcon Way Subdivision;

“Housing Loan Guarantee Program” means a program where the Tsawwassen Government has partnered with a financial institution and has agreed in that partnership to guarantee a portion of a Member’s loan for new lot purchases, new home construction or renovation;

“manufactured home” means any structure, whether ordinarily equipped with wheels or not, that is designed, constructed or manufactured to be moved from one place to another by being towed or carried, and to provide a residential home or accommodation;

“Land Use Plan” means the land use plan for Tsawwassen Land entitled “Tsawwassen First Nation Land Use Plan” that was approved in principle by the Tsawwassen Membership on July 25, 2008;

“Low End of Market Rent” means an amount of rent, set annually by CMHC, that is based on the market rent charged in neighbouring municipalities;

“Policy” means the Policy for the Disposition of Falcon Way Subdivision Lots and Rental Units;

“residence” means a single family accommodation unit that is a stand alone house;

“Social Housing” means a program operated by Tsawwassen that provides subsidized rental units for low-income Tsawwassen Members;

“TFSI” means a Tsawwassen Fee Simple Interest in Tsawwassen Lands;

“Treaty Settlement Lands” means the area of Tsawwassen Lands that is outside of the pre-Treaty Reserve Lands; and

“Tsawwassen Lands” means the lands set out in Appendix C-4 of the final agreement as Tsawwassen Lands, as amended from time to time under that agreement.

3. Application and purpose

3.1. This Policy applies to the Tsawwassen Government when making decisions relating to:

- the disposition of TFSI lots in the Falcon Way Subdivision; and
- the management of market rental housing units that are not social housing units.

This Policy is broken into two parts, the first dealing with the distribution of TFSI lots in the Falcon Way Subdivision and the second dealing with the distribution of market rental housing on the Treaty Settlement Lands.

Part 1 of this Policy [*Disposition of Falcon Way Subdivision Lots*] will cease to apply when all of the lots in the Falcon Way Subdivision have been disposed of. Part 2 of this Policy [*Rental Housing Units on Tsawwassen Settlement Lands*] will cease to apply when each of the units has been removed to make way for higher and better land uses.

3.2. This Policy is intended to guide the Tsawwassen Government’s actions on a particular topic and will be made public to provide for transparency and accountability.

3.3. The Falcon Way Subdivision is comprised of 34 lots and is located on Tsawwassen Lands within the area of the Land Use Plan designated for the community.

The distribution of lots in the subdivision is intended to help Tsawwassen realize objectives contained within the Land Use Plan and the Strategic Plan by providing new residential opportunities to Tsawwassen Members and attracting Tsawwassen Members that are currently living off Tsawwassen Lands to return to the community.

While the intent of this policy is to provide Tsawwassen Members with residential opportunities on Tsawwassen Land, it is important that the Executive Council retains the flexibility to use some of those lots for purposes other than market based housing if they believe that doing so is in the best interests of the Membership.

Alternative uses for the subdivision include but are not limited to:

- the construction of new Social Housing units;
- the construction of market houses for low-income Members in partnership with a third party provider (e.g. with Habitat for Humanity) or are developed by the government itself; or

- the construction of a new training or education facility.

Part 1 – Disposition of Falcon Way Subdivision Lots

4. Availability of TFSI lots

- 4.1. On the adoption of this Policy and prior to the beginning of each subsequent fiscal year,
 - 4.1.1. the Executive Council must identify the number of lots in the Falcon Way Subdivision it will make available for disposition in that year, and
 - 4.1.2. the Lands Clerk must publish the number of lots that Executive Council has made available for disposition,
 - 4.1.2.1. in the community notice, and
 - 4.1.2.2. on the TFN website.
- 4.2. The potential financial impact on the Housing Loan Guarantee Program from disposing of lots in the Falcon Way Subdivision will be considered when determining the number of lots it will make available.

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- 4.3. Prior to the first disposition of a TFSI lot in the Falcon Way Subdivision, the Executive Council must set aside at least ten (10) of those lots in order to ensure that,
 - 4.3.1. Members unable to secure financing at the time the lots are made available are not penalized and do not lose the opportunity to secure one of the Falcon Way Subdivision lots, and that,
 - 4.3.2. There continue to be lots available for one or more of the alternative uses set out in section 3.3 of this Policy.
- 4.4. In order to ensure that Tsawwassen Members that do not currently hold a TFSI have an opportunity to acquire a lot in the Falcon Way Subdivision, no more than 25% of the total number of lots made available in a given fiscal year will be available to Members that currently hold a TFSI.
- 4.5. The Lands Clerk must compile and maintain a list comprised of the lots that the Executive Council has made available for disposition in each fiscal year.
- 4.6. The list of available lots is a public document and must be made available for public inspection by any Member during normal business hours.
- 4.7. The Lands Clerk will provide a copy of the list to any Member that makes a request to receive a copy, provided that the Member makes the request in writing.

5. Eligibility to receive a lot and costs

[Amended by order number 073-2014]

- 5.1. Members wishing to acquire a lot in the Falcon Way Subdivision made available under section 4 must apply to the Lands Clerk by submitting the form prescribed in Schedule A.
- 5.2. Applicants under section 5.1 will be:
 - 5.2.1. notified of the number of lots remaining available for disposition in the year in which the application was made, and
 - 5.2.2. provided with a home construction guide, as set out in section 9 of this Policy, containing information on financing and construction options.
- 5.3. Applicants must be:
 - 5.3.1. a Tsawwassen Member of the age of 19 years or over on the date of an application, and
 - 5.3.2. able to demonstrate that they have prequalified with a financial institution offering a Housing Loan Guarantee Program prior to the disposition of a lot.

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- 5.4. Allocations of specific lots to applicants will take into account the size of residence that the applicant intends to construct such that lot and planned residence sizes align to the greatest extent possible.

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- 5.5. TFSI holders may only be granted a lot from the number of lots reserved for TFSI holders under section 4.4 of this Policy provided that the requirements of section 6 are met.
- 5.6. Applicants must make a deposit of \$1,000, made payable to Tsawwassen First Nation, which will be refunded upon completion of the disposition of the lot to the applicant. In the event that TFN's pays the costs of registering land title documents under section 5.9, TFN will deduct the cost of registration from the deposit.

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- 5.7. Individual Members may apply for up to two lots once or for a lot in a subsequent year, but must pay \$10/m² for each additional m² beyond the first lot.

[Amended by order number 073-2014]

- 5.8. Applicants applying for more than one lot under section 5.7 must follow the process set out in section 7.

[Amended by order number 073-2014]

- 5.9. TFN will prepare the land title transfer documents required to affect the transfer; however, applicants are responsible for registering the lots in the Provincial land title office.
- 5.10. Applications may be made at any time throughout the year, but dispositions may only be made if there are lots available. If all of the available lots for a given year have been disposed of prior to the submission of an application, that applicant will be placed on a Falcon Way Subdivision List for the following year.
- 5.11. If created under section 5.10, the Falcon Way Subdivision List will be:

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- 5.11.1. a public document and must be made available for public inspection by any Member during normal business hours;
- 5.11.2. prioritized based on the date on which an individual made an application; and
- 5.11.3. comprised of two groups, TFSI holders and non-TFSI holders.

6. Process if a TFSI holder is an applicant

- 6.1. A Member that holds a TFSI in Tsawwassen Land is eligible to receive a disposition of a lot in the Falcon Way Subdivision for a single family residence, but must exchange a portion of the TFSI they currently hold to Tsawwassen Government for a new residential lot in the Falcon Way Subdivision.
- 6.2. The Tsawwassen Policy for Land Sale, Purchase or Exchange will apply to a Tsawwassen Member that holds a TFSI and is exchanging part of that TFSI for a new residential lot.

7. Process for Restructuring Falcon Way Lots

- 7.1. Applications for restructuring of lots, including amalgamation or resizing, shall be made through a request to the Executive Council. Applications for restructuring must include sufficient information to address the items listed under 7.1.1.
- 7.1.1. The following criteria will apply to requests for Falcon Way lot restructuring:
- Commitment to construction/installation of house on lot;
 - Rationale for re-sizing request;
 - Configuration of remainder lot(s);
 - Conformance with the Zoning Regulation; and
 - Requirement to cap excess services.

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- 7.2. Applicants who are granted lot restructuring under 7.1 will be required to pay 50% of the cost of any surveying, subdivision, service capping, and registration costs related to the change in lot size, in addition to the fees required under 5.7.
- 7.2.1. Following the restructuring, any remaining portion of a restructured lot is added to the adjacent lot. When that adjacent lot is acquired by another Member, TFN

will enter into a late-comer agreement wherein that Member repays TFN the remaining 50% of costs.

[Amended by order number 073-2014]

8. Conditions on a disposition

- 8.1. A TFSI in Tsawwassen Public Land that is granted to a Member for the purposes of constructing a single family residence is subject to:
 - 8.1.1. all conditions, exemptions, provisos set out in the *Land Act*, and
 - 8.1.2. any additional condition set out this Policy.
- 8.2. Pursuant to section 51 (2) of the *Land Act* any lot allocated to an Member under this Policy must be used for the construction of a single family residence and must be occupied by that Member and his or her family. If a lot is used for any other purpose, including but not limited to business activity, the TFSI interest and the improvements thereon will revert to TFN in accordance with the section 51 (2) (d) of the *Land Act*.
- 8.3. Despite requiring that a Member must occupy and reside on the lot they are allocated, a Member may transfer or rent their TFSI at any time to any other Member as long as the primary use continues to be single-family housing by a Member. Any transfer of a Falcon Way TFSI may not occur before the original applicant has resided in the newly constructed house.
- 8.4. An Individual holding a TFSI for a lot in the Falcon Way Subdivision may rent out the principal part of their unit to another Member, but may not charge more than the Low End of Market Rent, as amended from time to time.
- 8.5. Construction of a single family residence on a lot disposed of under this Policy must begin, as evidenced by application for a building permit, within 6 months of the disposition.

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- 8.6. Construction of a single family residence on a lot disposed of under this Policy must be complete within 18 months of the disposition.
- 8.7. The Executive Council may cancel a disposition of a TFSI lot made under this Policy provided that the cancellation is done in accordance with the *Land Act* and,
 - 8.7.1. the construction of a residence is not complete within 18 months of the disposition,
 - 8.7.2. the construction of the single family residence has not been commenced within 6 months of the disposition, or

[Amended by order number 073-2014]

- 8.7.3. any other condition, exemption, proviso set out in the *Land Act* is contravened.

8.8. Despite the restriction on the potential use of lots that are held by Tsawwassen Members, the Executive Council may use some of the lots in the Falcon Way Subdivision for the purposes including but not limited to the following:

8.8.1. Social Housing;

8.8.2. An education training centre; or

8.8.3. TFN owned and administered market rental housing.

9. Responsibilities of the department of lands

9.1. If an application under section 5.1 meets all of the criteria outlined in this Policy, the Lands Clerk will prepare a memorandum for Executive Council recommending that the Executive Council authorize the disposition of a lot to that Member.

9.2. If the Executive Council approves of a disposition referred to in section 8.1, the Lands Clerk must:

9.2.1. provide the Member applicant with written notification of the Executive Council decision to approve or reject the disposition, and if approved,

9.2.2. provide assistance with the preparation of all necessary documentation required to dispose of the lot, including a Certificate of Transfer and the legal land title document to be registered in the Land Title Office (New Westminster).

9.3. The director of lands must keep a written record of each disposition.

10. Home construction guide

10.1. The home construction guide provided to Member applicants under section 5.2.2 must contain the following information:

10.1.1. relevant design standards indicating the types of residences that may be constructed as set out in any Tsawwassen development area or other regulation;

10.1.2. recommended contractors, suppliers of building materials and home architects;

10.1.3. a detailed guide for navigating the building permit process, including information regarding applicable fees and any documents that are required by the department of lands in processing a building permit application;

10.1.4. contact and program information from any of the financial institutions that has partnered with Tsawwassen to provide a Housing Loan Guarantee Program;

10.1.5. relevant information regarding opportunities for environmentally sustainable, energy efficient construction, including information on any subsidy program for such a program that TFN is aware of;

10.1.6. information respecting the home insurance subsidy policy;

10.1.7. contact and program information regarding the INAC New Home Construction Grant or any similar type program; and

10.1.8. any other information the director of lands deems relevant to the construction of a new home.

10.2. Any design standards established under section 9.1.1 or under another regulation will attempt to balance aspirational aesthetic considerations (as set out in the Land Use Plan) with affordability, but will not prohibit modular homes from being constructed.

11. Complaints

11.1. Complaints made in respect of this Policy will be dealt with in the manner outlined in the Administrative Review and Judicial Proceedings Act and any regulations made under that Act.

Part 2 – Rental Housing Units on Tsawwassen Settlement Lands

12. Rental units

12.1. This Part deals solely with the six rental housing units that were transferred to Tsawwassen on the Effective Date and are located on the Treaty Settlement Lands.

12.2. Upon expiration of any of the leases on which the six rental housing units referred to in section 11.1 are located, Tsawwassen Members will be given the right of first refusal on the residential lease unless the Executive Council decides not to extend the lease in order to make way for higher and better land uses.

12.3. Over time these units will be removed to make way for higher and better land uses and once all of the units outlined in Schedule B have been removed, section 11 of this Policy no longer has any effect.

SCHEDULE A

SAMPLE APPLICATION FOR A RESIDENTIAL LOT IN FALCON WAY

[Amended by order number 073-2014]

Some of the information required on this form is personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*. This information is required only for the purposes of assisting the Tsawwassen Government to ensure that this policy is being complied with or for locating persons. All of the information collected herein will be protected in accordance with the *Freedom of Information and Protection of Privacy Act*.

<p>APPLICANT:</p> <p>Name: _____</p> <p>Date of Birth (dd/mm/yyyy): _____</p> <p>Mailing Address _____ _____</p> <p>City: _____</p> <p>Province: _____ Postal Code: _____</p> <p>Phone Number: _____</p> <p>E-mail Address: _____</p> <p>Describe planned residence (e.g. number of bedrooms, number of floors, and/or square footage, if known): _____ _____</p> <p>Other interests held in Tsawwassen Lands (CP/TFSI, Lease, etc.): _____ _____</p> <p>Membership Number: _____</p>	<p>CO-APPLICANT (if applicable):</p> <p>Name: _____</p> <p>Date of Birth (dd/mm/yyyy): _____</p> <p>Mailing Address _____ _____</p> <p>City: _____</p> <p>Province: _____ Postal Code: _____</p> <p>Phone Number: _____</p> <p>E-mail Address: _____</p> <p>Other interests held in Tsawwassen Lands (CP/TFSI, Lease, etc.): _____ _____</p> <p>Membership Number: _____</p>
<p>FOR OFFICE USE ONLY:</p> <p>Deposit received (Y/N): _____</p>	

Please note that the Co-Applicant (if applicable) must also be a Tsawwassen Member under Tsawwassen Law.

SCHEDULE B
DESCRIPTION OF RENTAL UNITS ON THE TREATY SETTLEMENT LANDS

Lease 401-1018	5120 28 Avenue
Lease 401-1019	4990 28 Avenue
Lease 401-1020	2489 52 Street
Lease 401-1030	2625 41B Street
Lease 401-1031	3714 Deltaport Way
Lease 401-1089	4440 27B Avenue
Lease 401-1091	2870 41B Street
Lease 401-1099	4790 27B Avenue
Lease 401-1103	4032 28B Avenue