

COMMUNICATION 131087

Received From: Lennox Smith, Chief Building Official
Addressed To: Committee of the Whole
Date: August 25, 2020
Topic: Request for Refund of Deposits

SUMMARY

A written request has been received from Brigil Construction requesting a release of building deposits for their 48-unit townhome development at the corner of Lake and McNeely Avenues. As the release is being requested outside the timeframe permitted within the Building By-law No. 48-2007 and therefore the deposits have been deemed forfeited to the Town, this is a decision which would have to be approved by Council.

BACKGROUND

Building By-law 48-2007 was in effect at the time of the issuance of the original building permits for the Brigil Development at the corner of Lake and McNeely Avenues and required a \$2,000.00 deposit amount for each of the 48 townhome units constructed for a total of \$96,000.00 in addition to the prescribed building permit fees.

It should be noted that the Town stopped the practice of collecting building deposits in July of 2016.

COMMENTS

The Building By-law provisions regarding refunds of building permit deposits included the following:

1. The applicant would have to attain a passed "final inspection"
2. The final inspection would need to be passed and report issued by no later than one (1) year from the date of permit issuance;
3. There was to be no occupancy of the building prior to receiving an occupancy permit from the Building Department, and
4. \$100.00 would be deducted from the total amount for every requested re-inspection where identified deficiencies were not corrected.

After reviewing the historical building files for this development, it was determined that:

- all of the 48 units did not attain final inspections on or before the one year anniversary of their issuance; and
- there are outstanding inspections and open permits for a number of the units that still need to be addressed, and are currently being worked on by Building Staff while attempting to close old open files.

The letter from Brigil Construction requesting the building deposits be returned is attached as an appendix to this report and cites some facts such as:

1. Brigil has been active in the community building many houses in Carleton Place
2. Brigil's rental units brought much needed rental market supply when they were built.

They acknowledge that their own unforeseen delays hindered their ability to complete the final inspections within the one (1) year timeframe.

The By-law is clear in outlining the provisions for the return of building deposits. In addition, a letter was sent by the former Chief Building Official to Brigil Construction on March 15, 2017 advising that the deposits had been forfeited and were no longer a refundable item upon completion of the final inspection.

Through no fault of the Town, the Builder was unable to adhere to the deposit refund policy. Staff recommends that Council uphold the Building By-law provisions with respect to building deposits as it relates to the Brigil Development.

FINANCIAL IMPLICATIONS

If a refund or a portion thereof is granted by Council, it will result in the Building Department's reserves being reduced by the amount approved up to \$96,000.00.

If no refund is granted, there is no financial implication to the Town.

STAFF RECOMMENDATION

THAT Council deny the request from Brigil Construction to release the forfeited building deposits for the 48-unit townhome development at the corner of Lake and McNeely Avenues.

ATTACHMENT

Letter from Brigil Construction

BRIGIL

June 10th, 2020

Dear Town Council,

I am writing you today with a special request. As you know, Brigil has been active in the Carleton Place community, building hundreds of homes in recent years. We are also proud to have brought much needed rental units to the Carleton Place market.

Brigil's 48 unit, Lake Avenue rental development (known as Block 107) has been completed, all construction deficiencies have been addressed, and residents now occupy the development. Part of this development included a security deposit. This deposit of \$2,000 per unit (\$96,000) is meant to ensure the project is completed to the satisfaction of the Town. Once the project is complete to the Town's satisfaction, the deposit fees are released back to the developer.

For this particular project, a one (1) year time constraint was made on the release of the funds. Unfortunately for a variety of reasons we allowed that time to pass. The longer than expected timeframe resulted from construction constraints and plain oversight on our end.

We are asking Town Council to please consider releasing our deposit fees despite letting the one-year time constraint to elapse. We appreciate your time and consideration of this matter.



Jean-Luc Rivard
Director of Land Development

