

Toronto Islands Residential Community Trust Corporation

Purchasers' List By-law

This revised by-law replaces the by-law approved by the Toronto Island Community on June 11, 2013, and by the Toronto Islands Residential Community Trust (the Trust) on September 12, 2013

Approved by the Trust on October 6, 2022. Approved by the Toronto Island Community on October 26, 2022.

This is a by-law that contains rules governing the Purchasers' List for the purchase of houses and land leases or vacant land leases on Ward's and Algonquin Islands, in order to establish and maintain the integrity of the List.

Introduction

1. This by-law is passed to implement Section 25 of the *Toronto Islands Residential Community Stewardship Act*, (the *Act*) as amended which states: "The Trust shall keep a list of individuals who apply in writing to purchase a house and land lease or vacant land lease on the land described in the Schedule."
2. In this by-law the Purchasers' List is referred to as the "List" and an "entry" on the List consists of one or more persons who made a single application. The "Administrator" refers to the Trust Administrator.

The Process for Establishing and Maintaining the Purchasers' List

Fees

3. All fees related to the List will be established by the Trust and subject to review and adjustment as part of the annual budget process.
 - a. The Trust will set application fees. Fees will be non-refundable regardless of the outcome of the application. The Trust will set a deadline for payment.
 - b. The Trust will set annual renewal fees and a deadline for payment.

Compiling the List

4. The List will contain up to five hundred (500) entries; when the List reaches 500 entries it will be closed.
5. If the List is at less than 500 entries, it will be reopened every other year in October, beginning in 2022.¹
6. Any communications with respect to making an application to the List will not be accepted or considered to be received, until the List is reopened. The Trust will not maintain copies or records of these communications and will have no obligation to notify the senders when the List is reopened.
7. When the List is re-opened, a reminder notice will be posted on the Trust website.

¹ The governance committee, in consultation with the finance committee, agreed that opening the List every other year would benefit the Trust by providing regular stable income; preventing thousands of enquiries per year regarding when the list opens; garnering more interest in the lottery and providing more manageable administration.

Application Process

8. The minimum age requirement to apply to be on the List is eighteen (18) except sixteen (16) where required under Ontario law. The applicant must turn eighteen (18) or sixteen (16) as required by Ontario law in the calendar year that they apply.
9. All applicants must use their full legal names when making their application using the application form posted on the Trust website at time of opening.
10. An applicant's full legal name may appear only once on the application and/or on the List.
11. Joint applications are no longer permitted.²
12. The Trust will accept only one application per person. A person's full legal name may appear on only one application. Should a name appear on more than one application, the Administrator will accept only written instructions as to which application is to be put forward. If no written instructions are received, the first application received by the Trust office will stand. Applications must be signed with the applicant's full legal signature.
13. If there are more applications than spaces available, applications will be drawn by the Trust's auditors in random order on a date to be determined by the Trust, and the names on the application will be added in that order to the existing List up to 500. All other applications will be discarded.
14. All applicants will be notified by the Trust Administrator of the outcome of their applications. Successful applicants will also be advised of their place order on the List.
15. Once a person's name is on the List, it is that person's responsibility to ensure that up-to-date contact information is provided in writing to the Administrator. The Trust will then rely on that contact information for communication purposes.

Renewals

16. The Administrator will endeavor to send renewal packages to all persons on the List. The renewal package will consist of:
 - a notice of renewal via email with links to payment options and renewal forms and³
 - a renewal form by regular mail

It is the responsibility of people on the List to ensure that their renewal fees are paid in full each year and that the renewal form is returned either e-transfer, by cheque or using the online payment system. Ultimately it is the responsibility of people on the List to submit the renewal package whether or not they received a renewal package. Those who do not pay in full by the annual deadline will have their names removed from the List.

² The board approved by motion on January 16, 2020, that joint applicants would no longer be allowed. Over the years there have been issues with divorce, estrangement etc. that cause problems when joint List members make offers on houses. Legally, all List members assigned to one number are required to sign offers and this is not always possible. Joint members who currently have a position on the List will be kept on.

³ There were various housekeeping changes to this section to reflect the use of email as a main form of communication and other small administrative items.

Administration of the List

17. Changes to the List

- a. Anyone who purchases a house and land lease or a vacant land lease will be removed from the List.
- b. A person who is part of any entry may be deleted from the List only with his or her written consent, except as stated in item 16 (non-payment of annual renewal fee).
- c. When someone dies their name will be removed from the List, upon proof of death being provided to the Administrator. Positions on the List cannot be willed or transferred to another person. Other persons forming part of the same entry will stay on the List unless they request removal in writing.

18. The List entries will be reordered in sequence whenever an entry is removed from the List.

19. The list is to be reviewed and approved by the Trust auditor any time an entry is removed from the list.⁴

20. Communication with Applicants or people on the List

- a. Any notice or other document from the Trust will be sent by registered or ordinary mail or by electronic means. Notices sent by ordinary mail will be considered delivered on the third day following the day of mailing.
- b. If there is more than one name on the list entry, such communication will be sent to all parties.

21. Personal Information about applicants or people on the List

- a. The Administrator may investigate all factual matters necessary for the administration of the List and may request from applicants or persons on the List any necessary information about themselves.
- b. Any requests to applicants or people on the List asking for personal information for the purposes of maintaining the List shall:
 - i. State the purpose of the List
 - ii. State the reason for collecting personal information
 - iii. State the fact that the information may be shared for the purpose of making decisions or verifying eligibility
 - iv. State the name, title, business address and business phone number of the Trust employee or Trust board member who can answer questions and respond to complaints about the collection, use or disclosure of the information
 - v. Include a consent form to be signed by the applicant authorizing the collection, use, verification and disclosure of the information being collected
- c. A person who provides satisfactory identification will be informed of the existence, use and disclosure of their personal information and will be given access to that information.
- d. The privacy of other peoples' information will be protected when giving a person access to their own personal information.
- e. The Administrator will respond to all requests for access to or correction of personal information.
- f. The confidentiality provisions of the Trust's Organizational By-law will apply to all information obtained under this by-law.

⁴ The board agreed additional oversight was required due to restrictions in access to the List. This practice has been going on for over five years.

- g. People on the List may examine their own name and position at reasonable times and on reasonable notice to the Trust Administrator. The List may not be copied.⁵
22. The Trust does not undertake any liability to any applicant or person on the List by virtue of this by-law. Trust duties are outlined in the *Act* and no claim may be made against the Trust on the basis that any additional rights are conferred on anyone under this by-law. Submitting an application form or being on the List does not create any contractual or other obligation between the Trust and anyone. That obligation only arises when an agreement of purchase and sale is entered into as contemplated by the *Act*.
23. Despite anything contained in the *Act* or the by-laws, or any commitment made by anyone purporting to be authorized by the Trust, the Trust will not be liable to anyone for any error, omission or mistake in connection with the administration or functioning of the List or the timing or order of making offers to purchase houses and land leases or vacant land leases.
24. In cases where the Trust determines that an application was erroneous or fraudulent, it may remove the relevant party from the application process or the List. Before doing so, the party involved may have an opportunity to attend a Trust board meeting. If the party submits a written request to appear, they will be given at least ten business days' notice of the meeting where they will be able to address board members. The Trust board will notify the party involved of its decision in writing within 30 days of its meeting. The Trust is not obliged to give reasons. There is no appeal from the decision.
25. Whenever the Administrator considers it necessary, they may refer the decision on any matter dealt with in this by-law to the Trust board. Although the Administrator is given discretion in various matters, the Trust board can, by majority vote, at any time, overrule the Administrator.
26. Anything not dealt with in the *Act* or this by-law and not referred to the Administrator by this by-law, will be decided by the Trust board. The Trust board will have the right to waive minor errors and make decisions based on the substance of the issue at hand.

Appeals and Conflict of Interest

27. If anyone is dissatisfied with any decision of the Administrator, they may write to the Trust board. The board will consider their letter and take any action it deems necessary. However, this will not constitute a formal appeal and the person will not have the opportunity to appear before the Trust board except as noted in 24.
28. The Administrator, their spouse or their children may not submit an application to the List during the Administrator's period of employment by the Trust board.
29. Individual Trust members, their spouses or their children may not submit an application to the List during their period of service on the Trust board.
30. Where Trust board members, their spouses or children may already be on the List, disclosure must be made to the Trust board when the member is sworn in and must refrain from participating in Trust board decisions that may bring them into a real or perceived conflict of interest with the administration of the Purchasers' List.

⁵ The Trust board researched the bylaws of other housing lists. None of the providers investigated (co-op and social housing) allowed anyone to see their lists and allowed only people on the lists to be informed of their current number when an inquiry was made. To ensure accuracy and impartiality, an independent auditor approves any changes to the Trust List and undertakes the list draw.