

The Latest on Babych

From: Your fellow Meadowlarkers

December 15, 2020

We hope that this letter finds you doing well and in good health despite the ongoing challenges presented by the COVID-19 pandemic.

It has come to the attention of a group of concerned residents of Meadowlark Park that the Babych Group has recently escalated its efforts with regard to its proposed rezoning and development plans for Meadowlark Park. More specifically, the Babych Group has presented formal offers (through its affiliate, Chinook Village Land Corp.) to certain (but not all) residents of Meadowlark Park. In reviewing the content of these recent offers, it appears that the offer includes several of the same terms and conditions as set forth in the draft previously reviewed by the Meadowlark Park Community Association Board earlier this year.

However, the Babych Group has made several significant additions to the contract that appear to skew the contract even further in its favour. These new terms include: (i) additional representations, warranties and covenants to be made by the seller in favour of the Babych Group; (ii) an indemnity to be provided by the seller in favour of the Babych Group (i.e. a requirement for the seller to pay for any losses sustained by the Babych Group in certain cases); (iii) remedies that may be obtained against the seller, including the right of the Babych Group, in certain cases, to: (a) rescind and walk away from the contract; (b) obtain Court orders to compel the seller's performance of the contract; (c) obtain a monetary judgement against the seller; and/or (d) reduce the purchase price.

You may recall that a booklet was circulated on behalf of the Meadowlark Park Community Association Board in July and that a one-page summary was circulated by a group of concerned residents in August. The booklet and summary outlined: (i) the proposed rezoning and development plans of the Babych Group for Meadowlark Park; (ii) the terms and conditions of the proposed option contract and title caveat; (iii) the associated risks; and (iv) the inconsistencies between the option contract as compared to the correspondence and marketing materials previously circulated the Babych Group. If you have received an offer (or receive an offer in the future), we encourage you to review the booklet and summary again, as the content remains relevant and important for you to consider prior to signing an agreement with the Babych Group. If you did not receive a booklet and/or summary, please feel free to request a copy from Verna Leask at v_leask@shaw.ca.

In addition to reviewing the information included in the booklet and summary, we strongly encourage you to carefully consult with your various professional advisors (legal, financial, tax, real estate, banking (i.e. mortgage) and other advisors) prior to entering into a contract with the Babych Group. To the extent that you have obtained advice in the past, we recommend that you obtain updated advice in light of the new additions to the Babych Group contract.

Our view of the Babych Group offer remains unchanged. The potential reward offered by the Babych Group is highly speculative, conditional and even more skewed in favour of the Babych Group (than its prior form of offer) in comparison to the risks assumed by the residents of Meadowlark Park. We are also concerned about the intentions and transparency of the Babych Group in having presented offers on a selective basis to the residents of our community.

While this letter raises important comments and concerns, please be advised that this letter is not intended to be, and is not legal advice, and that you should not in any way understand it to contain any legal advice.

