

THE REGIONAL MUNICIPALITY OF YORK

BILL NO. 28

BY-LAW NO. 2010-28

A By-law for the provision of municipal housing facilities.

WHEREAS Council wishes to enable the Region to enter into agreements with each of the private and non-profit sectors, for the purpose of developing affordable rental housing in York Region that is integrated with rental housing provided at market rents;

AND WHEREAS section 110 of the *Municipal Act, 2001*, S.O. 2001 c. 25, grants municipalities the authority to enter into agreements with private and non-profit sector partners for the provision of municipal services and facilities, and to provide financial and other forms of assistance to such partners;

AND WHEREAS Ontario Regulation 603/06 made under the *Municipal Act, 2001*, includes “municipal housing project facilities” within the class of municipal capital facilities for which municipalities may enter into agreements pursuant to section 110 of the *Municipal Act, 2001*;

AND WHEREAS pursuant to Ontario Regulation 603/06, municipalities which have been designated as “delivery agents” under the *Ontario Works Act, 1997*, S.O. 1997, c. 25, Sch. A, are permitted to enter into agreements for the provision of municipal housing project facilities;

AND WHEREAS The Regional Municipality of York is the delivery agent under the *Ontario Works Act, 1997* authorized to operate and manage housing under the *Social Housing Reform Act, 2000*, S.O. 2000, c. 27;

AND WHEREAS pursuant to Ontario Regulation 603/06, in order to enter into a municipal housing project facilities agreement under section 110 of the *Municipal Act, 2001*, council of a municipality must enact a municipal housing facility by-law;

AND WHEREAS this by-law complies with the requirements set out in section 110 of the *Municipal Act, 2001* and those contained in Ontario Regulation 603/06.

NOW THEREFORE, Council of The Regional Municipality of York HEREBY ENACTS as follows:

1. In this by-law:
 - (a) “Act” means the *Municipal Act, 2001*, S.O. c. 25, as amended, and its regulations;

- (b) “affordable rental housing” means affordable rental housing as set out in section 2 of this by-law;
- (c) “area municipality” means the municipality or corporation of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the City of Vaughan, the Town of Whitchurch-Stouffville, the Town of East Gwillimbury, the Town of Georgina, and the Township of King;
- (d) “average monthly rent” for any calendar year for a municipal housing project facility means the average monthly rent for that unit type as determined in the annual survey of rents for the area municipality in which the municipal housing project facility is situated for the prior calendar year published by CMHC. If the average monthly rent for a unit type or for an area municipality is not published by CMHC for the prior calendar year, the “average monthly rent” for a unit type in the municipal housing project facility for the calendar year means the average monthly rent for that unit type for the Region for the prior calendar year published by CMHC. If CMHC does not publish an annual survey of average monthly rents for the Region for the prior calendar year, then “average monthly rents” for that calendar year shall be Region-wide average monthly rents for that unit type as determined by the Commissioner;
- (e) “CMHC” means the Canada Mortgage and Housing Corporation;
- (f) “clerk” means the person appointed by Council pursuant to section 228 of the Act;
- (g) “Commissioner” means the Commissioner of Community and Health Services, or the Commissioner’s delegate;
- (h) “Council” means the Regional Council of The Regional Municipality of York;
- (i) “eligible household” means a household whose household income, as determined in accordance with applicable provincially mandated program criteria, or in the absence of provincial criteria, by such program criteria as may be established by Regional Council, qualifies it for affordable rental housing;
- (j) “guideline” for any calendar year means the rent increase guideline as determined and published annually by the Minister of Municipal Affairs and Housing under the *Residential Tenancies Act, 2006*, S.O. 2006 c. 17, as amended, or any successor thereto;
- (k) “household” means individuals and families who will be or are residing in a housing unit within a municipal housing project facility;

- (l) “housing project” means a project or part of a project designed to provide or facilitate the provision of residential accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto;
 - (m) “housing provider” means a person who operates a housing project and with whom the Region has entered into or may enter into a municipal housing project facilities agreement under section 3;
 - (n) “housing unit” means a unit in a housing project rented by an occupant for use as rented residential accommodation;
 - (o) “municipal housing project facilities” or “municipal housing project facility” means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 603/06;
 - (p) “municipal housing project facilities agreement” means a municipal housing project facilities agreement between the Region and a housing provider for the provision of financial or other assistance at less than fair market value, tax exemption or development charges exemption in accordance with section 110 of the Act;
 - (q) “Region” means The Regional Municipality of York;
 - (r) “rent” means,
 - (i) in relation to a unit in a non-profit housing co-operative under the *Co-operative Corporations Act*, R.S.O. 1990, c. 35, occupied by a member of the co-operative, housing charges as defined in that Act, other than sector support levies and initial membership fees, or
 - (ii) in all other cases, rent as defined in the *Residential Tenancies Act*, 2006.
 - (s) “rent supplement agreement” means an operating agreement under a rent supplement program;
 - (t) “unit type” means the type of housing unit within a municipal housing project facility or potential municipal housing project facility, measured by the number of bedrooms; and
 - (u) “waiting list” means either the centralized waiting list maintained by the Region, or a waiting list for affordable rental housing units maintained for or by a housing provider.
2. For the purposes of this by-law, and of all municipal housing project facilities agreements, the definition of “affordable rental housing” shall mean those

housing units for which the monthly rent, which may or may not be inclusive of utilities but which shall be exclusive of parking, telephone, cable and other similar fees, is less than or equal to the average monthly rent for that unit type.

3. Subject to section 4, Council may pass by-laws permitting the Region to enter into municipal housing project facilities agreements with housing providers, pursuant to section 110 of the Act, for the provision of municipal housing project facilities.
4. The Region shall not enter into a municipal housing project facilities agreement unless it has determined that:
 - (a) Council has enacted a by-law authorizing the entering into of the municipal housing project facilities agreement for the provision of the municipal housing project facility;
 - (b) all of the housing units to be provided to households that are eligible for housing units as part of the municipal housing project facility meet the definition of affordable rental housing as set out in section 2;
 - (c) the Region continues to be a delivery agent under the *Ontario Works Act, 1997, S.O. 1997, c. 25, Sch. A* authorized to operate and manage housing under the *Social Housing Reform Act, 2000*;
 - (d) public eligibility for the housing units to be provided as part of the municipal housing project facility will be determined in accordance with sections 6 and 7; and
 - (e) the municipal housing project facilities agreement to be entered into contains the provisions set out in section 8.
5. Upon passing of a by-law referred to in section 3, the clerk shall give written notice of the by-law to the Minister of Education or successor, as set out in the Act.
6. Affordable rental housing units, subject to a municipal housing project facilities agreement, shall be made available to eligible households on a waiting list. Provided that, if there are no eligible households on a waiting list available to occupy an affordable rental housing unit such affordable rental housing unit may be made available to an eligible household that is not on a waiting list.
7. Affordable rental housing units, subject to a municipal housing project facilities agreement, shall not be rented to the housing provider or shareholder, officer or director of the housing provider, or any individual not at arm's length as defined under the *Income Tax Act, R.S.C. 1985 (5th Supp.) c. 1*, as amended, to the housing provider or shareholder, officer or director of the housing provider unless the housing provider is a non-profit co-operative as defined in the *Co-operative Corporations Act*, or is a not-for-profit corporation.

8. The municipal housing project facilities agreements shall include but shall not be limited to the following terms and conditions:
- (a) the term of the agreement, which shall be no less than twenty (20) years;
 - (b) the number of housing units being provided which shall not be less than three (3) housing units;
 - (c) each housing unit to be provided in the municipal housing project facility meets the definition of affordable rental housing set out in section 2;
 - (d) each housing unit to be provided shall be made available only to households that are eligible in accordance with sections 6 and 7;
 - (e) the housing provider be prevented from renting to individuals not at arm's length to the housing provider, its shareholders, officers, and directors in accordance with section 7;
 - (f) the housing provider shall not increase the monthly rent in a housing unit in the municipal housing project facility provided to a household during the term of their tenancy by an amount that exceeds the then guideline;
 - (g) commencing in the sixteenth (16th) year of the term of the municipal housing project facilities agreement and for each subsequent year until expiration of the agreement, the housing provider will be permitted to reduce the number of housing units available that meet the definition of affordable rental housing in a municipal housing project facility by a maximum of twenty percent (20%) per year;
 - (h) the Region may register the agreement on title;
 - (i) the conditions attached to the financial or other assistance given to the housing provider;
 - (j) the conditions respecting the sale, transfer, mortgage, or assignment of the municipal housing project facility;
 - (k) the housing provider shall be required to report annually and submit documentation therefor to the satisfaction of the Commissioner;
 - (l) the consequences if the housing provider fails to comply with the terms and conditions of the agreement, which may include that the housing provider pay to the Region the financial assistance that has been provided to the housing provider; and
 - (m) other terms and conditions satisfactory to the Commissioner and the Regional Solicitor, which may include, but which are not limited to, any and all forms of property transactions together with any and all general or

specific security as the Commissioner and the Regional Solicitor consider necessary or desirable.

9. As a condition of the Region entering into a municipal housing project facilities agreement with a housing provider, the Region may require that the housing provider enter into a rent supplement agreement with the Region for a portion of the housing units to be provided concurrently with the municipal housing project facilities agreement.
10. A municipal housing project facilities agreement may allow for the lease, operation or maintenance of the municipal housing project facilities.
11. (1) A municipal housing project facilities agreement may, with respect to the provision, lease, operation or maintenance of the municipal housing project facilities that are subject to the agreement:
 - (a) provide for financial or other assistance at less than fair market value or at no cost to the housing provider, which assistance may include:
 - (i) giving or lending money and charging interest;
 - (ii) giving, lending, leasing or selling property;
 - (iii) guaranteeing borrowing; and
 - (iv) providing the services of employees of the municipality.
 - (b) subject to subsections 110(15), (17), (18) and (19) of the Act, exempt from taxation for municipal and school purposes on a full or partial basis, land or a portion of it on which the municipal housing project facilities are or will be located that:
 - (i) is the subject of a municipal housing project facilities agreement;
 - (ii) is owned or leased by the housing provider who has entered into the municipal project facilities agreement; and
 - (iii) is entirely occupied and used or intended to be used as a municipal housing project facility.
 - (c) exempt from the payment of all or part of the development charges imposed by the Region under the *Development Charges Act, 1997*, S.O. 1997, c. 27, land or a portion of it on which the municipal housing project facilities are or will be located that:

- (i) is the subject of a municipal housing project facilities agreement;
 - (ii) is owned or leased by the housing provider who has entered into the municipal housing project facilities agreement; and
 - (iii) is entirely occupied and used or intended for use as a municipal housing project facility.
- (2) If a municipal housing project facilities agreement contains those provisions set out in paragraphs 11(1)(b) and/or 11(1)(c), the by-law which contains the information set out in paragraphs 11(1)(b) and/or 11(1)(c) shall specify an effective date which shall be the date of passing of the by-law or a later date.
- 12. Upon the passing of a by-law that contains the provisions set out in paragraph 11(1)(b), the clerk of the municipality shall give written notice of the contents of the by-law to: (a) the assessment corporation; (b) the clerk of any other municipality that would, but for the by-law, have had authority to levy rates on the assessment for the land exempted by the by-law; and (c) the secretary of any school board if the area of jurisdiction of the board includes the land exempted by the by-law.
- 13. This by-law may be cited as the Municipal Housing Facilities By-law.
- 14. By-law No. A-0314-2002-096, as amended, is hereby repealed.

ENACTED AND PASSED this 22nd day of April, 2010.

Denis Kelly
Regional Clerk

Bill Fisch
Regional Chair

Authorized by Clause 1, Report 3, of the Community and Health Services Committee, adopted by Regional Council at its meeting on April 22nd, 2010.