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CHANGES TO THE MUNICIPAL HOUSING FACILITIES BY-LAW

The Community Services and Housing Committee recommends the adoption of the recommendation contained in the following report, January 24, 2007, from the Commissioner of Community Services, Housing and Health Services and the Regional Solicitor:

1. RECOMMENDATION

It is recommended that:

1. The Municipal Housing Facilities By-law No. A-0314-2002-096 be amended in accordance with the draft by-law set out as *Attachment 1*.

2. PURPOSE

The purpose of this report is to recommend amendments to the Municipal Housing Facilities By-law (MHF By-law) which was enacted by Council in October 2002. Proposed changes to the by-law are outlined in Attachment 1.

3. BACKGROUND

The Municipal Act grants municipalities the authority to enter into agreements with for-profit partners for the provision of municipal services and facilities, and to provide financial and other forms of assistance to such partners without violating the "bonusing" provisions of the Act.

In 2001, Ontario Regulation 189/01, which amended Ontario Regulation 46/94 to the Act, added "municipal housing project facilities" to the class of municipal capital facilities for which municipalities can enter into agreements pursuant to subsection 110(1) of the Municipal Act, 2001 (the Act). The impetus for the amendment was to encourage new rental housing production, including more affordable rental housing.

The addition of affordable housing to the list of eligible municipal capital facilities enables municipalities to offer incentives and financial assistance to for-profit providers of affordable housing through such means as, exemptions from municipal and school property taxes, exemptions of municipal development charges, giving or lending money at below market interest rates, and giving, lending, leasing, or selling property at below market values.

The MHF By-law, enacted by Council in October 2002, complements The Region's Housing Supply Strategy by enabling private sector development partners to receive benefits that will help achieve affordability. In further support of the Housing Supply Strategy, many of the features of the MHF By-law were also incorporated into a policy adopted by Council in June 2003, enabling the Region to provide conditional grants in the amount of regional development charges paid to non-profit groups building affordable rental housing.

The MHF By-law and the conditional grant policy for non-profit groups both contain definitions related to rent affordability levels, which include utility charges as a component of the rental rate. This was consistent with previous social housing program requirements. The current AHP allows both private and non-profit developers the flexibility of *not* including utility costs as part of the tenant's rental charges.

4. ANALYSIS AND OPTIONS

This report outlines proposed amendments to the MHF By-law arising from two different sources. The first proposed amendment has arisen due to changes in the rental structure allowed under the AHP. The second set of proposed changes is of a technical nature and updates the By-law in response to recent changes to the Municipal Act.

4.1 Changes to Rent Structure Allowed Under the AHP

The AHP is jointly funded by the federal and provincial governments and provides up to $70,000 per unit for the creation of affordable rental accommodation. The funding is comprised of federal funding of up to $26,600 per unit, which is provided during project development. This funding is in the form of a loan which can be forgiven at the end of 20 years. Provincial funding of up to $43,400 per unit will be provided in the form of monthly instalments plus interest over the same 20 year period. The Region has received an allocation of $25.9 million for the creation of 370 units under the AHP. One hundred and thirty five of these units have been reserved by the Region to develop Housing York Inc. projects, the remaining 235 units have been made available to the community to develop.

The MHF By-law enables the Region to provide a range of benefits to third party developers of new affordable housing who meet a number of conditions. Many of these conditions facilitate access to federal and provincial funding under the AHP. Among these are definitions of “affordable rental housing” and “average monthly rent”.

In the past, social housing programs required that tenant's monthly rents had to include utilities or provide a deduction to rents where the tenant paid for some portion of the utilities. The AHP is not a social housing program; it is a market housing program that includes aspects of affordability. This change in emphasis is reflected in the program guidelines which indicate that, “average monthly rent” is equal to the average market rent for a housing unit type published in the annual rental survey conducted by Canada Mortgage and Housing Corporation (CMHC). CMHC states that the market rents identified in the survey may, or may not, be for “fully serviced” units which means that rents may, or may not, include all utilities.

The MHF By-law currently defines “affordable rental housing” which may be able to receive benefits from the Region, as new housing with rents which are inclusive of utilities but exclusive of other amenities such as parking, telephone and cable. It was only after passage of the MHF By-law that the full details of the AHP were made available and it was learned that the inclusion of utilities in affordable rents was optional for Service Managers.

The proposed amendment to the By-law will allow for this flexibility in setting rents for new affordable housing projects in York Region which qualify for assistance under the MHF By-law and the AHP. The advantages to charging tenants separately for utilities are:

- Encourages tenants to conserve energy.
- Tenant responsibility for utilities is the industry norm for townhouse developments.
- CMHC background data for the rent survey show a distinct trend for rents to be exclusive of utilities in newer developments.
- Tenant responsibility for payment of utilities increases operating revenue for landlords and makes investment in new rental housing more attractive.

The Region is currently in the process of completing an evaluation of responses received from third party proponents who participated in a Request for Proposal process in respect to securing funds through the AHP for the 235 units reserved for the community. In accordance with program guidelines, some proponents have included all utilities in their proposed rents; others have indicated that tenants would be responsible for some portion of the utility costs. The Region has indicated that in the latter case, project owners will need to implement a high degree of energy conservation measures and efficiencies in order to minimize payments by tenants. Allowing third party project owners the ability to charge tenants for a portion of their utilities could mean that these owners would need to inject less up-front equity into their projects, making the projects more viable.

In regards to its own recently developed projects, Housing York Inc. (HYI) has incorporated separate electrical metering into its buildings as a method of tracking costs by unit. For projects currently under development or consideration, this will allow the Region the option to have hydro costs paid by the tenants instead of HYI. The resulting increase in operating revenue could substantially reduce the amount of equity required from the Region’s Social Housing Reserve for these projects.

4.2 Recent Changes to the Municipal Act

Previous to recent changes to the Act, municipalities deciding to exempt all or a portion of their development charges for Municipal Capital Facilities had to first exempt all or a portion of their property taxes. Section 110 of the Act has now been amended to clarify that municipalities may provide for exemptions from development charges without also providing for exemptions from property taxes. In addition, the present Act made several technical changes to the previous Act. The MHF By-law should be amended to reflect these changes in the Act.

5. FINANCIAL IMPLICATIONS

The proposed changes to the Municipal Housing Facilities By-law could have a positive financial impact for the Region as it develops new housing under the AHP by enabling the Region to potentially increase operating revenue, thereby reducing the amount of equity required from the Region's Social Housing Reserve. Third party developers could also benefit by contributing less up-front equity into their projects, making affordable housing projects more viable to undertake.

6. LOCAL MUNICIPAL IMPACT

Local municipalities may benefit from the development of new affordable housing in their communities that is made more economically viable through this new flexibility in setting affordable rents. As well, by encouraging tenants to conserve energy, there will be a benefit to local utility providers.

7. CONCLUSION

These proposed amendments to the Municipal Housing Facilities By-law will provide more flexibility to new rental housing developers who wish to take advantage of the funding through the AHP while encouraging energy conservation among tenants in this era of strained resources. The By-law should also be changed to reflect technical amendments made in legislation.

For more information on this report contact Gabe Tropea, Manager, Housing Development and Homelessness Initiatives, Housing Services Branch in the Community Services and Housing Department.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)