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AN ASSESSMENT OF THE PROVINCIAL LONG TERM AFFORDABLE HOUSING STRATEGY

The Community and Health Services Committee recommends the adoption of the recommendations contained in the following report dated January 28, 2011, from the Commissioner of Community and Health Services.

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize staff to participate in the legislative consultation processes for Bill 140, *Strong Communities through Affordable Housing Act*, in order to advocate for improvements as outlined in this report.
2. The Regional Clerk circulate this report to the Minister of Municipal Affairs and Housing and the Association of Municipalities of Ontario.

2. PURPOSE

This report provides Council with an overview of the opportunities and issues arising from the recently announced provincial Long Term Affordable Housing Strategy (the Strategy) and seeks authorization for staff to participate in the public process to advocate for improvements to Bill 140.

3. BACKGROUND

The Province has released its Long Term Affordable Housing Strategy

On November 29, 2010, the provincial government launched their much anticipated Long Term Affordable Housing Strategy. Public consultations on the Strategy were held through 2009. In the summer of 2010 the Province also met with technical working groups comprised of service manager and stakeholder representatives to refine their plans. The Province is to be commended for their comprehensive and inclusive approach to developing the Strategy.

In the broader context, the Strategy relates to both the provincial poverty reduction agenda and the Provincial Municipal Fiscal Service Delivery Review. The Strategy proposes housing affordability measures in addition to the poverty reduction measures already in place. The Strategy also implements recommendations made by the Human

Services Implementation Steering Committee, a working group established as part of the Provincial Municipal Fiscal Service Delivery Review and charged with the task of developing a plan to support the implementation of consolidated housing services.

Selected provincial housing and homelessness programs will be consolidated and Service Managers will deliver these provincially funded services as part of local plans

The Province has more than 20 different housing and homelessness programs which are delivered or administered by Service Managers. Approximately 10 of these programs are delivered in the Region. Each program has its own set of rules and reporting requirements. This disjointed approach to program delivery creates unnecessary administrative complexity and makes it difficult for people to find the services they need. The Province has committed to transferring Provincial funds and program authority to Service Managers over time.

Program consolidation will enable Service Managers to make more effective use of available funding, streamline program administration and allocate funds according to local priorities.

Service Managers will be required to develop local housing and homelessness plans for Provincial review. The plans will be very broad in scope and must be developed through local consultation processes. The plans must identify local housing needs and articulate plans to address those needs. Service Managers will be required to establish targets and report publicly on their progress towards achieving those targets. The Province will likely require Service Managers to submit their first plans for review by the end of 2012.

The Strategy proposes a number of legislative changes

The Province has introduced Bill 140, *Strong Communities through Affordable Housing Act*, to support implementation of the Strategy. If passed, the Bill will replace the *Social Housing Reform Act, 2000* with a new *Housing Services Act*. The Bill also proposes amendments to the *Planning Act, 1990* requiring municipalities to establish second suites policies and minor procedural amendments to the *Residential Tenancies Act, 2006*.

As part of the Strategy, the Province has proposed amendments to the *Planning Act, 1990*

The Province has described the proposed amendments as a signal to land use planning decision makers that affordable housing is a key priority and a means to increase affordable housing supply by facilitating the creation of second units and garden suites. The proposed amendments would:

- add “affordable housing” as a matter of provincial interest that local decision makers must consider with respect to land use planning
- require municipalities to establish official plan policies and zoning by-law provisions allowing second units (municipalities have discretion as to where and under what circumstances second suites will be permitted)
- only permit appeals of these official plan policies and zoning by-law provisions during the five year updates of the municipal official plans
- empower the Minister to make regulations authorizing second suites and establishing related standards and requirements
- increase the temporary authorization period for garden suites from ten to twenty years

At present three York Region municipalities have by-laws permitting second suites as of right: Aurora, East Gwillimbury and Newmarket. The Regional Official Plan encourages local municipalities to include “as-of-right” secondary suite policies, on a municipal-wide basis, in local official plans and zoning by-laws. Second units have the twin benefits of providing affordable rental units to York Region’s residents and workers as well as making home ownership more affordable.

The Strategy proposes changes in several key Social Housing program areas

The Province intends to replace the current Rent-Geared-to-Income program with a new, income tax based system. This is welcome news as the current system is unnecessarily complex and administratively onerous. An income tax based system should be more transparent for tenants and should dramatically simplify reporting requirements. However, the subsidy cost implications of this change cannot be assessed until the Province establishes the new calculation rules through the Regulations to be made pursuant to the *Housing Services Act*.

The Province has also indicated an intention to simplify the waiting list rules, which will be set out in future regulations. This is also good news as the current requirements are excessively prescriptive. Service Managers may have more flexibility as to how applicants are prioritized. However, the Province has clearly stated that increased flexibility notwithstanding, Service Managers will have an on-going obligation to maintain the Special Priority Policy in support of those who leave an abusive relationship. These applicants will continue to be prioritized ahead of all other applicants. New rules to better enable applicants to transfer from one Service Manager area to another are also expected.

The Strategy acknowledges Service Managers' expertise in administering social housing programs

The *Social Housing Reform Act, 2000* legislates program requirements in minute detail. The proposed *Housing Services Act* will give Service Managers greater flexibility to develop locally appropriate policies and procedures.

The proposed legislation also eliminates most of the current Ministerial consent requirements. At present, Service Managers are required to obtain the consent of the Minister of Municipal Affairs and Housing for a broad range of decisions, such as approving a property easement or agreeing to change a housing provider's special needs housing targets. The Province recognizes Service Managers' experience and expertise in managing the social housing portfolio and has determined that the consent requirements should be substantially reduced.

4. ANALYSIS AND OPTIONS

The Province has not committed any new funding to support the Strategy

In short, there is no new money. Service Managers will have to implement the requirements of the Strategy with existing resources. While it's helpful to have more flexibility in administering the waiting list, nothing in the Strategy will reduce the number of people waiting for affordable housing. Service Managers will be accountable for identifying and addressing their local housing needs but are unlikely to receive additional resources to do so.

Service Managers can accomplish a great deal locally, but as a whole the system requires on-going Provincial investment. For example, unlike child care, Ontario Works, and the Ontario Disability Support Program, housing has no province wide information system. Service Managers use a variety of systems to manage their waiting lists, so it is impractical to collect meaningful, consolidated waiting list data. Similarly, although the Provincial Auditor's 2009 report noted this as an issue requiring attention, there is no provincial system regarding the state of repair and the capital funding deficits in the social housing portfolio.

The Strategy does not provide the tools Service Managers need to ensure the long-term sustainability of the social housing portfolio

Taxpayers have invested billions in the social housing portfolio and the Province has a role in establishing a policy framework that protects and maintains that investment. Unfortunately the Strategy makes no mention of the capital repair funding deficit, arguably one of the most significant threats to the long-term sustainability of the portfolio. Housing Providers need access to funding and/or financing tools to ensure their buildings are maintained in a good state of repair. Service Managers need better

regulatory tools to support redevelopment of social housing buildings that have reached the end of their useful life. These are not issues that can be resolved through local plans. Provincial leadership is required.

The Strategy is also silent on the issue of the social housing stock remaining as such after their mortgages are discharged. There is no legal requirement for social housing developments to be maintained for that purpose indefinitely. In some cases, once their mortgages are discharged, Housing Providers can sell their buildings and use the proceeds for other purposes. Staff in various municipalities are aware of housing providers wanting to do precisely that. Given the very heavy investment of taxpayer's dollars, this is a significant concern to Service Managers. The Provincial Auditor in its 2009 report noted this as an area of concern as some housing developments have already been lost to the system. Many more could follow, beginning as early as 2015 when some of the oldest housing programs begin to reach maturity. The Province must take steps to protect public investments in the housing portfolio for the long-term.

The proposed *Housing Services Act* requires a process for independent review (appeal) of Council decisions impacting Housing Providers

If passed, the *Housing Services Act* will entitle Housing Providers to an independent review of decisions made by their Service Manager. Although Service Managers will have flexibility regarding design of the local appeal processes, this new requirement will be untenable in some circumstances. In many cases, the decisions Housing Providers could be expected to appeal are made by Councils and a Council cannot independently review its own decision. A review of Council decisions is the purview of the Courts.

The Courts have recently established that Housing Providers have a right to meaningful input into a Service Manager's decision as to whether to approve the sale of a housing project before that decision is made. The Province has identified protecting non-profit and co-operative housing as an objective of the Strategy. This goal would be better met by replacing the independent review with procedural requirements that support a Service Manager when it is necessary to intervene in a Housing Provider's operations.

The enforcement provisions in the proposed *Housing Services Act* will be problematic for Service Managers

Although the stated intention is to give Service Managers more tools to manage Housing Providers in difficulty, the proposed legislation could have the opposite effect. The *Housing Services Act* is generally framed as enabling legislation, with program details to be defined in regulation. However, the enforcement provisions in the proposed *Housing Services Act* are imported directly from the *Social Housing Reform Act, 2000* with a series of additional restrictions imposed on Service Managers. It would be more appropriate for the proposed legislation to articulate the accountability framework at a high level and then establish the implementation details in the Regulations. It is imperative that the Province consult with Service Managers to develop more practical

enforcement provisions that respect Housing Providers' autonomy while providing reasonable intervention tools for Service Managers.

There are opportunities to advocate for amendments to the *Strong Communities through Affordable Housing Act*

First reading of Bill 140 was completed in December and second reading should be completed shortly after the Legislature reconvenes in late February. Although the consultation process is not yet known, Bill 140 will likely be referred to a Standing Committee for consideration. The Region has opportunities to seek improvements to the proposed *Housing Services Act* through Standing Committee deputations and submissions to the Ministry of Municipal Affairs and Housing. This report recommends that Council authorize staff to pursue these opportunities.

Most program requirements will be established through regulations made under the *Housing Service Act*

Program details will be established through the Regulations made under the proposed *Housing Services Act* and there is a lot of work to be done. For example, the new Rent-Geared-to-Income system must be designed and tested, and waiting list rules, performance metrics and the housing subsidy calculation formula must all be established. Regional staff expect to be actively involved in the Regulation consultation process.

5. FINANCIAL IMPLICATIONS

At this point there isn't enough information to assess the financial impact of the Strategy and Bill 140. Changes in Rent-Geared-to-Income or Housing Provider subsidy rules could change Regional costs. Staff will monitor the Regulation and consolidation exercises as they evolve and report back to Council when more details are known.

6. LOCAL MUNICIPAL IMPACT

There are social housing communities in every municipality in the Region. The absence of a provincial plan to ensure the long term sustainability of those communities is a significant concern. Every municipality is also home to residents who need housing and homelessness services. The Long Term Affordable Housing Strategy will give the Region greater flexibility to design local programs that meet these needs.

7. CONCLUSION

The Long Term Affordable Housing Strategy introduces the most significant change in housing policy since the late 1990's. By consolidating programs and supporting more local decision making the Province is effectively completing the program transfer that began more than a decade ago. In this respect significant progress has been made.

However, the Strategy fails to address some critical systemic sustainability issues. This report seeks Council authorization for staff to work with the Province and to engage in the public consultation processes in an effort to improve the legislative and regulatory framework.

Most of the new housing program details will be established through the Province's regulation development process. Staff expect to be actively involved in that process. Staff will report to Council when sufficient information is available to support an analysis of the overall impact of the Strategy.

For more information on this report, please contact Sylvia Patterson, General Manager, Housing and Long Term Care at Ext. 2091.

The Senior Management Group has reviewed this report.