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AFFORDABLE HOUSING PROJECT – MOUNT ALBERT UNITED CHURCH SENIOR CITIZENS FOUNDATION DISCHARGE OF EXISITNG MORTAGES

The Community Services and Housing Committee recommends that:

1. **The deputation from Wendy Schellenberg, Mount Albert United Church Senior Citizens Foundation be received; and**

2. **The recommendations contained in the following report, June 3, 2008, from the Commissioner of Community and Health Services be adopted.**

1. RECOMMENDATIONS

It is recommended that:

1. The Region, in its capacity as Service Manager under the *Social Housing Reform Act, 2000*, recommend to Canada Mortgage and Housing Corporation that the mortgages for Phase 1 and Phase 2 of the Mount Albert United Church Senior Citizens Foundation be discharged.

2. The Region request the Minister of Municipal Affairs and Housing to undertake discharge negotiations with Canada Mortgage and Housing Corporation.

3. The above recommendations be conditional upon the Foundation meeting any required conditions of the Region and the Minister, as set out in this report, or requested by the Commissioner of Community and Health Services, subject to the review of Legal Services.

4. The Region be authorized to enter into agreements necessary to give effect to the above and the Commissioner of Community and Health Services be authorized to execute these agreements subject to the review of Legal Services.

2. PURPOSE

This report provides an update on the status of the proposal of the Mount Albert United Church Senior Citizens Foundation to refinance their existing social housing properties to facilitate development of a new phase under the Affordable Housing Program (AHP). The recommendations are being brought at this time to put in place a process and necessary approvals to allow refinement of the project's business case over the coming months.

3. BACKGROUND

Region received 370 unit allocation under the federal/provincial Affordable Rental Housing Program

In April 2005, the federal and provincial governments announced an expanded AHP for Ontario. Under the Rental and Supportive Housing component of the AHP, York Region received an allocation of $25.9 million to develop 370 affordable rental and supportive housing units.

The Housing Delivery Plan, approved by Regional Council on June 22, 2006 through the adoption of Clause No. 6 of Report No. 5 of the Community Services and Housing Committee, included a two stage Request for Proposal process to determine community capacity to deliver rental and supportive housing units.

The Mount Albert United Church Senior Citizens Foundation proposal for 30 new units recommended for AHP funding

On April 19, 2007, through adoption of Clause No. 3 of Report No. 4 of the Community Services and Housing Committee, Regional Council recommended the Mount Albert United Church Senior Citizens Foundation for a conditional commitment of 30 units from the Minister of Municipal Affairs and Housing. As part of its review process, the Region retained the services of an external consulting firm that specializes in property development, construction cost management and project monitoring to advise on the viability of each project.

At the time of the Request for Proposal, Mount Albert United Church Senior Citizens Foundation's proposal was to construct a 30 unit, frame structure, three storey seniors' apartment building of approximately 27,000 square feet on vacant land (1.6 acres) owned by the Mount Albert United Church. The proposed building would be the third phase of a 52 unit senior citizens complex comprised of two buildings: a 30 unit Phase 1, and a 22 unit Phase 2. The estimated project cost for the new 30 unit building was approximately $4.4 million. The funding sources included the AHP program, short term financing from the Mount Albert United Church, and primary financing from a lender insured by CMHC mortgage insurance.

A Contribution Agreement laying out the terms and conditions of AHP funding and any Regional contribution was executed between Mount Albert United Church Senior Citizens Foundation and the Region. The Contribution Agreement will be registered on title of the project as security for the funding, including any Regional contributions.

In February 2008, Mount Albert United Church Senior Citizens Foundation submitted a revised business case that changed the proposed financing mechanisms of the new development. As well, the group's estimated capital costs of the project increased from $4.4 million to approximately $5.0 million.

4. ANALYSIS AND OPTIONS

As Service Manager, the Region has risks and responsibilities under the AHP

As outlined in Clause No. 7 of Report No. 6 of the Community Services and Housing Committee, adopted by Council on September 21, 2006, the Region was required to enter into an Administration Agreement with the Province before embarking on delivery of the AHP. The Administration Agreement sets out the level of liability that a Service Manager is required to indemnify the Province for in the event of a claim against the provincial or federal governments.

As with all development activities, there is potential risk to the developer, and it is not uncommon for lenders who have registered security on the property involved to be included in claims against the owner. In this way CMHC, the Province and the Region could be cited in claims against a proponent's property since the Contribution Agreement is registered on title as security for the funding being provided.

For example, if there is a successful claim filed during construction the Region could be asked to repay to the Province all of the federal funding that has been advanced to a proponent.

If the project gets into severe financial difficulty after completion and occupancy, the Region could be liable for the total of the federal and provincial assistance flowed to the proponent at that time.

In both scenarios the CMHC mortgage insurance will ensure the mortgage is paid to the first mortgagee but if the debts of the owner are larger than the value of the property, the Region could be asked to step in.

In the case of the Mount Albert United Church Senior Citizens Foundation project the maximum liability the Region could be responsible for is $2.1 million plus applicable interest.

The Region has taken measures to mitigate its risk under the program

To mitigate against these risks, the Region has taken several steps including requiring proponents to carry regional standard bonding and insurance during construction, to conduct Environmental Site Assessments by qualified professionals of their proposed sites and to demonstrate the viability of their proposals both from a capital and operating budget perspective. These requirements are stipulated in the Contribution Agreements entered into with the proponents. The Contribution Agreement also contains indemnification provisions in favour of the Region to minimize the Region’s risk under the Administration Agreement.

While bonding and insurances can contribute to protecting the Region’s interests, the best protection is ensuring approved projects are viable, both during construction and in their operating phases. To that end the Region is carefully scrutinizing each project’s capital and operating budgets to ensure as far as possible that risk to the Region is minimized.

Mount Albert United Church Senior Citizens Foundation’s revised business case addresses the Region’s concerns with original proposal

As part of the review process for the four recommended projects, Mount Albert United Church Senior Citizens Foundation was advised of concerns related to their original proposal. In February 2008, a revised business case was submitted which detailed a proposal to refinance the existing buildings in order to leverage equity for the new AHP Phase 3 development.

Mount Albert United Church Senior Citizens Foundation is seeking to refinance existing buildings to access equity

The existing buildings comprised of 30 units (Phase 1) and 22 units (Phase 2) respectively, were developed through CMHC programs under the *National Housing Act* R.S.C. 1985 and are funded and administered in accordance with CMHC operating agreements. Administration of the operating agreements was devolved to the Region pursuant to the 1999 Federal/Provincial Social Housing Agreement, and the *Social Housing Reform Act, 2000*.

The Region is responsible to ensure that the existing social housing buildings are operated in accordance with the operating agreements. In addition to setting out the operating requirements for the Mount Albert United Church Senior Citizens Foundation, the operating agreements specify the calculation of the mortgage subsidy the Region must pay to the Mount Albert United Church Senior Citizens Foundation. The annual combined mortgage subsidy for Phase 1 and Phase 2 is approximately $31,000.

The Mount Albert United Church Senior Citizens Foundation proposes to refinance the existing buildings to support the development of the new project. In order to refinance, the Mount Albert United Church Senior Citizens Foundation will have to discharge the Phase 1 and Phase 2 mortgages. As CMHC is the lender, the discharge process is complicated and involves three key steps:

1. The Region must recommend the mortgage discharge.
2. The Province must support the mortgage discharge and undertake discharge negotiations with CMHC.
3. CMHC must approve the mortgage discharge and determine whether an interest penalty will be levied.

Once the mortgages are discharged, the operating agreements are terminated. The existing 52 units would no longer be part of the social housing portfolio. The Mount Albert United Church Senior Citizens Foundation would no longer receive mortgage subsidy payments from the Region and would no longer be required to maintain affordable market rents or to provide rent-geared-to-income assistance. Furthermore, the Mount Albert United Church Senior Citizens Foundation would likely not have access to programs designed to assist social housing providers with capital repairs.

Rent Supplement units to be allocated to both new and existing buildings

Regional Council has approved funding for a regionally sponsored Rent Supplement program to begin in 2009. The Contribution Agreement requires AHP providers to make up to 25% of any funded units available for Rent Supplement and for the new Mount Albert United Church Senior Citizens Foundation building this would amount to eight new units for households on the centralized waiting list.

As well, to protect security of tenure for existing tenants and to ensure no net loss of units for low-income households, this report proposes that as a condition of Regional approval, the Mount Albert United Church Senior Citizens Foundation be required to enter into a rent supplement agreement for 25% of the existing Phase 1 and Phase 2 units. This would ensure that the Mount Albert United Church Senior Citizens Foundation continues to provide 13 rent-geared-to-income units in these buildings.

Mount Albert United Church Senior Citizens Foundation outlines how refinancing affects their business plan

The revised proposal details the following sources to fund the estimated $5.0 million capital budget for the new building:

- $1.3 million in provincial capital funding to be cash flowed as monthly payments in the form of a 20 year loan (plus interest) to the group.
- $0.8 million in federal capital funding to be advanced during project construction, in the form of a forgivable loan.
- $2.25 million from a CMHC-insured mortgage provided by a private lender to be amortized over 40 years.
- $0.65 million in equity from refinancing Phases 1 and 2.

Regional Council’s recent budget decisions assisting AHP proponents

The 2008 operating budget approved two initiatives to assist the AHP projects:

- Up to $2.7 million to provide one-time funding of $10,000 per unit to the four conditionally approved non-profit projects
- Up to $1.0 million annually to create a Regional Rent Supplement program beginning in 2009.

As well, the Region has a long-standing policy of offsetting Regional Development Charges for non-profit housing developers. By-laws to give effect to that policy for the four AHP projects will be presented to Council for approval at its meeting on June 19, 2008.

In the case of the Mount Albert United Church Senior Citizens Foundation project these regional initiatives will provide up to $300,000 in one-time funding as well as a grant in lieu of Development Charges of approximately $325,000. The new regional Rent Supplement program will provide annual rent subsidies for 21 units.

The Region exercises due diligence as administrator of the AHP

In order to satisfy itself that Mount Albert United Church Senior Citizens Foundation's revised approach would be workable, the Region asked its consultant to complete a feasibility study of the proposal to assess its viability, including the proposed changes in operation of the existing buildings.

Based on the building program provided by Mount Albert United Church Senior Citizens Foundation, the consultant has provided a current cost estimate to complete the project. Their estimate totals approximately $5.8 million compared to the proponent's most recent estimate of $5.0 million. In the course of their review, the consultant confirmed their estimates with a CMHC approved lender who is familiar with the AHP program.

The main variances in the two budgets are attributable to costs related to the preliminary level of available document/design information, projected cost of a premium for LEED® Silver certification, exclusion of a construction contingency and miscellaneous soft cost variances for a total variance of approximately $0.8 million.

Over the coming weeks staff will be meeting with the group and their consultants to explore options available to them to refine budget estimates and determine the group's required equity to close the gap identified above.

Region's conditions for recommending discharge of the existing mortgages to Ministry of Municipal Affairs and Housing

Prior to recommending the discharge of the mortgages on Phase 1 and Phase 2 to the Minister, there are conditions to be met by the Mount Albert United Church Senior Citizens Foundation:

- Mount Albert United Church Senior Citizens Foundation demonstrate to the Region's satisfaction that the refinancing of Phase 1 and Phase 2 will be sufficient, together with other financing commitments, to offset the total capital costs of the AHP project.

- Mount Albert United Church Senior Citizens Foundation demonstrate to the Region's satisfaction that sufficient operating revenues will be generated by the three buildings to ensure their viability without subsidy from the Region.

- Mount Albert United Church Senior Citizens Foundation undertake to enter into a Rent Supplement Agreement with the Region for a minimum of 13 rent-geared-to-income units to be placed in Phase 1 and Phase 2.

Next steps to move project forward

In order to move this project forward and prior to receiving AHP and Regional funding, Mount Albert United Church Senior Citizens Foundation will be required to:

- Receive the approval of CMHC to the discharge of the existing mortgages on Phases 1 and 2.
- Obtain primary lending commitments from a lender for the two new mortgages proposed for Phases 1 and 2, and Phase 3.
- Secure Mortgage Insurance on the primary financing from CMHC.
- Secure all necessary municipal approvals.
- Meet all conditions imposed by the Minister of Municipal Affairs and Housing and the Region for the AHP funding as stipulated in the Contribution Agreement.
- Contract for 21 Rent Supplement units to be apportioned among their three buildings.

This multi-layered AHP approval process helps reduce the Region's risk arising under the Contribution Agreement with respect to the proponent's affordable housing projects. The lender, CMHC and the Region are required to carry out their respective due diligence in assessing each project's viability, including the financial capacity and organizational strength of each proponent.

5. FINANCIAL IMPLICATIONS

The discharge of the mortgages and voiding of the operating agreements for Phase 1 and Phase 2 of the Mount Albert United Church Senior Citizens Foundation portfolio will result in a reduction of $31,000 in annual subsidy paid by the Region however as these funds are recovered from the federal government there is no net gain or loss for the Region.

The 2008 Regional Budget made provision for $1.0 million, starting in 2009, to support the creation of up to 150 Regionally funded rent supplement program units. Rent supplement funding will be recommended for 25% or 21 units in the Mount Albert United Church Senior Citizens Foundation housing portfolio.

6. LOCAL MUNICIPAL IMPACT

The Mount Albert United Church Senior Citizens Foundation affordable housing project provides an opportunity to have much needed affordable rental housing built in York Region.

7. CONCLUSION

Over the coming weeks staff will be meeting with the Mount Albert United Church Senior Citizens Foundation and their consultants to further refine budget estimates and determine what options are available to them to close the identified gap in budget estimates.

Should approvals from the Province or CMHC not be forthcoming, the project would likely be unable to proceed. Equally, should the group be unable to resolve the financing gap identified in this report, the project may not proceed.

When the Region is satisfied of the viability of the project, the request to the Minister of Municipal Affairs and Housing to negotiate the discharge of the mortgages on Phase 1 and Phase 2 of the group's housing portfolio with CMHC will be submitted.

For more information on this report, please contact Sylvia Patterson, Director, Housing Services at Ext. 2091.

The Senior Management Group has reviewed this report.