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PROVINCIAL CONSULTATION ON REFORMING TENANT PROTECTION LEGISLATION

The Community Services and Housing Committee recommends the adoption of the recommendation contained in the following report, August 26, 2004, from the Commissioner of Community Services and Housing:

1. RECOMMENDATION

It is recommended that:

1. The following report be received for information by Committee and Council.

2. PURPOSE

The purpose of this report is to inform Council of the Provincial government's consultation process as part of the development of new legislation to replace the *Tenant Protection Act*, *1997*, and the potential impact of new legislation on landlords and tenants in York Region.

3. BACKGROUND

In the fall of 2003, the Provincial government indicated in its election platform that it would review current tenant protection legislation with a view to providing strengthened protection to tenants and imposing rent controls in areas where the vacancy rate was below 3%.

The Provincial government released a consultation paper on April 20, 2004, entitled the *Residential Tenancy Reform Consultation Paper*. Responses to issues discussed in the paper were requested by June 15, 2004. The Commissioner of Community Services and Housing responded to questions of an administrative nature that pertained to the operations of Housing York Inc. (HYI). In particular, HYI commented on the need to maintain the exemption of social housing units from rent controls, to adjust the interest payable on rent deposits, and to improve the eviction process.

4. ANALYSIS AND OPTIONS

4.1 Areas of Review

The Consultation Paper outlines a number of areas the government intends to address:

- How and when to de-control rents in areas with vacancy levels greater than 3%.
- Determination of rent increase guidelines.

- Effect of volatile utility costs on rent increases/decreases.
- Proper maintenance of buildings.
- Rent deposits.
- Dispute resolution.
- Tenant and landlord rights.
- Demolition and conversion of rental housing.

The Province is considering a wide range of options in relation to each of the action areas being explored. The implications of actions taken in these areas could impact the Region in varied ways as we have both landlord responsibilities through HYI for our own units, and administrative and funding responsibilities in relation to social housing providers. In more general terms, there will likely be impacts on market landlords and the tenants living in their buildings as well. A detailed explanation of the Provincial options being presented and the possible general impacts to landlords and tenants is outlined in *Attachment 1*. Once the Province's direction is clear, a further report will be brought forward.

4.2 Where Rent Control Could Be Imposed

Under the current legislation, rent increases are partially controlled. Every year the Province publishes a rent increase guideline. This guideline is the maximum amount that a landlord can increase an existing tenant's rent. However, rent control does not apply to vacated units. Landlords can charge new tenants whatever the market will bear. Once the new tenancy begins, though, all subsequent increases are limited to the annual guideline amount.

A rental market is considered healthy, with a reasonable balance of supply and demand, when the vacancy rate is at 3%. The Province has indicated rent controls should apply to all units, including new tenancies, in areas where vacancy rates are below 3%, and tenants have little choice in the marketplace. The Province has also suggested it may consider additional criteria to determine if rents should be controlled, such as the average rent increases over time, and the percentage of tenants paying more than 50% of their income in rent.

Although there has been some modest development of rental housing in the Region in recent years, rental housing as a percentage of the total housing stock continues to decline. Vacancy rates have increased slightly in recent years, likely as a function of a low interest rate climate that has allowed some renters to move into the ownership market. However, the Region continues to have a general shortage of rental housing.

As indicated in Table 1 overall vacancy rates have been consistently below 3% for the Region in the last several years. As well, although vacancy rates in the City of Toronto, and in the Census Metropolitan Area (CMA) (which includes most of the Greater Toronto Area (GTA) municipalities and several in Simcoe County), have risen appreciably in the period of 2000 to 2003, they have remained relatively low in York Region.

Table 1
Overall Vacancy Rates by Zone and for York Region
Privately Owned Apartments with 3 or More Units
2000-2003

Zone	2000 %	2001 %	2002 %	2003 %
Richmond Hill, Vaughan, King	0.6	1.0	1.8	2.0
Aurora, Newmarket, Whitchurch-Stouffville	1.3	0.9	1.8	2.0
Markham	0.7	0.2	0.9	1.2
York Region	**0.9**	**0.7**	**1.3**	**1.4**
City of Toronto	0.6	0.9	2.4	3.9
Toronto Census Metropolitan Area	0.6	0.9	2.5	3.8

Source: Canada Mortgage and Housing Corporation

In any market environment where demand exceeds supply, prices increase. Not surprisingly, under the current legislation, low vacancy rates have generally produced higher rents. Table 2 outlines the average increases in rents across the Region.

Table 2
Overall Average Rent Increases by Zone and for York Region
2001-2003

Zone	2001 %	2002 %
Richmond Hill, Vaughan, King	1.020	6.170
Aurora, Newmarket, Whitchurch-Stouffville	3.250	4.400
Markham	14.300	.002
York Region	4.360	3.950

Source: Canada Mortgage and Housing Corporation

In recent years, rents in some markets have increased dramatically. The Province is concerned about these increases as many of the consumers in this market have limited income. According to the 2001 Census, over 41% of tenants in York Region were paying 30% or more of their income on shelter costs. As this is the case in many municipalities, the Province is looking at measures to limit rent increases.

4.3 How Rent Increase Guidelines Might Affect Tenants and Landlords

Since 1991, provincial annual rent increase guideline percentages have generally resulted in rental increases that have exceeded the rate of inflation. The Provincial government has indicated it will change the method of calculating allowable rent guideline increases which could significantly reduce the rent increases to which landlords would have otherwise been entitled.

Pending the passage of new legislation, the Province has recently amended the existing legislation to calculate the 2005 guideline based only on increases in operating costs. The 2005 guideline increase has been announced at 1.5%.

The Province's challenge in setting rent increases is to balance the needs of tenants with limited incomes against the landlord's right to generate a return on their investment in rental housing. A cost based approach is reasonable, but only if the calculation truly reflects the landlord's cost experience.

4.4 Demolition and Conversion

Some municipalities, particularly the City of Toronto, have lost affordable rental units due to demolition or conversion to condominiums. This issue tends to be limited to older rental buildings located on valuable real estate. The Province is proposing processes to ensure that municipalities with low vacancy rates are allowed to protect such rental stock. Several local municipalities have indicated that rental demolitions and conversions are not a significant concern in the Region at this time, likely because the rental stock here tends to be newer than the stock in Toronto.

4.5 Other Considerations

The Province also consulted on matters relating to Ontario Rental Housing Tribunal (ORHT) processes, the long term sustainability of rent banks, having separate rental control processes for mobile home parks, and general tenant issues.

In its response concerning issues affecting tenants, staff identified a number of possible improvements to the ORHT process.

- The ORHT fees should be made more affordable for tenants.
- If one tenant successfully applies for a rent reduction, all units affected by the application should be automatically considered with no additional fees payable. (Currently each tenant must apply individually.)
- Landlords can apply for above guideline increases to cover extraordinary capital costs. Copies of a landlord's application should be provided to all affected tenants free of charge and as a matter of course, with sufficient lead time to allow for an appropriate response.

4.6 Next Steps

Staff will report back to Committee and Council when further information is received from the Province regarding possible changes to tenant protection legislation.

5. FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal implications associated with this report.

7. CONCLUSION

The Province held a public consultation regarding possible changes to tenant protection legislation. It is difficult to ascertain whether or not rent controls may be imposed on landlords in York Region. The Province must balance tenant concerns and the need to encourage investment in rental housing development.

The Senior Management Group has reviewed this report.

(A copy of the attachment referred to was forwarded to each Member of Council with the September 15, 2004, Community Services and Housing Committee agenda and a copy is on file in the Regional Clerk's office.)