

Municipal Facilities Housing By-law

A-5814-11 - Enacted December 2, 2002

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A by-law to provide for municipal housing facilities.

WHEREAS the City of London is a delivery agent under the *Ontario Works Act, 1997*, S.O. 1997, c.25, and is authorized to operate and manage housing projects as well as establish, fund and administer programs for the provision of residential accommodation in its service area under the *Social Housing Reform Act*, S.O. 2000, c.27;

AND WHEREAS subsection 210.1(2) of the *Municipal Act*, R.S.O. 1990, c. M.45, as amended, allows municipalities to enter into agreements for the provision of municipal capital facilities by any person;

AND WHEREAS Ontario Regulation 46/94, as amended, made under the *Municipal Act* allows the council of a municipality to enter into an agreement under subsection 210.1(2) of the *Municipal Act* for the provision of a variety of enumerated classes of municipal capital facilities;

AND WHEREAS one of those enumerated classes is municipal housing project facilities;

AND WHEREAS the said Ontario Regulation 46/94, as amended, requires that before a by-law authorizing an agreement respecting municipal housing project facilities is entered into a municipal housing facilities by-law must be enacted, which must comply with requirements set out in that Regulation;

AND WHEREAS Council is of the opinion that making use of subsection 210.1(2) of the *Municipal Act* is a desirable means of increasing the supply of affordable housing by providing financial or other assistance at less than fair market value to private and non-profit housing providers on the criteria set out in this by-law;

THEREFORE the Council of The Corporation of the City of London enacts as follows:

SHORT TITLE
MUNICIPAL HOUSING FACILITIES BY-LAW

1. Definitions

In this by-law,

Act - defined

“Act” means the *Municipal Act*, R.S.O. 1990, c. M.45, as amended, and its Regulations;

Affordable Housing - defined

“affordable housing” means affordable housing as set out in section 4 of this by-law;

Average Rents - defined

“average rents” for any calendar year means average monthly London Census Metropolitan Area (CMA) rents by unit type for that calendar year as determined and published annually by CMHC; if CMHC does not publish an annual survey of London CMA rents for any calendar year, then “average rents” for that calendar year shall be City-wide average rents as determined by the General Manager of Planning and Development or his/her designate;

City – defined

“City” means The Corporation of the City of London;

Clerk - defined

“Clerk” means the person appointed by Council pursuant to section 73 of the Act;

CMHC - defined

“CMHC” means the Canada Mortgage and Housing Corporation;

Council - defined

“Council” means The Municipal Council of the Corporation of the City of London;

Household Income - defined

“household income” means the gross annual income from all sources of all persons who reside in a housing unit, or who will reside in a housing unit if such housing unit were rented to them;

Housing Provider - defined

“housing provider” means a person with whom the City has entered into or will enter into a municipal housing project facilities agreement under section 2 of this by-law;

Municipal Housing Project Facilities - defined

“municipal housing project facilities” means the municipal housing project facilities class of municipal capital facilities, as set out in Ontario Regulation 46/94, as amended;

Municipal Housing Project Facilities Agreement - defined

“municipal housing project facilities agreement” means a municipal housing project facilities agreement as set out in section 2 of this by-law;

Municipal Housing Project Facilities By-law - defined

“municipal housing project facilities by-law” means a by-law enacted by Council pursuant to paragraph 18 of section 2 of Ontario Regulation 46/94, as amended;

Rent Supplement Agreement - defined

“rent supplement agreement” means a rent supplement agreement as defined in the *Social Housing Reform Act*, S.O. 2000, c.27, as amended;

Unit Size - defined

“unit size” means the size of a unit within a municipal housing project facility or potential municipal housing project facility, measured by the number of bedrooms; and

Waiting List - defined

“waiting list” means the Coordinated Access/Centralized Waiting List of London or successor waiting list or lists which prioritizes access to social housing in the City.

2. Council may pass by-laws permitting the City to enter into municipal housing project facilities agreements with housing service providers, pursuant to subsection 210.1(2) of the Act, as amended, for the provision of the municipal housing project facilities.

3. Upon passing of a by-law referred to in Section 2 of this by-law, the Clerk shall give written notice of the by-law to the Minister of Education and Training or successor, as set out in the Act.

4. The definition of affordable housing for the purpose of a municipal housing project facilities agreement shall be municipal housing project facilities in which the average rent for each unit size, inclusive of utilities but exclusive of parking, telephone, cable and other similar fees, is less than or equal to the average CMHC rent as determined and amended from time to time by CMHC for the London CMA for that unit size.

5. The City shall not enter into an agreement mentioned in section 2 of this by-law unless it has determined that: the housing units to be provided as part of the municipal housing project facilities fall within the definition of affordable housing.

6. (1) Subject to subsection (2) below, housing units to be provided as part of the municipal housing project facilities shall be made available initially to individuals and families on the waiting list, subject to their ability to pay the affordable rent for the available unit.

(2) If there are no individuals or families available as set out in subsection (1) above, housing units may be made available to individuals and families of the general public.

7. Despite subsection 6(c2) of this by-law, under no circumstances shall a housing unit be made available,

- (a) at rent that is not within the definition of affordable housing; or
- (b) to individuals or families who, at the time the housing unit is initially rented to them, spend less than thirty -five percent of their household income on rent, inclusive of utilities but exclusive of parking, telephone, cable and other similar fees, as determined by the housing provider after making all reasonable inquiries.

8. The municipal housing project facilities agreements shall contain, but shall not be limited to, the following:

- (a) the term of the agreement, which shall not be less than twenty years,
- (b) each unit in the municipal housing project facilities shall, throughout the term of the agreement, meet the definition of affordable housing;
- (c) provisions reflecting those matters set out in sections 5, 6 and 7 of this by-law;
- (d) subject to section 10 of this by-law, units subject to the agreement shall not be rented to the housing provider or shareholders or directors of the housing provider, or any individual not at arm's length to the housing provider or shareholders or directors of the housing provider;
- (e) the City may register the agreement on title;
- (f) the municipal housing project facilities agreement shall be binding on the housing provider's heirs, successors and assigns;
- (g) during the term of the municipal housing project facilities agreement, the housing provider shall, as a condition precedent to a sale to a subsequent purchaser, require the subsequent purchaser to enter into an agreement with the City, and that agreement shall impose the terms of the municipal housing project facilities agreement on that subsequent purchaser;
- (h) in addition to a general indemnity, the housing provider shall specifically indemnify the City if the provision set out in clause (g) of this section of this by-law is breached;
- (i) a list of the benefits being conveyed to the housing provider under this by-law, including their estimated present day monetary value;
- (j) if the housing provider does not carry out its obligations under the agreement, the housing provider shall, if demanded, pay to the City the entire amount of benefits conveyed under the agreement, together with any applicable costs and interest;
- (k) such other contractual provisions which are required to be inserted based on fundamental contractual drafting principles; and
- (l) the number of housing units being provided.

9. (1) As a means of increasing the affordability of housing within the project, the municipal housing project facilities agreement may require that the housing provider enter into a rent supplement agreement with the City.

(2) If the municipal housing project facilities agreement requires the housing provider to enter into a rent supplement agreement with the City as set out in subsection (1) above, such rent supplement agreement shall be entered into concurrently with the municipal housing project facilities agreement and shall be a condition of the City entering into the municipal housing project facilities agreement.

(3) As a further means of increasing the affordability of housing within the project, the municipal housing project facilities agreement may require, in exchange for significant (greater than \$10,000 per unit) capital grants, that lower affordable rents than those set out in section 4 of this by-law may be established for some of the units and that eligible incoming residents be allowed to move in only if they are selected from the waiting list.

10. Despite clause 8(d) of this by-law, units subject to a municipal housing project facilities agreement may be rented to directors of the housing provider or an individual not at arm's length to the directors of the housing provider if:

- (a) the housing provider is a non-profit housing co-operative as defined in the *Co-operative Corporations Act*, R.S.O. 1990, c.C.35, as amended or a not-for-profit corporation; and
- (b) the housing provider is at arm's length to any individual or private for-profit corporation with which the director or individual not at arm's length to the director, as the case may be, has a non-arm's length relationship.

11. A municipal housing project facilities agreement may allow for the lease, operation or maintenance of the municipal housing project facilities by any person and, pursuant to subsection 210.1(3) of the Act, for the sale or other disposition of municipal land or buildings that are still required for the purposes of the City.

12. 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 provide for financial or other assistance at less than fair market value or at no cost to the housing provider with respect of the provision, lease, operation or maintenance of the facilities that are subject of the agreement, and such assistance may include:

- (a) giving or lending money and charging interest; and/or
- (b) giving, lending, leasing or selling property.

13. A municipal housing project facilities agreement containing the provisions set out in section 210(8) of the *Municipal Act* may provide for a full or partial exemption for the facilities from the payment of development charges imposed by the City under the *Development Charges Act, 1997*, S.O. 1997, c.27.

14. This by-law may be cited as the Municipal Housing Facilities By-law.

15. This by-law comes into force on the day it is passed.

PASSED in Open Council on December 2, 2002.

Anne Marie DeCicco
Mayor

Linda M. Rowe
Manager of Legislative Services