

THE REGIONAL MUNICIPALITY OF YORK

BILL NO. 99

BY-LAW NO. A-0314-2002-096

A By-law for the provision of municipal housing facilities.

WHEREAS Council wishes to enable the Region to enter into agreements with each of the private and non-profit sectors, for the purpose of developing affordable rental housing in York Region that is integrated with rental housing provided at market rents;

AND WHEREAS Ontario Regulation 189/01 amended Ontario Regulation 46/94 made under the *Municipal Act*, R.S.O. 1990, c. M.45 to add “municipal housing project facilities” to the class of municipal capital facilities for which municipalities may enter into agreements pursuant to subsection 210.1(2) of the *Municipal Act*;

AND WHEREAS pursuant to Ontario Regulation 46/94, as amended, municipalities which have been designated as “delivery agents” under the *Ontario Works Act, 1997*, S.O. 1997, c. 25, Sch. A are now permitted to enter into agreements for the provision of municipal housing project facilities;

AND WHEREAS The Regional Municipality of York is the delivery agent under the *Ontario Works Act, 1997*, S.O. 1997, c. 25, Sch. A authorized to operate and manage housing under the *Social Housing Reform Act, 2000*, S.O. 2000, c. 27;

AND WHEREAS Ontario Regulation 46/94, as amended, requires that council of a municipality enact a municipal housing facilities by-law prior to entering into a municipal housing project facilities agreement under subsection 210.1(2) of the *Municipal Act*;

AND WHEREAS this by-law complies with the requirements set out in Ontario Regulation 46/94, as amended, of a municipal housing facility by-law.

NOW THEREFORE, Council of The Regional Municipality of York HEREBY ENACTS as follows:

1. In this by-law:
 - (a) “Act” means the *Municipal Act*, R.S.O. 1990, c. M.45, as amended, and its regulations;
 - (b) “affordable rental housing” means affordable rental housing as set out in section 2 of this by-law;
 - (c) “area municipality” means the municipality or corporation of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of

Richmond Hill, the City of Vaughan, the Town of Whitchurch-Stouffville, the Town of East Gwillimbury, the Town of Georgina, and the Township of King;

- (d) “average monthly rent” for any calendar year for a municipal housing project facility means the average monthly rent for that unit type as determined in the annual survey of rents for the area municipality in which the municipal housing project facility is situated for the prior calendar year published by CMHC. If the average monthly rent for a unit type or for an area municipality is not published by CMHC for the prior calendar year, the “average monthly rent” for a unit type in the municipal housing project facility for the calendar year means the average monthly rent for that unit type for the Region for the prior calendar year published by CMHC. If CMHC does not publish an annual survey of average monthly rents for the Region for the prior calendar year, then “average monthly rents” for that calendar year shall be Region-wide average monthly rents for that unit type as determined by the Commissioner;
- (e) “CMHC” means the Canada Mortgage and Housing Corporation;
- (f) “clerk” means the person appointed by Council pursuant to section 73 of the Act;
- (g) “Commissioner” means the Commissioner of Community Services and Housing, or the Commissioner’s delegate;
- (h) “Council” means the Regional Council of The Regional Municipality of York;
- (i) “guideline” for any calendar year means the rent control guideline as determined and published annually by the Minister of Municipal Affairs and Housing under the *Tenant Protection Act, 1997*, S.O. 1997, c.24, as amended, or any successor thereto;
- (j) “household” means individuals and families who will be or are residing in a housing unit within a municipal housing project facility;
- (k) “household income limit” for the purposes of determining a household’s eligibility under section 6 for a housing unit is calculated by means of the following formula:
$$\text{household income limit} = \text{“A”} \times 40$$

where “A” is the average monthly rent for that unit type;
- (l) “housing project” means a project or part of a project designed to provide or facilitate the provision of residential accommodation, with or without any

public space, recreational facilities and commercial space or buildings appropriate thereto;

- (m) “housing provider” means a person who operates a housing project and with whom the Region has entered into or will enter into a municipal housing project facilities agreement under section 3;
 - (n) “housing unit” means a unit in a housing project rented by an occupant for use as rented residential accommodation;
 - (o) “municipal housing project facilities” or “municipal housing project facility” means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 46/94, as amended;
 - (p) “municipal housing project facilities agreement” means a municipal housing project facilities agreement between the Region and a housing provider for the provision of municipal housing project facilities pursuant to a by-law passed by Council pursuant to subsection 210.1(2) of the Act;
 - (q) “Region” means The Regional Municipality of York;
 - (r) “rent supplement agreement” has the same meaning as in the *Social Housing Reform Act, 2000*, S.O. 2000, c. 27, as amended; and
 - (s) “unit type” means the type of housing unit within a municipal housing project facility or potential municipal housing project facility, measured by the number of bedrooms.
2. For the purposes of this by-law, and of all municipal housing project facilities agreements, the definition of “affordable rental housing” shall be municipal housing project facilities in which the monthly rent for a unit type, inclusive of utilities but exclusive of parking, telephone, cable and other similar fees, is less than or equal to the average monthly rent for that unit type.
 3. Subject to section 4, Council may pass by-laws permitting the Region to enter into municipal housing project facilities agreements with housing providers, pursuant to subsection 210.1(2) of the Act, for the provision of the municipal housing project facilities.
 4. The Region shall not enter into a municipal housing project facilities agreement unless it has determined that:
 - (a) Council has enacted a by-law authorizing the entering into of the municipal housing project facilities agreement for the provision of the municipal housing project facility;
 - (b) all of the housing units to be provided to households that are eligible for housing units as part of the municipal housing project facility meet the definition of affordable rental housing as set out in section 2;

- (c) the Region continues to be a delivery agent under the *Ontario Works Act, 1997* authorized to operate and manage housing under the *Social Housing Reform Act, 2000*;
 - (d) public eligibility for the housing units to be provided as part of the municipal housing project facility will be determined in accordance with sections 6 and 7; and
 - (e) the municipal housing project facilities agreement to be entered into contains the provisions set out in section 8.
5. Upon passing of a by-law referred to in section 3, 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.
6. A household shall be eligible for a housing unit within a municipal housing project facility if, at the time of the household's application for the housing unit, the gross income of the household for the twelve (12) month period prior thereto is equal to or less than the then household income limit for that unit type.
7. Housing units subject to a municipal housing project facilities agreement shall not be rented to the housing provider or shareholder, officer or director of the housing provider, or any individual not at arm's length as defined under the *Income Tax Act, R.S.C. 1985 (5th Supp.) c. 1*, as amended, to the housing provider or shareholder, officer or director of the housing provider unless the housing provider is a non-profit co-operative as defined in the *Co-operative Corporations Act, R.S.O. 1990, c. C.35*, as amended, or is a not-for-profit corporation.
8. The municipal housing project facilities agreements shall include but shall not be limited to the following terms and conditions:
- (a) the term of the agreement, which shall be no less than twenty (20) years;
 - (b) the number of housing units being provided which shall not be less than three (3) housing units;
 - (c) each housing unit to be provided in the municipal housing project facility meets the definition of affordable rental housing set out in section 2;
 - (d) each housing unit to be provided shall be made available only to households that are eligible in accordance with sections 6 and 7;
 - (e) the housing provider be prevented from renting to individuals not at arm's length to the housing provider, its shareholders, officers, and directors in accordance with section 7;
 - (f) the housing provider shall not increase the monthly rent in a housing unit in the municipal housing project facility provided to a household during the term of their tenancy by an amount that exceeds the then guideline;

- (g) commencing in the sixteenth (16th) year of the term of the municipal housing project facilities agreement and for each subsequent year until expiration of the agreement, the housing provider will be permitted to reduce the number of housing units available that meet the definition of affordable rental housing in a municipal housing project facility by a maximum of twenty percent (20%) per year;
 - (h) the Region may register the agreement on title;
 - (i) the conditions attached to the financial or other assistance given to the housing provider;
 - (j) the conditions respecting the sale, transfer, mortgage, or assignment of the municipal housing project facility;
 - (k) the housing provider shall be required to report annually and submit documentation therefor to the satisfaction of the Commissioner;
 - (l) the consequences if the housing provider fails to comply with the terms and conditions of the agreement, which may include that the housing provider pay to the Region the financial assistance that has been provided to the housing provider; and
 - (m) other terms and conditions satisfactory to the Commissioner and the Regional Solicitor, which may include, but which are not limited to, any and all forms of property transactions together with any and all general or specific security as the Commissioner and the Regional Solicitor consider necessary or desirable.
9. As a condition of the Region entering into a municipal housing project facilities agreement with a housing provider, the Region may require that the housing provider enter into a rent supplement agreement with the Region for a portion of the housing units to be provided concurrently with the municipal housing project facilities agreement.
10. 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 the municipal land or buildings that are still required for the purposes of the Region.
11. (1) 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:
- (a) provide for financial or other assistance at less than fair market value or at no cost to the housing provider, which assistance may include:
 - (i) giving or lending money and charging interest;

(ii) giving, lending, leasing or selling property.

(b) subject to subsections 210.1(15), (17), (18) and (19) of the Act, exempt from taxation for municipal and school purposes on a full or partial basis, land or a portion of it on which the municipal housing project facilities are or will be located that:

(i) is the subject of a municipal housing project facilities agreement;

(ii) is owned or leased by the housing provider who has entered into the municipal project facilities agreement; and

(iii) is entirely occupied and used or intended to be used as a municipal housing project facility.

(2) (a) If a municipal housing project facilities agreement contains those provisions set out in section 1(b) hereof, a by-law distinct from the by-law referred to in section 3 shall be enacted, and the information set out in section 1(b) hereof shall be set out in that by-law, and the by-law shall specify an effective date which shall be the date of passing of the by-law or a later date.

(b) A by-law enacted under section 2(a) hereof and a municipal housing project facilities agreement containing the provisions set out in section 1(b) hereof may provide for a full or partial exemption for the municipal housing project facility from the payment of development charges imposed by the Region under the *Development Charges Act, 1997*, S.O. 1997, c.27.

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

ENACTED AND PASSED this 19th day of December, 2002.

Denis Kelly

Regional Clerk

Bill Fisch

Regional Chair