

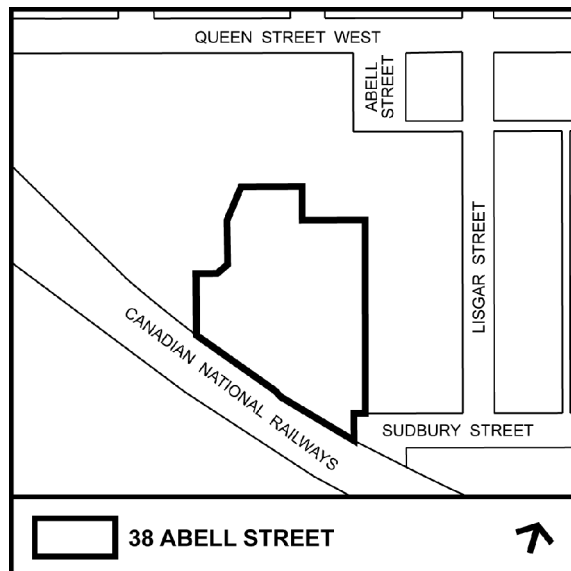
**Providing Tax Exemption to Support 20 New Affordable Non-Profit Rental Homes at 38 Abell Street**

<b>Date:</b>	June 1, 2010
<b>To:</b>	Affordable Housing Committee
<b>From:</b>	Sue Corke, Deputy City Manager
<b>Wards:</b>	Ward 18 – Davenport
<b>Reference Number:</b>	

**SUMMARY**

At its meeting on May 11 and 12, 2010, City Council directed staff to immediately commence an Official Plan Amendment (OPA) process to allow 20 condominium registered rental units at 38 Abell Street (formerly known as 150 Sudbury Street) for the purpose of receiving municipal financial support for affordable rental housing. These units would be owned and operated by Toronto Artscape Inc. (“Artscape”).

At its meeting to be held on June 22, 2010, Toronto and East York Community Council will be considering the proposed OPA at a statutory public meeting. Together with the OPA, site specific amendments to the City’s Municipal Housing Facility By-law will allow Artscape to benefit from an exemption from property taxes and will allow them to offer rents at 80% of CMHC average market rents. The 20 new affordable rental units will be integrated into a condominium development. This will also assist in meeting the City’s goal of creating 1,000 new affordable homes annually as set out in the Housing Opportunities Toronto (HOT) ten-year plan. Construction is underway with occupancy scheduled for August 2010.



This report discusses and recommends site specific amendments to the City's Municipal Housing Facility By-law, which are required to implement Council's direction.

## **RECOMMENDATIONS**

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### **The Deputy City Manager recommends that:**

1. City Council adopt a by-law amending the definition of "housing project" in By-law No. 282-2002, the Municipal Housing Facility By-law, to exempt the affordable rental housing units at 38 Abell Street from the restriction that affordable rental housing projects not be registered condominiums, in the form of the by-law appended as Attachment No. 1 to the report from the Director, Affordable Housing Office dated June 1, 2010, if the required Official Plan Amendment, being considered at a statutory public meeting during Toronto and East York Community Council's meeting to be held June 22, 2010, is adopted by City Council.
2. City Council recommend an exemption from taxation for municipal and school purposes for the 20 affordable rental housing units to be operated by Toronto Artscape Inc. at 38 Abell Street for a period of twenty-five years, if the required Official Plan Amendment, being considered at a statutory public meeting during Toronto and East York Community Council's meeting to be held June 22, 2010, is adopted by City Council.
3. Upon City Council adopting Recommendation No. 2, above, City Council adopt a by-law, pursuant to Section 3(1) of By-law 282-2002, the Municipal Housing Facility By-law, to permit the City to enter into a municipal housing project facility agreement.
4. Upon City Council adopting Recommendation No. 3, above, City Council adopt a site specific by-law, pursuant to Section 5(2) of By-law 282-2002, the Municipal Housing Facility By-law, to exempt from taxation for municipal and school purposes, the 20 affordable rental housing units to be operated by Toronto Artscape Inc. at 38 Abell Street for a period of twenty-five years.
5. City Council authorize the City Solicitor to make such stylistic and technical changes to the by-law referred to in Recommendation 1, above, as may be required.
6. City Council grant authority to the Director, Affordable Housing Office to negotiate and enter into a municipal housing project facility agreement with Toronto Artscape Inc., or such other corporation controlled by it, to secure the ongoing affordability of the 20 rental housing units being exempted from taxation, on such terms and conditions, including the taking of security, as the Director, Affordable Housing Office considers appropriate and in a form satisfactory to the City Solicitor, if the Official Plan Amendment being considered at a statutory

public meeting during Toronto and East York Community Council's meeting to be held June 22, 2010, is adopted by City Council.

7. City Council grant authority to and direct the Director, Affordable Housing Office to execute, on behalf of the City, the municipal housing project facility agreement, and any security or financial documents required to facilitate the tax exemption, upon Recommendation No. 2, above, being adopted.

### **Financial Impact**

The proposed property tax waivers for 20 affordable housing units will benefit Toronto Artscape Inc. ("Artscape") from municipal assistance for the provision of affordable rental housing.

Artscape, a non-profit housing provider, is providing 68 units of live/work affordable rental and ownership housing at 38 Abell Street, of which 20 live/work affordable rental units will be available for rent at 80% of the Canada Mortgage and Housing Corporation's (CMHC) average market rent for the City of Toronto.

The property tax exemption for 20 affordable rental units over 25 years is currently estimated at a Net Present Value of \$510,000 over the 25-year term or \$25,500 per year.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

### **DECISION HISTORY**

#### **Housing Opportunities Toronto (HOT)**

Providing municipal assistance through property tax exemptions and integrating affordable units within new condominiums are two practices that are in keeping with the City's Housing Opportunities Toronto: An Affordable Housing Action Plan 2010-2020, as adopted by Council in August 2009. The initiative at 38 Abell Street demonstrates directly how the City is assisting in the creation of private and non-profit partnerships to build new affordable housing.

#### **City Council**

At its meeting on May 11, 12, 2010, City Council adopted the recommendations from the Executive and Affordable Housing Committees. City Council amended the Executive Committee recommendations by extending the term to 25 years of property tax waivers from the originally recommended 20 years. City Council's decision document can be accessed at this link: <http://www.toronto.ca/legdocs/mmis/2010/cc/decisions/2010-05-11-cc49-dd.htm>. City Council adopted the following recommendations (EX43.29):

1. City Council approve in principle the following recommendations as set out below:

- a. Exempt the 20 affordable rental housing units to be operated by Toronto Artscape Inc. at 150 Sudbury Street from taxation for municipal and school purposes for a period of 25 years.
- b. Grant authority to the Director, Affordable Housing Office, in consultation with City Finance and City Legal, to amend the definition of "housing project" in By-law No. 282-2002, the City's Municipal Housing Facility By-law, to exempt the affordable rental housing units at 150 Sudbury from the restriction that affordable rental housing projects not be registered condominiums.
- c. Grant authority to the Director, Affordable Housing Office to negotiate and enter into a municipal capital facility agreement with Toronto Artscape Inc., or such other corporation controlled by it, to secure the ongoing affordability of the rental housing units being exempted from taxation, on such terms and conditions, including the taking of security, as the Director considers appropriate and in a form satisfactory to the City Solicitor.
- d. Grant authority to, and direct the Director, Affordable Housing Office to execute, on behalf of the City, the municipal housing facility agreement, and any security or financial documents required thereby.

Parts 1a to d above are conditional on staff immediately bringing forward a site specific official plan amendment to allow condominium registered units owned by Artscape at 150 Sudbury Street as affordable rental housing to the Toronto East York Community Council.

2. City Council request the Chief Planner and Executive Director, City Planning, in consultation with Deputy City Manager Sue Corke and Director, Affordable Housing Office, to bring forward to Planning and Growth Management Committee any needed changes to the Official Plan to facilitate affordable rental housing owned by a non-profit housing provider within a registered plan of condominium on a City-wide basis.
3. City Council thank Toronto Artscape Inc. for its work in making new affordable housing opportunities available for artists in Toronto and request Toronto Artscape Inc. to work with the Affordable Housing Office to expand its efforts to all parts of Toronto to meet the housing needs of low and moderate income artists.
4. City Council authorize the appropriate officials to take the necessary action to give effect thereto.

This report responds to the Council's direction (in Recommendation 1, above) to exempt the 20 affordable rental units from taxation purposes for a period of 25-years.

### **Executive Committee Recommendations**

At its meeting on April 19, 2010 the Executive Committee adopted the recommendations from the Affordable Housing Committee. The decision document can be accessed at this link: <http://www.toronto.ca/legdocs/mmis/2010/ex/decisions/2010-04-19-ex43-dd.htm>.

These recommendations arose from recommendations from the Affordable Housing Committee, which can be accessed at this link:

<http://www.toronto.ca/legdocs/mmis/2010/ex/bgrd/backgroundfile-29373.pdf>.

### **Toronto and East York Community Council Recommendations**

At its meeting on May 25, 2010, Toronto and East York Community Council (TEYCC) considered Planning staff's Preliminary Report on the City Initiated Official Plan Amendment dated April 27, 2010 and adopted the recommendations. The Preliminary Report can be accessed at this link:

<http://www.toronto.ca/legdocs/mmis/2010/te/bgrd/backgroundfile-30270.pdf>

At its meeting on January 12, 2010, the TEYCC considered a Planning Report (dated November 23, 2009), from the Director, Community Planning, which recommended, among other matters, amendments to the 150 Sudbury Street site specific Zoning By-law 1169-2009, Section 14, to amend the definition of "artist live/work studio" to mean,

a dwelling unit containing a studio space for the production of art and that a minimum of 20 of such units in Building A will be rented at no more than 0.8 times the CMHC average market rent for dwelling units of similar size in the City of Toronto and inhabited only by a working artist and his or her household.

City Council has yet to enact Bills amending the site specific By-law, but at its meeting on January 26 and 27, 2010. Staff's understanding is that these Bills for enactment will be before City Council at its meeting on July 6 and 7, 2010. City Council adopted the recommendations contained in the Planning Report, which can be accessed at this link:

<http://www.toronto.ca/legdocs/mmis/2010/te/bgrd/backgroundfile-25914.pdf> City

Council's decision document can be accessed at this link:

<http://www.toronto.ca/legdocs/mmis/2010/cc/minutes/2010-01-26-cc45-mn.htm>.

### **Ontario Municipal Board Decision**

On January 8, 2008 the Ontario Municipal Board approved By-law 1169-2009 with respect to the lands at 150 Sudbury Street. The proposed development consisted of 2 buildings, both of which are under construction. As part of the Section 37 community benefits approved in the Ontario Municipal Board (OMB) decision the developer agreed to sell at a specified cost to either the City, or an arts organization approved by the City, 5,200 square meters of space in the first building, to be used as artist live/work studios. The space was to be sold to the City at below market costs to ensure that the units were affordable.

### **ISSUE BACKGROUND**

The Affordable Housing Committee on April 8, 2010, considered a letter (dated March 22, 2010) from Councillor Adam Vaughan, requesting support for recommendations to

implement the intent of the Council-approved settlement for 150 Sudbury Street by implementing a waiver of property taxes for affordable housing developed at this location by Artscape. Artscape had previously purchased the space approved by the OMB for artist live/work studios. Councillor Vaughan's letter to the Affordable Housing Committee can be accessed at this link:

<http://www.toronto.ca/legdocs/mmis/2010/ah/bgrd/backgroundfile-28680.pdf>

The 20 artist live/work studio units will have rents set at a maximum of 0.8 times the affordable rent levels as defined in the Official Plan, which means rent levels at 0.8 times the CMHC average market rent for the City. These rent levels will be secured through the municipal housing project facility agreement, which the City will enter into with Artscape (see Recommendations 3, 6, and 7 in this report).

## **Community Consultation**

As a component of the Official Plan Amendment process, on May 19, 2010, City staff hosted a community consultation meeting at the Gladstone Hotel. A representative from Artscape and one area resident attended the meeting. The comment staffed received from the area resident in attendance was that the proposed affordable live/work studios are essential to keeping artists in the area.

## **COMMENTS**

### **Proposed Official Plan Amendment**

The Official Plan definition of "rental housing" explicitly excludes condominium-registered units as a result of legal advice received during the formulation of the Plan. That legal advice was to the effect that a Section 37 or other agreement which attempts to secure rental housing cannot over-ride the rights conferred by the Condominium Act, which means that despite the agreement provisions, individual condo-registered units could be sold and the municipality may not be able to enforce the agreement terms securing the units as rental units.

The Planning report from the Director, Community Planning, Toronto and East York District (TEYCC) (dated May 26, 2010) recommends approval of an Official Plan Amendment allowing rental housing to be registered as condominium units. The Planning report will be considered by TEYCC at its meeting being held on June 22, 2010. In the Planning report, staff is recommending that the public interest be further protected in the site-specific Official Plan Amendment by adding a requirement that the rental tenure of the units be extended beyond the initial term so that the two terms combined would total 50 years, and be secured in one or more suitable agreements. Artscape has agreed to this provision.

The three OPA conditions upon which staff would support the securing of condominium-registered units as rental units at 38 Abell Street are as follows:

- a. the units are secured in one or more agreements as affordable rental units for at least 25 years, in accordance with the Official Plan definitions (as amended to allow condo-registered units);
- b. the units are owned by a non-profit housing provider (Toronto Artscape Inc. fulfills this condition); and
- c. the units are secured in one or more agreements as rental housing for an additional term beyond the initial affordable rental housing term, for a combined total term of at least 50 years.

Should TEYCC, Affordable Housing Committee and Executive Committee adopt staff's recommendations, all recommendations will be considered together at City Council's meeting on July 6, 7, 2010.

### **Municipal Housing Facility By-law (By-law 282-2002)**

Among other matters, the City's Municipal Housing Facility By-law No. 282-2002 establishes the City's definition for affordable housing according to the *Municipal Act, 1990*, as amended. The By-law can be accessed at this link:

<http://www.toronto.ca/legdocs/bylaws/2002/law0282.pdf>

In order to implement Council's direction with respect to 38 Abell Street, in consultation with City Planning and Legal Services staff, Affordable Housing Office staff is recommending three site specific by-laws related to the Municipal Housing Facility By-law. The first by-law (Attachment 1 to this report) is an amendment to the definition of "housing project" (a term used to define affordable housing) in the Municipal Housing Facility By-law. The Municipal Housing Facility By-law defines "housing project" as:

“a project or part of a project designed to provide or facilitate the provision of rental residential accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto, which project or part of a project is not a registered condominium.”

The recommended amendment to the Municipal Housing Facility By-law, as set out in Recommendation 2 of this report would exempt the affordable rental housing units at 38 Abell Street from the restriction that affordable rental housing projects not be registered condominiums.

Secondly, By-law 282-2002, Paragraph 3(1) requires City Council to pass a site-specific by-law permitting the City to enter into a municipal housing project facility agreement. The second by-law recommended (Recommendation No. 3) in this report is the by-law permitting the City to enter into an agreement with Artscape for the provision of municipal capital facilities, being 20 units of affordable rental housing units at 38 Abell Street.

The third by-law recommended (Recommendation No. 4) in this report related to the Municipal Housing Facility By-law is the site-specific by-law exempting the 20 affordable rental housing units to be operated by Artscape at 38 Abell Street from

taxation for municipal and school purposes for a period of twenty-five years, as required by section 5(2) (a) of By-law 282-2002.

In addition to the by-laws related to the Municipal Housing Facility By-law, this report recommends that Council grant authority to the Director, Affordable Housing Office to enter into the municipal capital facilities agreement with Artscape to secure the affordability term (25 years) and the units as rental units for 50 years. This agreement will set out the terms and conditions for Artscape to fulfill in order to benefit from the property tax waivers for a period of 25 years.

Similar to other affordable housing developments that receive such municipal assistance, staff from the Affordable Housing Office and the Social Housing Unit will monitor the affordability of units.

### **CONTACTS**

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### **SIGNATURE**

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Sue Corke  
Deputy City Manager

### **ATTACHMENT**

Attachment 1: Draft Amendment to Municipal Housing Facility By-law



## Attachment 1: Draft Amendment to Municipal Housing Facility By-law

Authority: Executive Committee Report EX43.29, as adopted by City of Toronto Council on May 11 and 12, 2010.

Enacted by Council:

**CITY OF TORONTO**

**BY-LAW No. ~ -2010**

**To amend By-Law No. 282-2010 "To enact a Municipal Housing Facility By-Law" to amend the definition of housing project to allow Council to exempt the rental housing units at 38 Abell Street from the restriction that affordable rental housing projects not be registered as condominiums.**

WHEREAS section 252 of the *City of Toronto Act* (the "Act") allows the Council to enter into agreements for the provision of municipal capital facilities: and

WHEREAS Ontario Regulation 598/06 sets out the classes of municipal capital facilities for which Council may enter into agreements pursuant to section 252 of the Act, one of which is affordable housing;

WHEREAS the City enacted By-Law 282-2002, "To enact a Municipal Housing Facility By-Law" which characterized affordable housing, through a definition for "housing project";

WHEREAS the definition of housing projects excludes rental housing that has been registered under a plan of condominium from being characterized as affordable housing; and

WHEREAS, by adopting the recommendations made in Report No. EX43.29, the City authorized an amendment to By-Law 282-2002 to characterize the twenty rental housing units at 38 Abell Street, which will be registered under a plan of condominium, as affordable housing.

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The definition of "housing project" in By-law No. 282-2002 "To enact a Municipal Housing Facility By-law" shall be amended to read:

""housing project" means a project or part of a project designed to provide or facilitate the provision of rental residential accommodation, with or without any public space, recreational facilities and commercial space or buildings appropriate thereto, which project or part of a project is not a registered condominium, save

and except for the twenty (20) rental housing units located within the building at 38 Abell Street, which building will be registered as a condominium."

ENACTED AND PASSED this      day of July, A.D. 2010.

SANDRA BUSSIN,  
Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)