

Clause embodied in Report No. 4 of the Planning and Transportation Committee, as adopted by the Council of the City of Toronto at its meeting held on April 16, 17 and 18, 2002.

**5****New Affordable Rental Housing:  
Municipal Housing Facility By-law**

*(City Council on April 16, 17 and 18, 2002, adopted this Clause, without amendment.)*

The Planning and Transportation Committee unanimously recommends that the joint report (March 1, 2002) from the Commissioner of Urban Development Services and the Acting Commissioner of Community and Neighbourhood Services be adopted subject to amending Recommendation (6) by adding two additional provisions, and amending Recommendation (8)(a) by adding the words “and the continued need for incentives”, so that the Recommendations, as amended, now read:

- “(1) City Council adopt the framework set out in this report which enables the City to partner with both the private and non-profit sectors for the creation of affordable housing, and that City Council enact a Municipal Housing Facility By-law in the form, or substantially in the form, of the draft by-law attached as Appendix A to this report;
- (2) City Council, by enacting a Municipal Housing Facility By-law, expand the current range of assistance for the production of new affordable rental housing:
  - (a) to the private sector, through loans and/or grants from the Capital Revolving Fund for Affordable Housing or the capital budget; surplus municipal land pursuant to the existing Housing First policy; reduction of, or exemption from, municipal development charges; and
  - (b) to both the private and non-profit sectors through exemption from property taxes (municipal and education);
- (3) City Council approve each decision on specific assistance to any affordable housing project pursuant to recommendations (1) and (2);
- (4) City Council approve the framework for tenant eligibility and access set out in this report for housing units created under the Municipal Housing Facility By-law to ensure that the units accommodate a range of households with low and moderate incomes, including households on the social housing waiting list;
- (5) City Council approve the definition of affordable housing contained in this report for the purposes of the Municipal Housing Facility By-law;

- (6) City Council approve the provisions to be contained in all site-specific agreements to be entered into by the City for the provision of municipal housing project facilities as set out in this report together with the following two additional provisions:**
- (i) the initial rents to be charged per unit, the method by which the initial rents may be increased during the term of the agreement and the limits on such increases; and**
  - (j) other terms and conditions satisfactory to the City Solicitor and the Acting Commissioner of Community and Neighbourhood Services, which may include, but which are not limited to, any and all forms of property transactions as the Commissioner and the City Solicitor consider necessary and desirable;**
- (7) the Acting Commissioner of Community and Neighbourhood Services be directed to issue one or more competitive Requests for Proposals (RFPs) in 2002, taking into account the expanded assistance provided through the Municipal Housing Facility By-law, and including provisions to the following effect:**
- (a) half of the available assistance will be directed to private-sector proposals and half to non-profit sector proposals, subject to possible adjustments due to program rules or the merits of proposals received;**
  - (b) proposed housing developments may receive assistance from the City alone or from a combination of City and senior government sources, subject to funding availability and program rules for the latter;**
  - (c) the maximum total of loans and grants to be provided through City assistance for 2002 shall not exceed the unallocated balance in the Capital Revolving Fund; and**
  - (d) specific assistance for each proposed housing development will be subject to Council approval and enactment of a site-specific by-law;**
- (8) the Acting Commissioner of Community and Neighbourhood Services be directed, in consultation with the Commissioner of Urban Development Services, the City Solicitor, and the CFO and Treasurer, to:**
- (a) report annually on activity under the Municipal Housing Facility By-law, including, achievement of targets, the types and amounts of assistance, status of new allocations, adherence to terms and conditions for occupied affordable housing developments and the continued need for incentives;**
  - (b) report on any required modifications to the Municipal Housing Facility By-law within 2 years of its adoption; and**

- (9) **this report be forwarded to the Community Services Committee for information at its meeting on March 27, 2002; and**
- (10) **the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.**

The Planning and Transportation Committee reports, in accordance with the foregoing Recommendation (9), having forwarded this report to the Community Services Committee for information at its meeting on March 27, 2002.

**The Planning and Transportation Committee submits the following joint report (March 1, 2002) from the Commissioner, Urban Development Services and the Acting Commissioner, Community and Neighbourhood Services:**

Purpose:

To bring forward a Municipal Housing Facility By-law in accordance with Ontario Regulation 189/01 for Council approval. The By-law will facilitate the provision of new affordable rental housing by the private sector, as well as the non-profit sector, in partnership with the City of Toronto. The By-law will enable the City to co-ordinate its assistance with federal assistance under the new affordable housing program.

Financial Implications and Impact Statement:

The Chief Financial Officer and Treasurer was consulted in the preparation of this report and concurs with the following financial impact statement:

There is no net budgetary impact in 2002 from the recommendations of this report. Funds to be made available to affordable housing development from the proposed 2002 request(s) for proposals (RFP) equal the existing \$16.5 million unallocated balance in the Capital Revolving Fund for Affordable Housing. Leases of City sites, on favourable terms under this policy, may result in forgone revenue but will be the subject of site-specific recommendations to Council.

Revenue foregone under this policy is potential revenue only. Most of the units receiving assistance under Let's Build, including the proposed Municipal Housing Facility By-law, would not be developed in the absence of City and/or other senior government assistance, and would therefore not generate any revenues. Let's Build funding for 2003 and future years, including assistance under the proposed Municipal Housing Facility By-law, will come forward for consideration by City Council at a later time.

Any federal funding made available under the RFP will be at no cost to the City. Combining City with federal assistance will enable affordable housing developments to include a higher proportion of units below maximum affordable rent thresholds.

Recommendations:

It is recommended that:

- (1) City Council adopt the framework set out in this report which enables the City to partner with both the private and non-profit sectors for the creation of affordable housing, and that City Council enact a Municipal Housing Facility By-law in the form, or substantially in the form, of the draft by-law attached as Appendix A to this report;
- (2) City Council, by enacting a Municipal Housing Facility By-law, expand the current range of assistance for the production of new affordable rental housing:
  - (a) to the private sector, through loans and/or grants from the Capital Revolving Fund for Affordable Housing or the capital budget; surplus municipal land pursuant to the existing Housing First policy; reduction of, or exemption from, municipal development charges; and
  - (b) to both the private and non-profit sectors through exemption from property taxes (municipal and education);
- (3) City Council approve each decision on specific assistance to any affordable housing project pursuant to recommendations 1 and 2;
- (4) City Council approve the framework for tenant eligibility and access set out in this report for housing units created under the Municipal Housing Facility By-law to ensure that the units accommodate a range of households with low and moderate incomes, including households on the social housing waiting list;
- (5) City Council approve the definition of affordable housing contained in this report for the purposes of the Municipal Housing Facility By-law;
- (6) City Council approve the provisions to be contained in all site-specific agreements to be entered into by the City for the provision of municipal housing project facilities as set out in this report;
- (7) the Acting Commissioner of Community and Neighbourhood Services be directed to issue one or more competitive Requests for Proposals (RFPs) in 2002, taking into account the expanded assistance provided through the Municipal Housing Facility By-law, and including provisions to the following effect:
  - (a) half of the available assistance will be directed to private-sector proposals and half to non-profit sector proposals, subject to possible adjustments due to program rules or the merits of proposals received;
  - (b) proposed housing developments may receive assistance from the City alone or from a combination of City and senior government sources, subject to funding availability and program rules for the latter;

- (c) the maximum total of loans and grants to be provided through City assistance for 2002 shall not exceed the unallocated balance in the Capital Revolving Fund; and
  - (d) specific assistance for each proposed housing development will be subject to Council approval and enactment of a site-specific by-law;
- (8) the Acting Commissioner of Community and Neighbourhood Services be directed, in consultation with the Commissioner of Urban Development Services, the City Solicitor, and the CFO and Treasurer, to:
- (a) report annually on activity under the Municipal Housing Facility By-law, including, achievement of targets, the types and amounts of assistance, status of new allocations, and adherence to terms and conditions for occupied affordable housing developments; and
  - (b) report on any required modifications to the Municipal Housing Facility By-law within 2 years of its adoption;
- (9) this report be forwarded to the Community Services Committee for information at its meeting on March 27, 2002; and
- (10) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

At its meeting on July 24, 25, & 26, 2001, City Council endorsed the Rental Action Plan report entitled: "Unlocking the Opportunity for New Rental Housing: A Call to Action" and, among other actions, directed:

"the Commissioner of Urban Development Services, the Commissioner of Community and Neighbourhood Services and the City Solicitor to prepare a Municipal Housing Facilities By-law, in accordance with Ontario Regulation 189/01, to facilitate the provision of new affordable rental housing by the private sector as well as the non-profit sector in partnership with the City of Toronto."

This report has been prepared in compliance with the direction by City Council. The Chief Financial Officer and Treasurer was consulted in its preparation. The City Solicitor was also consulted in the preparation of this report and concurs with all legal aspects of it.

Comments:

In 2001, the City of Toronto, together with other Ontario municipalities including Peel, Hamilton, Ottawa, and Waterloo, called on the province to take action to encourage new rental housing production, including more affordable rental housing. Responding to the call to action, the province passed Ontario Regulation 189/01 that made affordable housing an eligible municipal capital facility under Section 210.1 of the Municipal Act. The new regulation and a provincial background note providing more information are attached as Appendices B and C.

Section 210.1 of the Municipal Act grants municipalities the authority to enter into agreements with for-profit partners for the provision of municipal services and facilities, and to provide financial and other forms of assistance to such partners without violating the ‘bonusing’ provisions of the Municipal Act. With the addition of affordable housing to the list of eligible municipal capital facilities, municipalities can offer incentives and financial assistance, including an exemption from property taxes, to for-profit and/or non-profit providers, in exchange for commitments to provide affordable housing.

In the past, according to advice from the City Solicitor, municipalities in Ontario could only provide incentives for the creation of affordable housing to providers who were not carrying on a commercial enterprise with a view to profit. Throughout this report the term “private sector” will be used to describe persons carrying on a commercial enterprise with a view to a profit.

For the City of Toronto, the Municipal Housing Facility By-law (the By-law) is the next step in its affordable housing development strategy, which currently includes loans and grants from the Capital Revolving Fund for Affordable Housing, surplus municipal lands under the City’s Housing First policy, and exemptions from municipal development charges, building permit and planning application fees, and parks levies for non-profit affordable rental housing.

The affordable housing development strategy for the City is implemented through the Let’s Build program which issues requests for proposals (RFPs) leading to Council approval of each project. A progress report on Let’s Build was made to City Council at its meeting in December 2001. In Let’s Build to date, the City has funded approximately 30 cents out of every dollar of non-profit project development costs, enabling projects to lever the remaining 70 cents from other equity and mortgage sources.

Both the non-profit and the private sector have a role to play in creating new affordable housing. Private partnerships can offer significant advantages. The private sector has equity, which is important in obtaining the mortgage financing needed to get a housing development started. It has land – a form of equity and in some cases ready-to-go sites. The private sector also has the capacity to deliver significant volumes quickly because of its expertise and the potential for economies of scale.

The By-law, in addition to being an extension of existing Let’s Build activity and of Council policies to encourage private rental development, will also position the City to co-ordinate allocation of the new federal affordable housing program, currently being negotiated with the province, using processes and practices already in place through the City’s Let’s Build program.

#### 1. Municipal Housing Facility By-law – Required Elements

In order for the City to enter into an agreement respecting municipal housing project facilities a by-law must be enacted which: (i) defines “affordable housing”; (ii) establishes eligibility policies and tenant access criteria; and (iii) includes a summary of provisions to be contained in the related agreements.

Affordable Housing Definition:

This report recommends that average market rents for the City of Toronto as reported each October in the CMHC Rental Market Survey (by unit type, including utilities, and applied for the duration of the following calendar year) be established as the affordable rent ceilings for housing assisted under the By-law. For the purposes of the By-law, it is recommended that affordable housing be defined as housing units with rents at or below these affordable housing ceilings.

These affordable rent ceilings for 2002 are as follows:

Unit Type	Average Monthly Market Rent
Bachelor	\$698
1-Bedroom	\$870
2-Bedroom	\$1,039
3-Bedroom	\$1,248

A key objective of the City is to ensure that a range of low and moderate income households are served (e.g. the working poor including those on the social housing waiting list). Rents in units created through the By-law, in many cases, will be lower than these affordable rent ceilings, and will remain so for longer than the 10-year minimum. However, this will depend on the level of assistance provided by the City and other levels of government. For example, in some cases, Let's Build has been able to assist in the production of housing with units renting for as low as the maximum shelter component of social assistance. As well, most Let's Build housing developments have agreements for at least twenty-five years.

The intent is to have at least 25% of new units created under the By-law available to rent-g geared-to-income tenants under rent supplement agreements, subject to funding availability. Three tiers of affordable rents are described in the next section, while further comments are made in the section below on 2002 targets.

As the Tenant Protection Act does not regulate rents in new buildings, agreements for each housing development assisted under the By-law will require that annual rent increases be limited to the guideline or to average market rents, depending on the type of development.

Eligibility Policies and Tenant Access Criteria:

Tenant eligibility criteria for publicly funded affordable units are required by the provincial regulation, in addition to being a concern of Council. A policy adopted in June 1999 provided that "...whenever City land or funding is used to lever below market rents in housing projects, applicants for that housing be drawn from social housing waiting lists or from the shelter system." Access criteria ensure that new affordable rental units go to moderate and low-income households, that people on the Housing Connections waiting list be housed, and that there is a fair and open application process.

Housing built under Let's Build, the Municipal Housing Facility by-law, and the new affordable housing program funded by senior governments will have three types of units, in terms of access, as follows:

(i) Rent-geared-to-income (RGI) units:

These are units where rent supplement bridges the gap between what the tenant can afford to pay (30 percent of gross household income from all sources) and a rent which is at or below the affordable rent ceiling. Rent supplement is part of the devolved social housing programs to be administered by the City and the Toronto Community Housing Corporation under the Social Housing Reform Act. Access rules in provincial legislation and regulations apply. Applicants must be taken from the Housing Connections waiting list, with certain exceptions for “hard-to-house” residents and people with special needs housed under referral agreements with support agencies.

(ii) “Low-rent units” which are not geared-to-income (non-RGI):

In these units, rents are less than 80 percent of average market rent but not RGI. These are a new part of the affordable housing system, created by the strategy of relying on capital subsidy. For “low-rent units”, the tenants selected must come from the Housing Connections waiting list and/or from waiting lists of recognized agencies such as housing help centres (with similar “hard-to-house” and referral exceptions as in RGI). Specific access requirements will be established for particular types of projects and set out in the agreements.

(iii) “Moderate-rent units”

Moderate-rent units will have rents between 80% and 100% of the affordable rent ceiling (average market rent by unit type). They require a different approach from the other categories, because few applicants from the waiting list or the shelter system will have enough income to afford them. They are intended to serve the rental housing needs of households with incomes at or near the average tenant income without the same kind of income testing that applies to RGI units.

The two access concerns for “moderate-rent units” are that: (1) they are not taken-up by higher-income tenants, and (2) there is a fair process for tenant selection. An initial income limit will apply to all tenants at the point they first rent a unit, ensuring that no household pays less than 25 percent of income on rent. This ensures the eligibility of those at or near average tenant income but excludes higher-income tenants. Access will be administered by the landlord, subject to fair process requirements set out in the agreements.

Provisions of Agreements:

The By-law is required by regulation to include a summary of the provisions that agreements respecting municipal housing project facilities will contain. It is recommended that all agreements entered into by the City for the provision of municipal housing project facilities pursuant to the By-law contain at least the following provisions:

- (a) the term of the agreement, which will be a minimum of ten years;
- (b) the number of housing units to be provided under the agreement;
- (c) that each housing unit being provided meet the definition of affordable housing as set out above;
- (d) that each housing unit be made available to tenants in accordance with the eligibility policies and tenant access criteria set out above;



- (e) the benefits, such as grants, loans, City-owned land, property tax exemptions and development charge exemptions, being provided by the City;
- (f) that agreements be registered on title;
- (g) that the housing provider be required to submit annual and other documentation to the satisfaction of the Acting Commissioner of Community and Neighbourhood Services; and
- (h) other terms and conditions satisfactory to the City Solicitor and the Acting Commissioner of Community and Neighbourhood Services.

Overview of Key Provisions in the By-law:

(a) Type of Housing Eligible:

It is recommended that eligibility be restricted to new purpose-built rental housing (i.e. not buildings which have been registered as a condominium).

At this time, existing rooming houses and existing rental housing are not proposed for eligibility but may be reconsidered as part of a review of potential modifications to the By-law in 2003. Affordable ownership housing is not proposed for eligibility under the By-law. Such a program requires a different set of program delivery, financial, monitoring, enforcement and legal tools. The Commissioner of Urban Development Services and the Acting Commissioner of Community and Neighbourhood Services have been requested to report on potential options for providing municipal support for affordable ownership housing. These reports will be forthcoming.

(b) Recommended Municipal Assistance:

Following the endorsement of the Mayor’s Homelessness Action Task Force in 1999, City Council adopted a range of actions to encourage the production of new rental housing, including more affordable rental housing. The following table shows the existing incentives that have been implemented by the City and the additional incentives available through the By-law:

Incentive	- In place now	
	New – available with By-law X – not available with By-law	
	Non-Profit	Private
New multi-residential property tax class		
Recognizing low to mid-range rental housing as contribution in return for approving increased height and density on a site (s.37) subject to certain conditions		
Loans and grants from Capital Revolving Fund		New
Provision of surplus land at reduced/nominal cost		New
Exemption from municipal development charges		New
Planning fees, building permit fees and parkland dedication requirements exemption		X
Exemption from municipal property taxes (including education taxes)	New	New

While the City currently exempts most new non-profit affordable rental housing from building permit and planning application fees, and parks levies, the new regulation does not list fees and park levies as eligible supports to be provided to the private sector. The regulation does permit the City to make available most incentives to the private sector that it already provides to the non-profit sector: loans and grants from the Capital Revolving Fund, the provision of surplus land at reduced or nominal cost, and exemptions from municipal development charges.

The new regulation provides an additional incentive for both non-profit and private sector housing providers. Housing approved by Council pursuant to the By-law can be exempted from both municipal and education portions of property taxes for the term of the agreement, provided all conditions are met.

A property tax exemption on a typical new rental property is estimated as involving foregone revenues of just under \$100 per month per unit. The opportunity cost is negligible because what is forgone is potential future revenue from a project that, without assistance, would not be built.

A property tax exemption can significantly improve the economic viability of affordable rental housing because it increases the level of mortgage funding banks are willing to provide, as well as providing the City with a useful mechanism for ensuring ongoing compliance over the term of the agreement. As with all municipal supports, the type and level of assistance to be provided generally and to be provided to specific developments can be limited by Council decisions and/or by using the RFP process.

(c) Municipal Assistance Not Recommended:

Two other forms of assistance permitted by the new regulation are not recommended.

Loan guarantees have the potential to expose the City to an unknown degree of risk and are not recommended. The Canada Mortgage and Housing Corporation assesses lending risk and provides guarantees for rental housing through mortgage insurance for a fee. Consequently, it is not necessary for the City to venture into the loan guarantee business.

Making the services of municipal employees available as a form of municipal assistance is also not recommended. Let's Build staff presently assist applicants in moving through the process from funding application to the construction stage. This is not a service to applicants but rather a necessary administrative and due diligence function of the City.

(d) Administrative and Implementation Issues:

Administration Through Let's Build:

The By-law, if approved, will be administered by Let's Build staff in the Shelter, Housing and Support Division, with ongoing support by Legal, Audit, Finance, and Planning staff as required. Additional expert advice will be sought from the existing Capital Revolving Fund Reference Group as well as third-party financial analysis. The overall process, as follows, will be very similar to the current Let's Build process:

- the City will issue competitive requests for proposals, offering a certain combination and amount of assistance. RFPs may involve City and federal assistance under the new affordable housing program; they may be targeted to either or both the private sector and/or non-profit sector. In some cases, a Request for Expressions of Interest (REI) may be followed by an RFP to a short list;
- staff will review the proposals received. Criteria include project viability, rent levels, duration of affordability, amount of assistance, eligibility for federal or other funding; ability to lever other resources; time to completion, etc. Affordability is assessed in terms of mix and duration of affordable market rent units, rent supplement units, and low-rent units. An independent financial analysis will form part of the review by staff. The value of assistance provided must correspond to the value and duration of the affordability;
- proposals short-listed by staff will be reviewed by the Capital Revolving Fund Reference Group, an advisory body to the Commissioner of Community and Neighbourhood Services, the CFO/Treasurer and the CAO, with expertise in development, finance, affordable housing, and related matters. It abides by a conflict of interest policy; and
- recommendations are made to Council on assistance and terms and conditions for each proposed housing development. Council's decision is by way of adopting recommendations, enacting a site-specific by-law, and authorizing the entering into of agreements. Staff then work with selected proponents to refine their proposals, and a site-specific agreement for the provision of the municipal housing project facility will be finalized along with any other relevant agreements.

The value of affordability obtained for a given amount of public assistance may vary depending on changes in market conditions, from time to time. As a result, through the competitive RFP process, each proposal is examined as a business case. All housing developments approved under the By-law are required to obtain the necessary planning approvals through the usual process.

#### Monitoring and Enforcement of Agreements:

Housing providers will be required to meet performance criteria set out in a site specific by-law and affordable housing agreement. The agreement will include conditions giving the City the right to monitor performance and take action in cases of non-compliance, with the type of action to be taken varying depending upon the nature and extent of the breach. Key requirements will include remittance of annual reports by the housing provider and a detailed compliance review by City staff at least every 5 years. The City's general objective is to support housing providers in complying with conditions in the agreements.

Agreements will be monitored by Shelter, Housing and Support Division staff. This will be an additional function of Social Housing Administration staff whose primary role, as of May 2002, will be to administer the devolved social housing programs. To the extent possible, monitoring processes for housing developments approved under the By-law will be harmonized with those for social housing to streamline administration and ensure greater operational efficiency and effectiveness.

## 2. Affordable Housing in 2002

Activity under the By-law will essentially be an extension of current Let's Build activity, and will be co-ordinated with federal funding expected to be available in 2002 under the new affordable housing program.

City funding commitments for 2002, if Council approves the by-law, will be the unallocated balance of \$16.5 million in the Capital Revolving Fund. Certain surplus sites now being considered for affordable housing through the interdepartmental Property Management Committee may also be made available. Based on experience to date, it is expected that current surplus lands available and the 2002 balance of the Capital Revolving Fund, plus some property tax exemptions, could support development of up to 400 affordable units.

Funding under the new affordable housing program will be the subject of further reporting to the Community Services Committee by the Acting Commissioner of Community and Neighbourhood Services. At the time of writing this report, the federal and Ontario governments are negotiating an agreement on the delivery of the program in Ontario, estimated to involve about \$245 million over 5 years. Maximum federal funding under the program will average \$25,000 per unit.

The program details have not yet been announced. However, the following is generally understood: (1) the program in Ontario will be delivered by municipalities ("service managers"); (2) Toronto will receive a significant share of funding; (3) a combination of non-profit and private-sector production will be involved; and (4) affordable housing will be defined as at or below average market levels.

City and senior government funding will be co-ordinated. Beyond that, there are indications that enactment of a Municipal Housing Facility By-law may be a prerequisite for municipalities to access funding under the program. The federal \$25,000 will be combined with City and any provincial assistance to achieve more units that are affordable, or units with lower rents. RFP processes, project selection, terms and conditions of funding, and ongoing monitoring processes will be co-ordinated to ensure cost-effectiveness and avoid conflicting requirements.

Federal funding in 2002 is likely to be greater than the proposed City assistance. Based on indications of a likely Toronto share of funding, it is expected that up to 900 units could be targeted for funding approval in a first-year cycle of activity. City assistance would be stacked on the federal \$25,000 (average) per unit to ensure adequate depth of affordability.

The City's intent is to achieve a target of at least 25% of units for rent-gear-to-income (RGI) tenants under rent supplement agreements, subject to funding availability. The Acting Commissioner of Community and Neighbourhood Services will report further on this matter to the Community Services Committee.

It is recommended that the target should be to support an approximately equal number of private sector affordable units and non-profit affordable units under the 2002 funding cycle. This is a goal. Adjustments may be recommended depending on the number and quality of proposals received as well as the rules for the new affordable housing program.

In sum, development targets for the 2002 RFP cycle could be up to 900 units if federal funding is forthcoming as expected under the new affordable housing partnership program, and up to 400 in the event that only City assistance is available. This may be modified depending on rules for the new program, and the types of proposals received.

### (3) Program Reporting and Review

Consistent with requirements for the Capital Revolving Fund, an annual report will be made to Council, through Community Services Committee, which will provide a comprehensive review of activity under the program, the municipal supports allocated, and results achieved.

The By-law includes new areas of municipal activity, such as partnering with the private sector to create new affordable housing. As the City gains experience with such partnerships, amendments to the By-law may be needed to respond to changing circumstances, to improve program performance, or to take advantage of new senior government funding programs. It is recommended that a program review be undertaken within 2 years of the adoption of the By-law. This may involve recommendations to Council for changes to the By-law.

### Conclusions:

In July 2001, City Council directed staff to prepare a Municipal Housing Facility By-law, in accordance with Ontario Regulation 189/01, to facilitate the provision of new affordable rental housing by the private sector, as well as the non-profit sector, in partnership with the City of Toronto.

This report outlines required elements of the By-law, including defining affordability, establishing eligibility criteria for accessing the units, and determining the key provisions to be contained in the requisite agreements, and provides an overview of a range of operational issues, such as the type of assistance to be provided, program delivery mechanisms, due diligence, and enforcement and compliance. Adoption of the By-law and provision of City assistance as set out in this report should lead to development of up to 400 new affordable rental housing units under the 2002 funding cycle. If federal funding is provided up to 900 units may be built.

The Municipal Housing Facilities By-law provides the City with additional tools to strengthen current efforts to encourage the provision of affordable rental housing for low and moderate income households in the City. By combining City incentives with other programs and resources, the City will be able to achieve the production of housing accessible to households on the social housing waiting list as well as to add to the stock of affordable rental housing.

### Contacts:

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## Appendix A

Authority: Community Council/Committee Report No. , Clause No. , as adopted by City of Toronto Council on [Note: If the authority refers to a past Council, please insert all three dates; if it refers to a current Council meeting, just insert the first day of the Council meeting]

Enacted by Council:

### **CITY OF TORONTO**

Bill No.

### **BY-LAW No.**

### **DRAFT**

### **To enact a Municipal Housing Facility By-law**

WHEREAS section 210.1 of the *Municipal Act* (the “Act”) allows the council of a municipality to enter into agreements for the provision of municipal capital facilities; and

WHEREAS Ontario Regulation No. 46/94 sets out the classes of municipal capital facilities for which municipal councils may enter into agreements pursuant to section 210.1 of the Act; and

WHEREAS Ontario Regulation No. 189/01 was filed on May 31, 2001 to amend Ontario Regulation No. 46/94 to add “municipal housing project facilities” to the class of municipal capital facilities for which municipal councils may enter into agreements pursuant to section 210.1 of the Act; and

WHEREAS Ontario Regulation No. 46/94, as amended, requires that a municipal council enact a municipal housing facility by-law prior to entering into an agreement under section 210.1 of the Act for the provision of municipal housing project facilities; and

WHEREAS Ontario Regulation No. 46/94, as amended, requires that a municipal housing facility by-law contain a definition of “affordable housing”, policies regarding public eligibility for the housing units to be provided as part of the municipal capital facilities, and a summary of the provisions that agreements respecting municipal housing project facilities are required to contain; and

WHEREAS Council is desirous of enacting a municipal housing facility by-law to permit Council to enter into agreements for the provision of municipal housing project facilities; and

WHEREAS this by-law contains the elements required by Ontario Regulation No. 46/94, as amended, of a municipal housing facility by-law.

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

1. In this by-law:

- (a) “Act” means the *Municipal Act*, R.S.O. 1990, c. M.45, as amended;
- (b) “affordable housing” means housing units meeting the definition set out in section 2;
- (c) “average rents” for any calendar year means average monthly City-wide rents by unit type for that calendar year as determined and published annually by CMHC; if CMHC does not publish an annual survey of City-wide rents for any calendar year, then “average rents” for that calendar year shall be City-wide average rents as determined by the Commissioner;
- (d) “CMHC” means the Canada Mortgage and Housing Corporation;
- (e) “City” means the City of Toronto;
- (f) “Commissioner” means the City’s Commissioner of Community and Neighbourhood Services or his or her designate;
- (g) “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;
- (h) “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;
- (i) “housing provider” means a person with whom the City has entered into or will enter into a municipal housing project facilities agreement under section 3;
- (j) “housing unit” includes a unit in a housing project rented by an occupant;
- (k) “initial income limit” means an income at which average rents equal twenty-five (25) per cent of household income;
- (l) “low-rent units” means housing units, to which a rent supplement agreement does not apply, with monthly occupancy costs below 80 per cent of average rents;
- (m) “moderate-rent units” means housing units, to which a rent supplement agreement does not apply, with monthly occupancy costs at or greater than 80 per cent and at or below 100 per cent of average rents;

- (n) “monthly occupancy costs” means the sum of the monthly rent payable to the landlord of a housing unit and monthly charges for hydro, heat, water and hot water payable in respect of the housing unit; “monthly occupancy costs” do not include charges for parking, cable, telephone or any other like charges;
  - (o) “municipal housing project facility” means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation No. 46/94, as amended;
  - (p) “municipal housing project facility agreement” means an agreement as set out in section 3;
  - (q) “rent-geared-to-income units” means housing units, to which a rent supplement agreement applies, with monthly occupancy costs at or below average rents;
  - (r) “rent supplement agreement” has the same meaning as in the *Social Housing Reform Act*, S.O. 2000, c. 27, as amended;
  - (s) “unit type” means the type of housing unit by number of bedrooms.
2. For the purposes of this by-law, and of all municipal housing project facility agreements, the definition of affordable housing shall be housing units with monthly occupancy costs at or below average rents;
3. (1) Subject to (2) hereof, Council may pass by-laws permitting the City to enter into municipal housing project facility agreements, pursuant to section 210.1 of the Act, for the provision of municipal housing project facilities;
- (2) Prior to entering into a municipal housing project facility agreement, the following conditions must be met:
- (a) Council has enacted a by-law authorizing the entering into of the municipal housing project facility agreement for the provision of the municipal housing project facility;
  - (b) all the housing units to be provided as part of the municipal housing project facility meet the definition of affordable housing as set out in section 2;
  - (c) the City 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 section 4; and



- (e) the municipal housing project facility agreement to be entered into contains the provisions set out in section 7.
4. (1) Subject to (2) hereof, eligibility for housing units to be provided as part of a municipal housing project facility will be determined for the following types of housing units in accordance with the following:
- (a) for rent-g geared-to-income units, tenants will be selected in accordance with the *Social Housing Reform Act*, regulations under that Act, and any policies adopted by the City in accordance with that Act;
  - (b) for low-rent units, tenants will be selected either in the same manner as for rent-g geared-to-income units or from the waiting lists of non-profit agencies satisfactory to the Commissioner;
  - (c) for moderate-rent units, tenants will be selected by the landlord provided that, when entering into an initial tenancy for the housing unit, the tenant has a household income at or below the initial income limit, and provided that tenant selection is carried out through a non-discriminatory process to the satisfaction of the Commissioner.
- (2) Housing units subject to a municipal housing project facility agreement shall not be rented to the housing provider or shareholder or director of the housing provider, or any individual not at arm's length to the housing provider or shareholder 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.
5. (1) A municipal housing project facilities agreement may, with respect to the provision, lease, operation, and maintenance of the municipal housing project facility that is subject to the municipal housing project facility 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 sections 210.1(15), (17), (18) and (19) of the Act, exempt from taxation for municipal and school purposes land or a portion of it on which the municipal housing project facility is or will be located that:
    - (i) is the subject of a municipal housing project facility agreement;
    - (ii) is owned or leased by the housing provider; and
    - (iii) is entirely occupied and used or intended for use as a municipal housing project facility.

- (2) (a) If a municipal housing project facility agreement contains those provisions set out in (1)(b) hereof, a by-law distinct from the by-law referred to in section 3(1) shall be enacted, and the information set out in (1)(b) hereof shall be inserted into 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 (2)(a) hereof and a municipal housing project facility agreement containing the provisions set out in (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 City under the *Development Charges Act, 1997, S.O. 1997, c.27*.
6. A municipal housing project facility agreement may allow for the sale or other disposition of municipal land or buildings that are still required for the purposes of the City.
7. Municipal housing project facility 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 ten (10) years;
  - (b) the number of housing units being provided;
  - (c) that each housing unit in the municipal housing project facility meets the definition of affordable housing set out in section 2;
  - (d) that each housing unit shall be made available to tenants in accordance with section 4;
  - (e) a list of the benefits being conveyed to the housing provider in accordance with sections 5 and 6;
  - (f) that the City may register the agreement on title;
  - (g) that the housing provider shall be required to submit documentation to the satisfaction of the Commissioner;
  - (h) other terms and conditions satisfactory to the City Solicitor and the Commissioner.

ENACTED AND PASSED this    nd day of            , A.D. 2002.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

The Planning and Transportation Committee also had before it the following material and copies thereof are on file in the office of the City Clerk, City Hall:

- Appendix B - Ontario Regulation 46/94 as amended by O.Reg. 189/01 and Appendix C - Provincial Background Note on O.Reg. 189/01, appended to the foregoing joint report (March 1, 2002) from the Commissioner, Urban Development Services and the Acting Commissioner, Community and Neighbourhood Services;
- communication (March 19, 2002) from Brad Butt, Executive Director, Greater Toronto Apartment Association forwarding comments respecting the recommendations contained in the staff report; and
- communication (March 22, 2002) from Jim Murphy, Director, Government Relations, Greater Toronto Home Builders' Association forwarding comments respecting the recommendations contained in the staff report.

*(City Council on April 16, 17 and 18, 2002, had before it, during consideration of the foregoing Clause, the following communication (March 27, 2002) from the City Clerk:*

*The Community Services Committee on March 27, 2002, had before it a report (March 6, 2002) from the Acting Commissioner of Community and Neighbourhood Services submitting, for information, a copy of a joint report dated March 1, 2002, from the Commissioner of Urban Development Services and the Acting Commissioner of Community and Neighbourhood Services, addressed to the Planning and Transportation Committee headed "New Affordable Rental Housing: Municipal Housing Facility By-law".*

*The Committee also had before it a communication (March 26, 2002) from the City Clerk advising that the Planning and Transportation Committee on March 25, 2002, unanimously recommended to Council the adoption of the joint report from the Commissioner of Urban Development Services and the Acting Commissioner of Community and Neighbourhood Services, with amendments to Recommendations Nos. (6) and (8)(a), as outlined therein.*

*The Committee received the aforementioned report and communication; and directed that City Council be advised accordingly.)*