

Authority: Executive Committee Item EX10.18, adopted as amended, by City of Toronto Council on December 9 and 10, 2015

CITY OF TORONTO

BY-LAW No. 124-2016

To enact a new Municipal Facility Housing By-law and to repeal By-law No. 282-2002.

Whereas the City passed By-law No. 282-2002 being a municipal housing facility by-law, pursuant to the provisions of section 110 of the *Municipal Act* and Ontario Regulation 46/94, to set out the definitions of and policies regarding the public eligibility for new affordable rental housing; and

Whereas Report 4, Clause 5 of the Planning and Transportation Committee contemplated a review of the by-law and a report with respect to required modifications within two years of the passing of the by-law; and

Whereas section 252 of the *City of Toronto Act, 2006* now allows the City 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 the City of Toronto may enter into such agreements, one of which is municipal housing project facilities; and

Whereas the City wishes to amend By-law No. 282-2002 by repealing it and replacing it with a new and updated municipal housing facility by-law; and

Whereas the City continues to be the delivery agent under the *Ontario Works Act, 1997*, S.O. 1997, c. 25, Sch. A, authorized to operate and manage housing under the *Housing Services Act, 2011*, S.O. 2011, c. 6, Sched. 1 and

Whereas this by-law contains the elements of a municipal housing facility by-law required by Ontario Regulation No. 598/06;

The Council of the City of Toronto enacts:

1. City of Toronto By-law No. 282-2002 is repealed.
2. In this new by-law:
 - (a) "Act" means the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A, as amended;
 - (b) "Affordable Housing", for the purpose of this by-law and all municipal housing facility agreements:
 - (i) for new affordable rental housing, means housing units with monthly occupancy costs at or below Average Market Rents; and

- (ii) for assisted ownership housing, means housing units with a sale price at or below the Average Resale Price of a home.
- (c) "Average Market Rents" means average monthly City-wide rents by unit type as determined in the annual fall survey of City-wide rents for the prior calendar year published by the Canada Mortgage and Housing Corporation (CMHC); if CMHC does not publish an annual fall survey of City-wide rents for the prior calendar year, then Average Market Rents for the calendar year shall be City-wide average rents as determined by the Director;
- (d) "Average Resale Price" means the average City-wide resale price of a home as reported by the Ministry of Municipal Affairs and Housing (MMAH); if MMAH does not publish an Average Resale Price, then the Average Resale Price shall be determined by the Director;
- (e) "CMHC" means the Canada Mortgage and Housing Corporation;
- (f) "City" means the City of Toronto;
- (g) "Director" means the Director of the City's Affordable Housing Office, his designate or successor;
- (h) "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;
- (i) "housing project facility" 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;
- (j) "housing provider" means a person with whom the City has entered into or will enter into a municipal housing project facilities agreement under section 4;
- (k) "housing unit" includes a unit in a housing project owned or rented by an occupant;
- (l) "initial income limit" means a gross household income at or below four times the annualized monthly occupancy cost for the housing unit;
- (m) "low-rent units" means housing units, with monthly occupancy costs at or below 80 per cent of average rents and to which a rent supplement agreement or housing allowance does not apply;
- (n) "moderate-rent units" means housing units, with monthly occupancy costs at or greater than 80 per cent and at or below 100 per cent of average rents to which a rent supplement agreement does not apply;

- (o) "monthly occupancy costs" means in the case of a rental housing unit, the sum of the monthly rent payable to the landlord for a housing unit and monthly charges for hydro (separately or bulk metered), heat, water and hot water payable in respect of that housing unit; "monthly occupancy costs" do not include charges for parking, cable, telephone or any other like charges;
 - (p) "municipal housing project facility" means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation 598/06, as amended;
 - (q) "municipal housing project facility agreement" means an agreement as set out in Section 3;
 - (r) "rent-geared-to-income units" means housing units, to which a rent supplement agreement applies, with monthly occupancy costs at or below average rents;
 - (s) "rent supplement agreement" has the same meaning as in the *Housing Services Act*, S.O. 2011 c. 6, Sched. 1, as amended; and
 - (t) "unit type" means the type of housing unit by number of bedrooms.
3. (1) Subject to (2), Council may pass by-laws permitting the City to enter into municipal housing project facility agreements, pursuant to section 252 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 applicable definition of affordable housing as set out in section 2 of this by-law;
 - (c) the City continues to be a delivery agent under the *Ontario Works Act, 1997* authorized to operate and manage housing under the *Housing Services Act, 2011*; and
 - (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.
4. (1) Subject to (2), eligibility for housing units to be provided as part of a municipal housing project facility will be determined as follows:

- (a) for rent-geared-to-income units, tenants will be selected in accordance with the *Housing Services Act, 2011*, 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-geared-to-income units or from the City's centralized waiting list or from the waiting lists of community agencies, non-profit agencies or other groups satisfactory to the Director;
 - (c) for moderate-rent units, tenants will be selected by the landlord provided that, when entering into the tenancy for the housing unit, the tenant has an 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 Director; and
 - (d) for assisted home ownership units, homebuyers will be selected by the vendor, provided that homebuyer selection is carried out through a non-discriminatory process to the satisfaction of the Director, homebuyers are selected from the waiting lists of community agencies, non-profit agencies or other groups, and can include income and other homebuyer eligibility requirements as required by the City from time to time.
- (2) Housing units subject to a municipal housing project facility agreement shall not be rented or sold to a shareholder or director of a 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. A municipal housing project facility agreement may, with respect to the provision, lease, operation and maintenance of a municipal housing project facility that will be operated as new affordable rental housing at or below Average Market Rent:
- (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; and
 - (ii) giving, lending, leasing or selling property.
 - (b) exempt land or a portion of it on which a municipal housing project facility is or will be located from payment of all or part of the development charges imposed by the City pursuant to the *Development Charges Act, 1997*.
 - (c) subject to section 252(6) of the Act, exempt from taxation for municipal and school purposes land or the portion of it on which the municipal housing project facility is or will be located that:

- (i) is owned or leased by the housing provider; and
 - (ii) is entirely occupied and used or intended for use as a municipal housing project facility.
 - (d) if a municipal housing project facility agreement contains those provisions set out in (c), a by-law distinct from the by-law referred to in section 4(1) shall be enacted and the information set out in (c) 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.
6. A municipal housing project facility agreement may, with respect to the provision of an assisted home ownership municipal housing project facility:
- (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; and
 - (ii) giving, lending, leasing or selling property.
 - (b) provide development charges imposed by the City pursuant to the *Development Charges Act, 1997*, at a preferred or discounted rate, or offer a deferral of all or a portion of the development charges, for the land or a portion of it on which a municipal housing project facility is or will be located.
7. Municipal housing project facility agreements for affordable rental housing shall include but shall not be limited to the following terms and conditions:
- (a) the term of the agreement;
 - (b) that each housing project facility meets the definition of affordable rental housing set out in Section 2(b)(i);
 - (c) that each housing unit shall be made available to tenants in accordance with section 4(a), (b) and (c);
 - (d) a list of benefits being conveyed to the housing provider in accordance with section 5;
 - (e) the monthly occupancy costs which can be charged for each housing unit in the municipal housing project facility for the first year of the term and the mechanism by which such monthly occupancy costs may annually increase and the restrictions on such annual increases; and
 - (f) other terms and conditions satisfactory to the City Solicitor and the Director, 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 Director and the City Solicitor consider necessary and desirable.

8. Municipal housing project facility agreements for assisted home ownership housing shall include but shall not be limited to the following terms and conditions:
- (a) the term of the agreement;
 - (b) that each housing project facility meets the definition of assisted home ownership housing set out in Section 2(b)(ii);
 - (c) that each housing unit shall be made available to homebuyers in accordance with section 4(1);
 - (d) a list of benefits being conveyed in accordance with section 7;
 - (e) the legal mechanism to be used to secure the City benefits made available for the development of the housing unit;
 - (f) the method of determining the allocation of capital gains between the City and the homeowner on sale, if any; and
 - (g) other terms and conditions satisfactory to the City Solicitor and the Director, 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 Director and the City Solicitor consider necessary and desirable.

Enacted and passed on February 4, 2016.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)