



Authority: Item 11 Committee of the Whole
Report 03-016 (PD03122)
CM: June 11,2003

Bill No. 148

CITY OF HAMILTON

BY-LAW NO. 03-148

To Adopt a Municipal Housing Facility By-law

WHEREAS the City is the Service Manager under the *Ontario Works Act, 1997* and is authorized to operate and manage housing, as well as to establish, fund and administer programs for the provision of residential accommodation in its Service Area under the *Social Housing Reform Act*;

AND WHEREAS section 110 of the *Municipal Act, 2007*, as amended, allows the council of a municipality to enter into agreements for the provision of municipal capital facilities;

AND WHEREAS Ontario Regulation No. 46/94 as amended to No. 401/02 sets out the classes of municipal capital facilities for which municipal councils may enter into agreements, one such class being municipal housing project facilities;

AND WHEREAS that Regulation requires that a municipal council enact a municipal housing facility by-law prior to entering into an agreement;

AND WHEREAS Council wishes to increase the supply of affordable housing by providing financial assistance at less than fair market value to private sector and community-led non-profit housing providers;

NOW THEREFORE the Council of the City enacts as follows:

1. In this by-law:

- (a) "Act" means the *Municipal Act, 2007*;
- (b) "affordable housing" means with respect to municipal housing project facilities, housing units that satisfy the definition set out in section 4;

- (c) “Agreement” means a municipal housing project facilities agreement as set out in section 2;
- (d) “average CMHC rent” for municipal housing project facilities at any time means:
 - (i) for apartments, the average monthly market rent by bedroom type for privately-initiated apartment structures containing 6 or more units for the amalgamated City, as determined and amended by CMHC; or,
 - (ii) for townhouses, the average monthly market rent by bedroom type for privately-initiated townhouse structures for the amalgamated City, as determined and amended by CMHC.
- (d) “CMHC” means Canada Mortgage and Housing Corporation;
- (e) “City” means the municipal corporation known as the City of Hamilton or the geographic area of the City, as the context requires;
- (f) “Council” means the Council of the City;
- (g) “Director” means the City’s Director of Housing of the Planning and Development Department or his or her designate;
- (h) “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;
- (i) “housing provider” means a person legally entitled to own real property in Ontario;
- (j) “housing unit” includes a unit in a housing project rented by an occupant;
- (k) “municipal housing project facilities” means the class of municipal capital facilities prescribed by paragraph 18 of section 2 of Ontario Regulation No. 401/02, as amended;
- (l) “municipal housing project facilities by-laws” means a by-law enacted by Council pursuant to paragraph 18 of section 2 of Ontario Regulation 401/02, as amended;


- (m) “structure type” means the type of residential dwellings to be constructed, i.e., apartments or townhouses; and,
 - (n) “unit size” means the size of a units within municipal housing project facilities or potential municipal housing project facilities, measured by the number of bedrooms,
2. Council may pass municipal housing project facilities by-laws in accordance with the Act permitting the City to enter into municipal housing project facilities agreements with housing providers for the provision of municipal housing project facilities;
 3. Upon passing of a municipal housing project facilities by-law referred to in section 2 of this by-law, the City Clerk shall give written notice of the by-law to the Provincial Minister of Education and Training or successor, as set out in the Act;
 4. The definition of “affordable housing” for the purpose of a municipal housing project facilities agreement shall be municipal housing project facilities in which the average monthly rent by structure type and each unit size, exclusive of utilities, parking, telephone, cable and other related fees, is less than or equal to the most current average CMHC rent for the amalgamated City for that respective unit size and structure type;
 5. The City shall not enter into an Agreement noted in section 2 of this by-law unless it has been determined to the satisfaction of the Director of Housing that the housing units to be provided as part of the municipal housing project facilities fall within the definition of affordable housing;
 6. Under no circumstances shall a housing unit be made available at any time during the period the municipal housing project facilities agreement is in force:
 - (a) at a monthly rent that is not within the definition of affordable housing as outlined in section 4 of this by-law, as the case may be; and,
 - (b) to individuals or families who, if at the time the housing unit was initially rented to them, would already own residential property, as determined by the housing provider after making all reasonable inquiries.
 7. Every municipal housing project facility agreement shall contain the following provisions to the following effect or shall satisfy the following requirements, as the case may be:

- (a) the term of the Agreement shall not be less than 15 years;
- (b) the housing project shall provide no fewer than 3 housing units;
- (c) each unit within the housing project shall meet the definition of affordable housing throughout the term of the Agreement;
- (d) the housing provider and any successor in title shall comply with section 6 so long as the Agreement remains in effect;
- (e) subject to section 8, units subject to the Agreement shall not be rented to the housing provider or shareholders or directors of the housing provider, or any individual not at arm's length to the housing provider;
- (f) the Agreement shall be registered against the title to the property to which it relates;
- (g) the municipal housing project facilities agreement shall be binding on the heir's, successors and assigns of the housing provider;
- (h) during the time period in which the municipal housing project facilities agreement is in force, the housing provider shall, as a condition precedent to a sale of the housing project to a subsequent purchaser, require the subsequent purchaser to enter into an agreement with the City, and that agreement shall impose the remaining term of the municipal housing project facilities agreement on that subsequent purchaser;
- (i) a list of the benefits being conveyed to the housing provider under this by-law, including their estimated present day monetary value;
- (j) where a housing provider fails or refuses carry out its obligations under the Agreement or this by-law, the housing provider shall pay the City the full amount of any financial assistance received or otherwise provided under the Agreement together with interest thereon at the rate of 6 per cent per annum from the date of that default up to and including the date on which payment is received; and,
- (k) such other contractual provisions as the City Solicitor may consider necessary or advisable in his or her discretion in order to protect the interests of the City or the residents of the housing facility to which the agreement relates

8. Despite clause 7(e), units subject to a municipal housing project facilities agreement may be rented to directors of the housing provider or to an individual not at arm's length to directors of the housing provider if:
 - (a) the housing provider is a non-profit housing co-operative as defined in the ***Co-operative Corporations Act***, as amended or a not-for-profit corporation; and,
 - (b) the housing provider is at arm's length to any individual or private for-profit corporation with which the director or individual not at arm's length to the director, as the case may be, has a non-arm's length relationship.
9. A municipal housing project facilities agreement may allow for the lease, operation or maintenance of the municipal housing project facilities by any person and for the sale or other disposition of municipal land or buildings that are still required for the purposes of the City;
10. An Agreement may, with respect to the provision, lease, operation, and maintenance of the municipal housing project facilities that is 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;
 - (iii) providing mortgage and/or lending guarantees; and,
 - (iv) services of municipal employees in kind including project specific legal, planning and development and other administrative assistance, at a liquidated charge of \$2,000 per housing unit.
11. The aggregate amount of assistance provided by the City under section 10 in an Agreement plus any benefits derived from adjustments to the City's New Multi-Residential tax class ratio plus the fair value of assistance provided by the Province of Ontario shall not exceed the amount required to qualify for the maximum cash grant available at the relevant time under the Federal-Provincial Community Rental Housing Program.

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

PASSED and ENACTED this 11th day of June, 2003.



MAYOR



CLERK