

# The Regional Municipality of York

Committee of the Whole  
Community and Health Services  
September 10, 2020

Report of the Commissioner of Community and Health Services

## Update on the *Protecting Tenants and Strengthening Community Housing Act, 2020*

### 1. Recommendation

The Regional Clerk forward this report and attachment to the Minister of Municipal Affairs and Housing and local Members of Provincial Parliament.

### 2. Summary

This report provides an update on the new *Protecting Tenants and Strengthening Community Housing Act, 2020*. This Act represents the second phase of the Province of Ontario's Community Housing Renewal Strategy and amends the *Housing Services Act, 2011* and *Residential Tenancies Act, 2006*, among others. The Act will have significant implications for York Region as Service Manager responsible for the funding, administration and planning of the community housing system.

Key Points:

- The *Protecting Tenants and Strengthening Community Housing Act, 2020* was tabled as Bill 184 on March 12, 2020, and received Royal Assent on July 21, 2020.
- Amendments to the *Housing Services Act, 2011* are broad and enabling, and once enacted through regulations, will impact administration of the Region's subsidized housing wait list and delivery of minimum rent-gear-to-income (RGI) service levels. In addition, it could allow housing providers to exit the community housing system when their program obligations end.
- The province has committed to working with sector stakeholders, including municipal Service Managers, housing sector partners and community housing providers to develop regulations that would enact the changes over the coming years.
- Staff recommend this report and attachment be circulated to the Minister of Municipal Affairs and Housing and local Members of Provincial Parliament.

### 3. Background

#### **As Service Manager, York Region is responsible for community housing**

Community housing, which includes rental units owned and operated by non-profit and cooperative housing providers and Housing York Inc., provides subsidized and affordable housing for low- and moderate-income households. As the Service Manager for community housing, the Region is mandated by the *Housing Services Act, 2011* for the following:

- Maintaining a wait list for subsidized housing
- Funding rent subsidies and maintaining legislated minimum service levels of 3,988 RGI units for low-income households following provincial subsidy rules
- Ensuring community housing providers comply with provincial legislation and funding agreements
- Establishing local eligibility rules, policies, programs and services for community housing
- Allocating and administering funding for federal and provincial housing programs
- Developing and implementing a 10-year housing and homelessness plan

The Region became responsible for community housing in 2000 when the province transferred funding and administrative obligations to 47 municipal Service Managers. The province retained a role as system steward, setting the overall vision and legislative and policy framework for community housing in Ontario. Service Managers became the primary funders of community housing.

#### **Community housing providers are critical stakeholders in the housing system**

Community housing providers play an essential role in York Region's housing system, providing affordable rental homes for more than 6,800 low- and-moderate income households. In addition to Housing York Inc., the Region fulfills its community housing responsibilities through relationships with 44 non-profits and co-operatives which own and operate buildings constructed since the 1960s under a number of federal and provincial capital programs. Relationships with community housing providers vary depending on the program that funded construction of the building.

The Region has legislated responsibility under the *Housing Services Act, 2011* to fund and administer 37 non-profits and co-operatives, which are typically referred to as social housing. These represent the legacy housing providers transferred to the Region from the province. The Region has a contractual agreement with the remaining seven housing providers separate from legislation, referred to as affordable housing, which include buildings constructed since 2002 under new federal and provincial programs. Table 1 summarizes the distribution of community housing units by type.

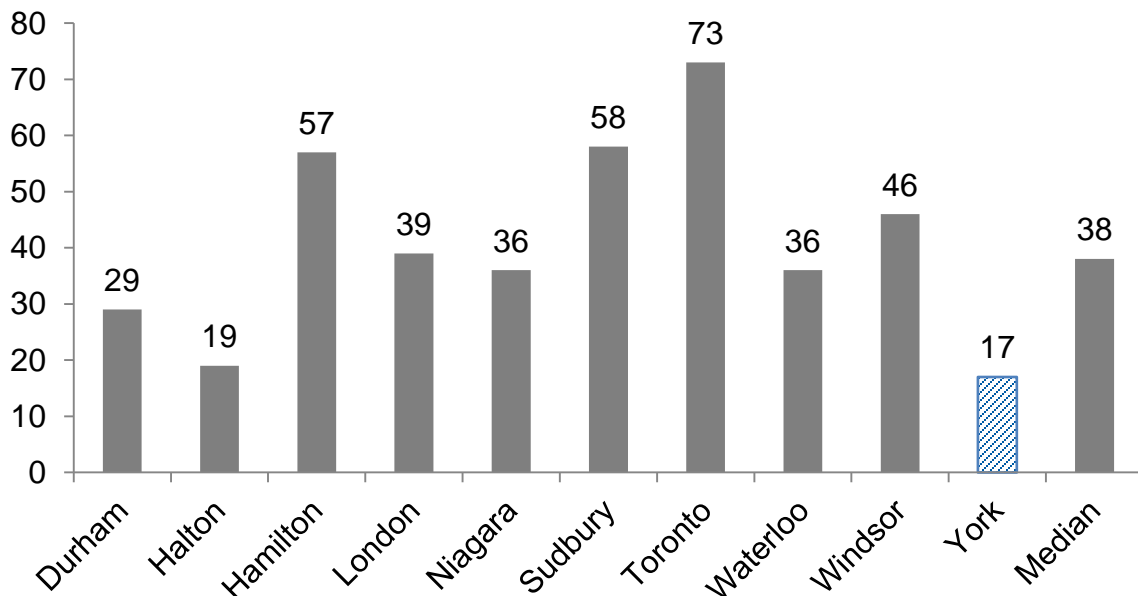
**Table 1****Community Housing Units Administered by York Region**

Type of Community Housing	Number of Housing Units
Non-profit providers <sup>1</sup>	3,301
Co-operative providers <sup>1</sup>	877
Housing York Inc. <sup>2</sup>	2,762
<b>Total</b>	<b>6,940</b>

<sup>1</sup> Non-profit and co-operative providers include 3,320 social housing units transferred to the Region under *Housing Services Act, 2011* Part VII.

<sup>2</sup> Housing York Inc.'s portfolio includes units constructed under several different federal and provincial funding programs, including Public Housing, transferred Part VII units, and Affordable Housing Program-Investment in Affordable Housing.

As outlined in a [March 2020](#) report to Council, the Region has the lowest supply of social housing units relative to its population of all municipalities participating in Municipal Benchmarking Network Canada reporting, with 17 units per 1,000 residents; well below the median of 38 units per 1,000. Figure 1 shows the rate for comparative Service Managers.

**Figure 1****Number of Social Housing Units per 1,000 Households, 2018**

Source: Municipal Benchmarking Network Canada (MBNCanada).

Social housing defined by MBNCanada includes rent-geared-to-income and market rent units transferred to Service Managers in 2001, and rent supplement units under specific programs.

It does not include construction under new affordable housing programs or Regionally-designed rent subsidy programs.

The subsidized housing wait list grew to more than 17,000 households in 2019, while unit turnover continued to decline to under 300 units. With growing demand for affordable rental housing, sustaining the existing stock of community housing is a key objective of [Housing Solutions](#), the Region's 10-year housing and homelessness plan.

### **Council has supported community housing providers by making investments beyond what the Region is legislated to provide**

Housing providers benefit from York Region's Social Housing Innovation Fund, Housing Provider Loan and Subsidy Program, and surplus sharing. The Region also provides training, governance and operational support, and asset management support including project management for capital repair projects, building condition assessments and energy audits.

### **The province released its Community Housing Renewal Strategy in April 2019, with the stated goal of sustaining, repairing and growing the community housing system**

Council received an update on the strategy in [June 2019](#). In its first phase, the province has introduced legislative and regulatory changes intended to streamline and stabilize the community housing system, including changes to wait list administration and simplification of RGI calculation rules. The Region is in the process of implementing the wait list and RGI rules as reported to Council in [June 2020](#).

### **The *Protecting Tenants and Strengthening Community Housing Act, 2020* represents the next phase of the province's renewal strategy**

The *Protecting Tenants and Strengthening Community Housing Act, 2020* amends several housing-related statutes, including the *Housing Services Act, 2011*, *Residential Tenancies Act, 2006*, *Building Code Act, 1992*, and introduces the *Ontario Mortgage and Housing Corporation Repeal Act, 2020*. The province has stated this Act represents the second phase of the Community Housing Renewal Strategy while supporting [More Homes, More Choice: Ontario's Housing Supply Action Plan](#) and a provincial commitment to transform the delivery of Building Code services. Several of the amendments reflect recommendations the Region made to the province through the [June 2019 report](#), including:

- Requesting that the province review service level standards and allow Service Managers to count additional subsidy programs
- Supporting the introduction of local income and asset limits for all Service Managers to better target rent subsidies
- Reviewing provincial wait list administration rules

In addition, the Region has participated in ongoing advocacy to the province to address the future of housing providers whose original program obligations are ending through various

provincial tables and the Ontario Municipal Social Service Association. The Act received Royal Assent on July 21, 2020. A summary of key provisions included in the Act is provided as Attachment 1.

## 4. Analysis

### **The amendments to the *Housing Services Act, 2011* will have significant implications for the Region in its role as Service Manager**

The changes to the *Housing Services Act, 2011* enacted through the *Protecting Tenants and Strengthening Community Housing Act, 2020* will have direct impacts for the Region in its role as the Service Manager for community housing. These changes, to be enacted through regulations in the coming years, include service level standards, wait lists and local eligibility rules, as well as new options for housing providers whose original operating agreements were affected when responsibility for community housing was transferred to Service Managers.

### **Staff will monitor the implications of changes to the *Residential Tenancies Act, 2006* and other housing-related laws**

Although the *Protecting Tenants and Strengthening Community Housing Act, 2020* affects several housing-related laws, the changes to the *Building Code Act, 1992* and the repeal of the Ontario Mortgage and Housing Corporation are not expected to have significant implications for the Region in its role as Service Manager for community housing.

Key changes to the *Residential Tenancies Act, 2006* include new requirements for landlords seeking evictions for reasons such as a renovation, repair or the landlord's own use, to prevent these provisions from being used in bad faith to increase rents beyond the provincial guidelines. These requirements will primarily impact private sector landlords and tenants. In the case of a community housing unit that must be vacated for renovation or repairs, the tenant will typically be offered a transfer to another unit. Preventing "bad faith" evictions may help stabilize market rents in communities such as York Region, although the change will not address the need for more rental housing.

In addition, changes to the Landlord and Tenant Board will impact both private sector landlords and community housing providers, including Housing York Inc. The existing Landlord and Tenant Board mediation process has been amended to allow it to enforce agreements reached through alternative dispute resolution, such as negotiation between the landlord and tenant prior to a hearing. If a tenant does not meet the terms of an agreement, the landlord may apply for an eviction without a hearing. Landlords will also now be able to pursue compensation for matters such as rent arrears, unit damage or utility costs from former tenants through the Landlord and Tenant Board; previously, money owed by tenants who moved out had to be pursued through venues such as Small Claims Court. These changes may streamline the hearing process and provide additional opportunities to recover costs for private sector landlords and community housing providers.

The Landlord and Tenant Board will be required to consider whether a landlord attempted to negotiate a repayment agreement before ordering an eviction for non-payment of rent due to lost income as a result of COVID-19. At this time, it is not clear if landlords will use informal dispute resolution processes or if this will result in an increase in evictions for non-payment of rent as Landlord and Tenant Board hearings resume and pandemic-related income support programs such as the Canada Emergency Response Benefit end. As outlined in the September memo to Council on the Social Services Branch response to COVID-19, staff are closely monitoring these issues; supporting vulnerable residents to maintain their housing remains a priority.

### **The province has committed to reviewing minimum service level standards currently prescribed through legislation**

When responsibility for community housing was transferred to Service Managers, the province established minimum RGI service levels intended to preserve units in place at the time. The Region is required to fund 3,988 RGI units. In 2019, York Region exceeded this requirement, funding 4,129 RGI units through 37 housing providers. Additional investments in housing assistance made by Council are not counted towards minimum service levels, such as Regional Rent Assistance, which provides approximately 300 subsidies through a locally designed program. Service Managers have requested the province broaden the definition of service levels to reflect additional investment in the housing system to respond to growing demand, and to encourage Service Managers to develop housing assistance that are matched to household need. The current method of reporting by the province doesn't accurately reflect the investment and level of support Service Managers are providing to their residents. Updating the service level standards will provide a more accurate picture of local investment into the community housing system.

The amended *Housing Services Act, 2011* continues to require Service Managers to maintain minimum service levels; however, it states any form of assistance described in regulations will count towards service levels. This is a welcome change, as RGI is expensive, administratively complex and not all households applying to the Region's wait list require the depth of support provided by RGI. Currently applicants wait for a unit vacancy to occur to receive a rent subsidy. Moving forward, Service Managers may be able to offer different types of rent assistance, such as a modest or short-term rent subsidy, to applicants living in private market rental units in the community. This change in service level standards will provide flexibility in how Service Managers meet their service level obligations and support more residents in accessing housing.

### **Service Managers should be engaged to ensure the review of service levels does not impose additional costs**

York Region staff support the planned provincial review of service level standards. Demand for affordable housing has increased since Service Managers became responsible for community housing. Many Service Managers have made additional investments in new forms of housing assistance using tax levy funding to respond to growing need and further commitments identified in their 10-year housing and homelessness plans. These initiatives should be considered as part of the service level standard review to better understand the range of strategies being used to provide housing assistance and inform the final regulation.

However, there is a risk the province may increase minimum service levels to reflect population growth and increased demand, which would impose additional costs on Service Managers that cannot be absorbed by the property tax base. Service Managers are a responsible level of government but have limited means to generate revenue. There cannot be a future requirement for municipalities to invest additional funding into the system beyond what is currently mandated. Any increase in service levels should be contingent on ongoing operating funding from the federal and/or provincial governments.

Funding decisions related to the future of community housing must be made by municipal councils and be considered in the context of current fiscal realities faced by all levels of government. Housing provider interests may be different than those of the municipal governments who must pay for them. Due to cost implications associated with regulations relating to service levels, staff encourages the province to engage with Service Managers in developing the regulations on a government-to-government level, recognizing the municipal role in funding community housing.

### **Service Managers will be required to use a prescribed access system for housing assistance that counts toward service levels**

A related amendment addresses the use of an access system, or wait list, for allocating housing supports to households needing assistance. The *Housing Services Act, 2011* already required Service Managers to use a wait list to allocate RGI units. The amendment will also require Service Managers to use the access system to allocate other forms of housing assistance that will be counted towards service levels, as prescribed in future regulations. The impact of this amendment for York Region is currently unknown and will depend on the final regulations. The Region already uses the subsidized housing wait list to allocate non-RGI rent benefits, such as the Regional Rent Assistance Program. At the same time, the Region has advocated for the province to simplify and streamline the existing rules for administration of the wait list. It is unclear how the addition of new programs and services would affect this goal or whether the province is considering significant changes to how the wait list is administered.

### **A new provision of the *Housing Services Act, 2011* will require Service Managers to have local eligibility rules for RGI assistance in prescribed areas**

Currently, Service Managers may choose to implement local eligibility rules for RGI assistance. Under a new provision of the *Housing Services Act, 2011*, future regulations will require Service Managers to establish local eligibility rules with respect to prescribed areas, including potentially requiring income and asset limits. The province plans to work with sector stakeholders to propose local eligibility rules.

Council approved income and asset limits in York Region in [March 2018](#) to better target resources to households most in need. Depending on the requirements set through regulation, the Region may need to revise its income and asset limits to comply with provincial direction. At this time, it is not known if additional requirements or options for local eligibility rules will be proposed through the regulations.

## **The prescribed requirements for local eligibility rules should continue to provide flexibility for Service Managers**

Requiring local eligibility rules is intended to help ensure consistency between Service Managers and prioritize households with greater need. The Region supports both of these goals; however, Service Managers must be engaged in developing the regulations to ensure that the prescribed requirements for local eligibility rules allow for flexibility to respond to the range of housing needs across different parts of the province.

## **Amendments to the *Housing Services Act, 2011* will allow Service Managers and housing providers to enter new relationships when housing provider program obligations end**

Through the Community Housing Renewal Strategy, the province has committed to updating the framework governing community housing in Ontario. Non-profit and cooperative housing providers that received provincial funding to build new units in the 1980s and 1990s, referred to as Part VII providers, originally entered into operating agreements with the province, which were to end once the provider's mortgage matures. In York Region there are 32 Part VII non-profits and co-operatives, representing 3,320 rental units. Housing York Inc. owns an additional 1,025 Part VII units.

When the province transferred responsibility for community housing to Service Managers, individual operating agreements were replaced by the *Social Housing Reform Act, 2000* and, later, the *Housing Services Act, 2011*. The legislation does not prescribe an end date and Part VII housing providers are required to continue to provide community housing – including RGI – after their mortgage matures. Projects could only be removed from the *Housing Services Act, 2011* at the Minister's discretion.

Service Managers, housing providers, and sector organizations including the Ontario Non-Profit Housing Association and the Co-operative Housing Federation of Canada have raised the issue of not having an end date with the province for many years. To address this issue, the province has amended the *Housing Services Act, 2011* to allow Service Managers and housing providers to enter into new agreements once providers fulfill their original program obligations. Baseline standards for new agreements will be set through regulation as well as rules for amending, replacing or terminating agreements. The province has stated the purpose of this change is to incent housing providers to stay in the system once original obligation end and allow new providers to enter the system. It is not clear, however, whether the new agreements would require Service Managers to provide new funding to encourage continued participation in the system.

## **The amendments may also allow Part VII housing providers to leave the community housing system**

While the province has stated the amendments are intended to encourage Part VII providers to remain in the community housing system, it has also made amendments to allow providers to stop providing community housing through exit agreements. To exit the system, a housing provider would be required to enter into an exit agreement with a Service Manager and provide joint notice to the Minister of Municipal Affairs and Housing. The province proposes



that future regulations set out baseline rules and requirements for a housing provider to exit the system, including protecting tenants and public investment in the system.

This amendment may pose considerable risk for the sustainability of the community housing system. It is unclear whether the regulations will require Service Managers to agree to housing providers exiting the system should they wish to do so. If a non-profit or co-operative housing provider does exit the system, the Region could see a loss of community housing units and its ability to house applicants off the subsidized housing wait list (there is no risk that Part VII units owned by Housing York Inc. will exit). Housing providers' willingness and ability to remain in the community housing system will depend on their individual financial positions and interest in partnering with their Service Manager. For example, housing providers with healthy reserves and highly marketable buildings may be interested in leaving the community housing system and becoming a private sector landlord where they have more choice in who they house, and less government oversight. The province indicates incentives will be offered to housing providers that stay in the housing system. It is still unknown what the incentives will look like and how they will be funded.

### **The future regulations should support the sustainability of the community housing system without increasing costs for Service Managers**

The Region welcomes increased clarity and direction with regard to the future of Part VII housing, and is supportive of exploring a range of options to incentivize these providers to remain in the community housing system; however, the amendments to the *Housing Services Act, 2011* carry risks for Service Managers, particularly if new funding is required to avoid the potential loss of community housing units. It is essential the province collaborate with Service Managers in developing the final regulations for Part VII housing providers to ensure that the requirements for service agreements do not increase costs to the property tax base.

### **The province has committed to working with sector stakeholders on developing regulations to enact many of the amendments to the *Housing Services Act, 2011***

The province has committed to working with sector stakeholders, including Service Managers and housing providers, on development of the regulations which are needed to enact many of the legislative amendments. The Region commends the province for its open, transparent and consultative approach in developing the legislative amendments, and recognizes the importance of these changes in supporting the sustainability of the community housing sector.

### **York Region encourages a government-to-government approach to developing new regulations**

In addition to being the legislated body responsible for community housing in Ontario, Service Managers are the primary funders of the system. A [2019 report](#) by the Association of Municipalities of Ontario reported that, in 2017, property taxpayers contributed more than \$1.77 billion towards community housing, plus additional investments in homelessness prevention programs and financial incentives to support affordable housing development.

On funding and legislative issues, a government-to-government approach to regulatory development respects the roles of the province and Service Manager. To ensure taxpayer funds are used in a prudent and fiscally responsible manner and to allow for local flexibility, transparent and direct discussions should occur between the two levels of government. Staff encourages the province to work alongside Service Managers to develop draft regulations prior to consulting wider sector stakeholders based on the following principles:

- **Pay for say:** As the primary funders of community housing in Ontario, the province should engage with Service Managers in direct government-to-government consultation. Service Managers already enjoy a strong working relationship with provincial staff and both should continue to work together to identify solutions for the housing system. Service Managers should be the primary drivers of community housing policy, in consultation with housing providers and sector associations. Other sector partners, such as housing providers, are beneficiaries of Service Manager funding.
- **No new costs:** Ontario is the only province or territory in Canada where responsibility for funding and delivering community housing rests with the municipal level of government. Municipalities manage service delivery and fund programs through the property tax system. The potential addition of further costs and/or service delivery requirements on the property tax base through regulation is unsustainable.
- **Local flexibility:** Service Managers are best positioned to plan for the needs of their communities. While the Region agrees with the need for consistency between service areas, the regulations should provide flexibility to meet local housing needs and priorities as identified in Service Managers' 10-year housing and homelessness plans.

## 5. Financial

Financial implications of the legislative amendments to the *Housing Services Act, 2011* are currently unknown, pending the development of associated regulations. In 2019, York Region invested \$29.9 million in tax levy funds to deliver legislated community housing programs.

## 6. Local Impact

York Region works with community housing providers in all nine local municipalities to provide affordable rental homes to tenants and co-operative members, including market and subsidized units. Housing affordability continues to be a challenge for residents across the Region.

## 7. Conclusion

York Region supports the province's efforts under the Community Housing Renewal Strategy to ensure a streamlined and sustainable community housing system that can grow and

respond to residents' needs. The development of new regulations under the *Housing Services Act, 2011* provides a critical opportunity. Engaging Service Managers in developing the regulations on a government-to-government basis will ensure Service Managers are recognized as the primary funders of the system and are best positioned to determine local needs.

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For more information on this report, please contact Kathy Milsom, General Manager, Housing Services at 1-877-464-9675 ext. 72091. Accessible formats or communication supports are available upon request.

Recommended by: **Katherine Chislett**  
Commissioner of Community and Health Services

Approved for Submission: **Bruce Macgregor**  
Chief Administrative Officer

August 24, 2020  
Attachments (1)  
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