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To: Committee of the Whole

Meeting Date: October 12, 2023

From: Laura Mirabella  
Commissioner of Finance and Regional Treasurer

Paul Freeman  
Chief Planner

Re: **Bill 134, *Affordable Homes and Good Jobs Act, 2023* – Update**

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This memorandum provides Committee of the Whole with an update on Bill 134, *Affordable Homes and Good Jobs Act, 2023* (Bill 134). It will serve as the Region's submission to the Environmental Registry of Ontario (ERO), posting #019-7669, regarding proposed changes to the *Development Charges Act, 1997*. This submission to the Province reflects Council's previous decisions/directions on these matters.

**Bill 134 proposes to amend the *Development Charges Act, 1997* and the *St. Thomas - Central Elgin Boundary Adjustment Act, 2023***

On September 28, 2023, the Province tabled [Bill 134](#), which proposes to amend definitions for both affordable rental and affordable ownership housing in *Development Charges Act, 1997* (Act) that would be used to determine their eligibility for future development charges exemptions. Through the Environmental Registry of Ontario – [ERO #019-7669](#), the Province has provided a 30-day commenting period that began on September 28, 2023, and will close on October 28, 2023.

Proposed changes to the *St. Thomas - Central Elgin Boundary Adjustment Act, 2023*, which includes providing St. Thomas with an exemption from the general prohibition against municipalities providing direct/indirect financial assistance to businesses, does not have an associated ERO commenting period, and is discussed on page 6 of this memorandum.

**York Region previously provided feedback on development charges exemptions for affordable rental and ownership housing, including their proposed definitions**

Bill 23, *More Homes Built Faster Act, 2022* (Bill 23) came into effect on November 28, 2022. The Bill introduced several changes to the Act, including full development charges exemptions for both affordable rental and affordable ownership housing, which would reduce the amount of development charges collections received by a municipality.

At that time, affordable ownership was defined as being no greater than 80% of the average purchase price of a home. Affordable rental housing was defined as being no greater than 80% of the average market rent. The Province noted that further clarification would be provided through a Bulletin, published by the Ministry of Municipal Affairs and Housing (MMAH).

In [December](#) 2022, Council endorsed preliminary staff [comments](#) on this matter, which noted that using 80% of the average purchase price, for homes sold in York Region in 2021, could result in condominiums, priced at \$520,000 and single detached homes, priced at \$1,282,000, being deemed affordable.

As a result, staff recommended the Province define affordable ownership as a percentage of household income for the municipality, rather than as a percentage of average purchase price. It was [recommended](#) that the Province implement a way for municipalities to secure affordability and/or tenure over the prescribed 25 year period.

**Bill 134 proposes to amend definitions of affordable rental and affordable ownership housing, to incorporate an income-based approach along with a market-based approach, limiting exemptions to units that provide income-based affordability**

Proposed changes to the Act define affordability based on the lower of an income-based approach (incomes of households at the 60th percentile) and market-based approach (90% of average purchase price or 100% of average market rent), when determining the qualification for both affordable rental and ownership housing exemptions. Table 1 below provides additional details. Proposed definitions are aligned with the definition of affordable housing used in the [Provincial Policy Statement, 2020 \(PPS\)](#), the [2022 Regional Official Plan](#) and [Affordable Housing Measuring and Monitoring Guidelines](#), which considers local income in addition to market prices.

**Table 1  
Affordable Rental and Ownership Exemptions – Summary**

Exemption	Key Detail	Income-based explanation
Rental*	<p><i>Rent Lesser of:</i></p> <ul style="list-style-type: none"> <li>income-based affordable rent for the unit, as identified in a forthcoming MMAH Bulletin, and</li> <li>average market rent for the unit, as identified in a forthcoming MMAH Bulletin</li> </ul>	<p><i>MMAH determines affordability threshold:</i></p> <ul style="list-style-type: none"> <li>income of a household at 60<sup>th</sup> percentile of gross annual incomes for renter households in the applicable local municipality, and</li> <li>rent equal to 30% of the income of those households</li> </ul>

Exemption	Key Detail	Income-based explanation
Ownership*	<p><i>Sale Price Lesser of:</i></p> <ul style="list-style-type: none"> <li>income-based affordable purchase price for the unit, as identified in a forthcoming MMAH Bulletin, and</li> <li>90% of average purchase price for the unit, as identified in a forthcoming MMAH Bulletin</li> </ul>	<p><i>MMAH determines affordability threshold:</i></p> <ul style="list-style-type: none"> <li>income of a household at 60<sup>th</sup> percentile of gross annual incomes for households in the applicable local municipality, and</li> <li>purchase price that would result in annual accommodation costs equal to 30% of the income of those households</li> </ul>

\*Note: PPS definition of affordable rental housing - the least expensive of:

- a unit for which the rent does not exceed 30 percent of gross annual household income for low- and moderate-income renter households in the regional market area;
- a unit for which the rent is at or below the average market rent of a unit in the regional market area

PPS definition of affordable ownership – the least expensive of:

- housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for low- and moderate-income households in the regional market area;
- housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the regional market area

## Local municipal income-based approach would likely be used to determine affordable ownership exemptions in York Region

For York Region, income-based affordable ownership definitions are typically lower than market-based approaches, and would be used to calculate affordability thresholds for ownership exemptions. This approach results in varying local municipal thresholds and recognizes the diversity of their respective housing markets, while encouraging development of housing that could be more affordable to moderate income households.

## Based on forecasted affordable ownership thresholds no single-detached, semi-detached or townhouses sold in York Region in 2022 would have been eligible for affordable ownership exemption

To illustrate potential local municipal thresholds, Table 2 provides 2022 local municipal affordable ownership thresholds provided to Council in [June 2023](#). These thresholds are a proxy for what the Province may release in the upcoming Bulletin given both use a comparable income based approach to defining affordability.

Based on these thresholds, and as discussed in the [Housing Needs Analysis: Affordable Housing Implementation Plan](#) (p. 63), no single-detached, semi-detached or townhouses sold in York Region in 2022 would have been eligible for the affordable ownership exemption. On average, the only type of residential units that may have been eligible for this exemption were one-bedroom or bachelor/studio condominiums.

**Table 2**  
**2022 Local Municipal Affordable Ownership Thresholds**

Municipality	Local Municipal Threshold
Aurora	\$594,212
East Gwillimbury	\$584,393
Georgina	\$467,913
King	\$731,650
Markham	\$538,377
Newmarket	\$539,809
Richmond Hill	\$532,105
Vaughan	\$628,325
Whitchurch-Stouffville	\$605,767

Source: [2022 Affordable Housing Measuring and Monitoring report](#)

### **Additional information from the Province will be needed to fully understand the scope and fiscal implications of these exemptions**

MMAH is expected to provide additional details on inputs used to calculate affordable unit thresholds through an Affordable Residential Units Bulletin, which could be released once changes to the Act take effect. Details should include how the Minister determines a household to be in the 60<sup>th</sup> percentile of renter/ownership households, what constitutes housing accommodation costs and key data sources. Housing accommodation costs will be impacted by inputs such as assumed down payment, amortization period and mortgage rate. Currently, the Region relies on Canadian Housing and Mortgage Corporation average market rents for all units to determine rental thresholds by bedroom type.

Once further clarification from MMAH is provided, municipalities will be better positioned to determine the scope of exemptions, including their fiscal impacts.

### **Further amendments to the Act could guarantee housing units remain affordable**

While Regional Council supports delivery of much needed affordable rental and ownership housing, these development charges exemptions would benefit from additional guarantees of affordability. These exemptions, once in place, would require an agreement between the developer and a local municipality be entered into and that the affordability be maintained for 25

years. While the Act speaks to the potential to register these agreements against title, it does not require this.

To ensure units receiving these exemptions maintain their affordability, it is requested these agreements be required to be registered on title. Together with registering agreements on title, should affordability of the housing unit change within the first 25 years, it is requested the development charges which would have ordinarily been due, become immediately payable plus interest, at a rate of Prime +1%<sup>1</sup>. The interest rate of Prime+1% aligns with the maximum interest charge applicable to freezing and installment provisions under sections 26.1 and 26.2 of the Act.

### **Bill 23 provided discounts for market rental housing, but there are no tools in the Act to guarantee the rental tenure will remain for any period of time**

Changes to the Act, through Bill 23, provide that market rental housing be incentivized with development charges discounts ranging from a 15% reduction for units with less than 2 bedrooms, a 20% reduction for units with 2 bedrooms, and a 25% reduction for those units with 3 bedrooms or more. Condominium buildings can qualify for this discount if they have at least four units and ‘intend’ to be used as market rental.

York Region continues to share the Province’s goal of building more family-sized market rental housing. However, there are no tools in the Act to guarantee that, after a market rental unit is provided a discount, it maintains a market rental tenure for any period of time and does not revert to market ownership. To address this, it is requested the Province provide municipalities with the ability to secure the rental tenure for a period of 25 years, by way of agreement registered on title. In conjunction with registering the agreement on title, should the rental tenure change within the first 25 years, it is requested the development charges which would have ordinarily been due, become immediately payable plus interest, at a rate of Prime +1%<sup>2</sup>.

### **Further clarification will be needed to understand what qualifies as attainable housing, and further consultation with municipalities would be beneficial**

Bill 23 provided full development charges exemptions for attainable housing. This exemption, which is not yet in effect, provides little detail as to what may qualify as attainable housing, other than it is neither affordable nor rental. Bill 134 is silent on this exemption and municipalities still require clarification about type(s) of development that would qualify for this incentive. It would be beneficial for the Province consult with municipalities, including York Region on this matter.

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<sup>1</sup> Note: This was previously recommended as part of the February 2023 [report](#) titled, “Working Together To Build More Homes Faster” and [Attachment 1](#).

<sup>2</sup> Note: This was previously recommended as part of the February 2023 [report](#) titled, “Working Together To Build More Homes Faster” and [Attachment 1](#).

## **Schedule 2 to Bill 134 proposes to provide St. Thomas with an exemption from the prohibition against municipalities providing financial assistance to businesses**

Generally, section 106 of the *Municipal Act, 2001*, prohibits municipalities from providing direct or indirect financial assistance to manufacturing businesses or industrial and commercial enterprises. Municipalities can, however, provide such assistance through a Community Improvement Plan (CIP), under section 28 of the *Planning Act, 1990*.

The Province, through Schedule 2 of Bill 134, has proposed to provide the City of St. Thomas with an ability to provide grants or exemptions (full or partial) from any fee or levy (e.g., development charges), without requiring a CIP. This 'assistance' which, subject to further regulatory clarification, is available from 2023 to 2026, only applies to the Volkswagen Group/PowerCo SE (1000511515 Ontario Inc.). As reported in the Ontario newsroom [release](#), this is in return for the company building their electric vehicle battery plant in St. Thomas.

### **As of October 6, 2023, Bill 134 was in second reading**

As of October 6, 2023, Bill 134 was, as part of its second reading, referred to the Standing Committee on Heritage, Infrastructure and Cultural Policy. This memorandum will be submitted to the ERO, posting #019-7669, as the Region's comments on proposed changes. Staff will continue monitoring progress of Bill 134 and will provide updates to Council, as necessary.

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For more information on this memo, please contact Edward Hankins, Director, Treasury Office and Deputy Treasurer at 1-877-464-9675 ext. 71644, or Sandra Malcic, Director, Planning Policy and Data, at 1-877-464-9675 ext. 75274. Accessible formats or communication supports are available upon request.



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