

Region of Waterloo
Community Services
Housing Services

To: Community and Health Services Committee
Meeting Date: March 5, 2024
Report Title: Property Tax Exemption for Affordable Housing

1. Recommendation

That the Regional Municipality of Waterloo take the following action with respect to the creation of a Property Tax Exemption Program for Affordable Housing as set out in report CSD-HOU-24-004 dated March 5, 2024:

- a) Repeal By-law Number 02-035, attached as Appendix “A”, and replace with By-Law Number 24-***, attached as Appendix “B” for the purposes of updating the by-law to allow Council to exempt regional and education property taxes for municipal housing facilities and also for general house-keeping amendments, which has been prepared in a form satisfactory to the Regional Solicitor;
- b) Approve the Property Tax Exemption for Affordable Housing Program (“Program”) and guidelines for applications made to the Region for properties eligible for the Program attached as Appendix “C”;
- c) Authorize the Commissioner of Community Services to negotiate and execute on behalf of the Region, agreements with housing providers for the Program, to the satisfaction of the Regional Solicitor;
- d) Direct staff to:
 - a. Develop an application process with intake occurring in Q2 of 2024 for the 2025 taxation year;
 - b. Review the uptake and application of the Program to determine property tax impacts due to class shifts, communicating these in advance of 2025 budget process;
- e) Direct staff to work with interested area municipalities within Waterloo Region to exempt the lower tier portion of property taxes for eligible properties under the Program; and
- f) Advocate to the Government of Ontario to amend eligibility for the Ontario Trillium Benefit to allow Ontario residents living in housing deemed affordable by the municipality where the resident resides, to access property tax credits through the Ontario Trillium Benefit, irrespective of property tax exemption.

2. Purpose / Issue:

To recommend the use of property tax exemptions provided through an updated Municipal Housing Facilities by-law as a policy incentive for incentivizing new affordable housing, financial sustainability for existing community housing, and preserving existing affordable housing.

3. Strategic Plan:

This report addresses Strategic Priority 1: Homes for All, by moving to create affordable, accessible, and equitable housing by increasing access to affordable homes that cost less than 30% of household income across the region and investing in upstream solutions to reduce housing and economic precarity by focusing on preventative interventions.

4. Report Highlights:

- Under Section 110(6) of the Municipal Act, municipalities may enter into agreements with housing providers and developers that meet certain criteria as set out in a by-law. Through these agreements, the Region can provide, among other things, a property tax exemption for the Regional and School Board portion of property taxes for units deemed affordable in accordance with the Region's applicable by-law. In a two-tiered municipal structure, Section 110(9) of the Municipal Act allows an area municipality to exempt its portion of property taxes at its discretion.
- By providing property tax exemptions to affordable housing providers the economic viability and financial sustainability of providing affordable housing is improved. Reduced operating costs decrease pressure to increase rents to cover costs, making it possible to offer a lower than market rent for low-to moderate-income tenants.
- Types of properties targeted for this incentive program include:
 - Current affordable housing providers that have capital funding agreements that have or are beginning to expire.
 - Non-profit and Cooperative providers subject to the *Housing Services Act, 2011* who have or are beginning to reach the end of mortgage or operating agreement.
 - Lower rent units typically found in older buildings with long-term tenants. These 'naturally occurring' units are more likely to have rents that meet the criteria of affordable as set out in the program and the Region would like to bring these units into the BBF initiative.
 - New developments where a portion of the units could be designated as affordable.
- While the total tax levy collected is not impacted, this policy will reduce taxable assessment and property tax levies that would otherwise be collected from the

exempt class are shifted to all other property classes resulting in slightly higher tax rates for all taxable classes, including residential, multi-residential, new multi-residential, commercial and industrial. As Education tax rates are set provincially, these do not shift with changes in the assessment base. As a result, the education portion of property taxes that would otherwise be collected from exempted properties represents reduced revenue for the School Board(s) within the boundary of the impacted assessment base.

- Exempting property taxes can result in a negative impact for tenants who apply for and receive the Ontario Trillium benefit, as in accordance with Canada Revenue Agency rules, tenants of properties that are exempt from property taxes are not eligible for this benefit.

5. Background:

Staff provided Council with information on the potential use of property tax exemption for affordable housing in staff report COR-CFN-22-15/CSD-HOU-22-12 Property Tax Policy Update dated May 10, 2022, which described the need for further review of the tax treatment of rental properties in light of the current housing affordability crisis. Property tax exemption provides an avenue that incentivizes the preservation and the addition of affordable housing units within Waterloo Region. It also provides a pathway outside of development to bring forward long-term affordable housing units under the Building Better Futures (BBF) initiative, through which the Region commits to creating 2500 affordable housing units by 2026.

Between the years of 2001 to 2020, 21 buildings were developed by private developers who received Regional capital grants in exchange for providing some affordable units within their buildings for a term of 20 to 25 years. These agreements are beginning to expire; meaning the current affordability of these units is likely to be lost once the existing tenants move out. By entering into an agreement with the property owners of these units, the Region is able to provide a property tax exemption for these units in exchange for maintaining them as affordable, beyond the term set in the expiring agreement. Property tax exemption is also a tool for supporting existing community housing providers under the *Housing Services Act, 2011* in achieving financial sustainability and maintaining these units as a part of the affordable housing stock beyond the end of mortgage or operating agreements.

Property tax exemptions can increase the economic viability of purpose-built affordable rental housing and provide an opportunity for new developments to stack incentives for affordable housing from the Region and other sources such as Canada Mortgage and Housing Corporation (CMHC). As such, this incentive can work in tandem with existing Regional, Federal, and Provincial affordable housing programs. Affordable housing development in receipt of a Regional capital grant for affordable housing can stack this incentive with a property tax exemption by entering into a municipal housing facilities agreement. In this case, the term length of 60 years would apply to the affordable units

in receipt of the property tax exemption, thereby extending the length of affordability for units developed through a capital grant and potentially incenting developers to add more affordable units to meet the Property Tax Exemption for Affordable Housing Program requirements (Appendix C).

“Naturally occurring” affordable housing units primarily exist in older buildings with long-term tenants. In Waterloo Region, the average market rent (AMR) for buildings with pre-1990 construction dates is lower than the rest of the market. Incentivizing landlords to preserve “naturally occurring” affordable housing is an avenue outside of development, which is often timely and costly, for increasing the number of affordable units in Waterloo Region. Further, it can prevent the loss of this form of affordability in the private market and de-incentivize tenant displacement through “renoviction,” as rent increases between tenancies become regulated by the affordability set in the Program, instead of what the market will bear.

While property tax exemption is a tool that benefits landlords and incentivizes the development and preservation of affordable housing, tenants of a tax-exempt property become ineligible for refundable property tax and energy credits through the Ontario Trillium Benefit (OTB), a program designed to help low-to-moderate-income Ontario residents. The OTB program is legislated and funded by the Province of Ontario and the Canada Revenue Agency (CRA) administers this program on behalf of the Province. It is CRA’s position that tenants within a tax-exempt property are not eligible for the OTB. It is estimated that tenants who would otherwise be eligible for the OTB refundable tax credit receive a maximum benefit of approximately \$420 to \$800 per year.

Other municipalities that have implemented property tax exemptions through municipal housing facilities by-laws include Toronto, Ottawa, Hamilton, Chatham-Kent, and Wellington County.

6. Communication and Engagement with Area Municipalities and the Public

Area Municipalities: Through an Intra-municipal Affordable Housing Incentives Working Group (“Working Group”), Region staff work with area municipalities towards the creation of affordable housing, including the implementation of innovative housing solutions that meet the needs of diverse populations across the Waterloo Region. Area municipalities through the Working Group and the Waterloo Area Municipal Treasurers are aware of this report to Council and have been given the report and Program to provide comment and feedback. Both groups were informed of the creation of the Program in fall 2023, with further discussion about the Program occurring in 2024. In a two-tiered municipal structure, the creation of a Regional Program is a first step for using property tax exemption as an affordable housing incentive, as it enables area municipalities the choice to participate through a common program. It remains the area municipalities' right to decide on participation in the common use of property tax exemption as an incentive.

Public: Development of the Plan to End Chronic Homelessness continues with Lived Experts through the Social Development Centre's Prototyping project and with Co-creators who consist of service providers and advocates. Communication with Co-creators provided insight into the need for preventing entrances into homelessness caused by loss and/or lack of housing affordability and informed the creation of the Program.

The Centre for Community Housing Engagement, Excellence, and Resiliency (CHEER) is a group of community housing providers and representatives formed to provide guidance on the End of Mortgage. In December 2023, staff engaged with CHEER who provided feedback and insights into property tax exemption for both the existing pathway for Non-profits provided through the Assessment Act through Provincial legislation and the proposed pathway through a municipal housing facilities by-law.

In September 2023, staff provided an update to Council on the work of the Working Group, including the results of a survey that identifies local constraints for affordable housing development from the perspectives of developers and area municipal staff (CSD-HOU-23-026). Some of the identified constraints are as follows (see Appendix D for the full results of the survey):

- Gap between what tenants can afford to pay and the cost of development;
- Lack of municipal tools to guarantee affordable housing stays affordable;
- Municipal requirements and restrictions due to legislative-mandated guidelines and processes;
- Some programs are only open to non-profits; and
- Public sector programming is not flexible to respond to rapidly changing markets.

These constraints informed the considered use of property tax exemption as a policy incentive for affordable housing in Waterloo Region. In addition to these constraints, survey respondents also identified property tax exemption as an incentive for developing affordable housing.

7. Financial Implications:

Tax exemptions provided through a municipal housing facilities agreement have no impact on the regional or lower tier property tax levy. Moving a property from a taxable status to an exempt status on the assessment roll impacts the overall amount of assessment upon which municipal taxes are levied. This results in a slightly lower level of net assessment growth in the year following the reclassification, as well as an in-year tax adjustment.

Staff have identified the following categories of properties that may be eligible to enter

into a municipal housing facilities agreement with the Region (note all figures are based on the 2023 assessment roll, tax ratios and tax rates):

- Properties that have an existing funding agreement with the Region or for which an agreement has recently expired – there are approximately 21 properties in this category, most of which are in the three cities. Existing agreements will expire over the 2025-2045 period, and in total, these properties represent approximately \$570,000 in regional taxes (approximately 0.15% of the Region's 2023 tax levy). Future assessment impacts will be dependent on how many of these properties choose to participate in the program.
- Non-profits and Cooperatives subject to *Housing Services Act, 2011* - there are approximately 117 properties in this category, almost all of which are in the three cities. Existing agreements will expire over the 2025-2030 period, and in total, these properties represent approximately \$3.5m in regional taxes (approximately 0.75% of the Region's 2023 tax levy). Future assessment impacts will be dependent on how many of these properties choose to participate in the program.
- Naturally occurring affordable housing – while the number of such units is unknown at this time, entering into municipal housing facility arrangements will assist the Region in achieving its Building Better Futures goals.
- New housing development – providing a tax exemption for new housing development will assist the Region in achieving its Building Better Futures goals. Eligible projects would be added to the roll as exempt rather than taxable, resulting in a slightly lower assessment growth in the year of occupancy and assessment.

Adjustments to the assessment roll will happen over a long period of time and it is anticipated that related tax impacts for properties that have current arrangements with the Region will be very minor in any given year. Determining assessment and tax impacts for naturally occurring and new properties is dependent on uptake and staff will report back to Council periodically on the impacts of this program as a whole.

Any area municipality that adopts a policy to exempt the lower tier portion of property taxes for eligible properties will also experience a slightly lower level of assessment growth. Staff will work with any area municipality that expresses and interest in participating to estimate the local impact.

Municipal housing facilities agreements would result in a reduced amount of education taxes collected for and provided to school boards from the Province. For properties that had previously entered into a funding agreement with the Region, entering into new agreements could result in a total reduction of approximately \$127,000 in property tax revenue for impact School Boards. Additionally, if all current Non-profit and Cooperative housing providers in the Region who are subject to the *Housing Services Act, 2011* were to enter into a municipal housing facility agreement with the Region, the foregone

revenue for School Boards would be approximately \$489,000.

8. Conclusion / Next Steps:

The intake process for the Program will take approximately a year as the following steps are completed: (1) application intake, (2) submission review, and (3) approval. Once Council approves the By-Law 24-***, staff will put an annual call out for applications from March to May. Staff will review the submissions and come back to Council by September with properties to exempt. Agreements will be entered into with the successful applicants, with program administration designed to require housing providers to attest to complying with all provisions of the agreement, including annual review by Regional staff to ensure rents remain affordable and new occupants meet income-tested eligibility requirements. Staff will then be in contact with the Municipal Property Assessment Corporation (MPAC) and area municipalities to ensure the appropriate Region and education portion of these property taxes are exempt for the term length set in the agreements. MPAC may take six to 12 months to review and implement property tax exemptions.

Staff will continue to engage with area municipalities to explore area municipalities exempting their portion of property taxes for affordable housing under the use of a common Program application process administered by the Region of Waterloo. This includes collaboration with the area municipalities on a timeline that works for them and supporting interested area municipalities in the creation of their own by-law. Regardless of this ongoing work with the area municipalities, the first step in the process is Regional approval of an updated by-law and implementation of the Program. The intent is to have the Program implemented for the 2025 taxation year.

9. Attachments:

Appendix A: By-law Number 02-035

Appendix B: By-law to Repeal By-law 02-034 (By-law 24-___)

Appendix C: Property Tax Exemption for Affordable Housing Program

Appendix D: Affordable Housing Incentive Survey Responses Summary

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