

March 20, 2020

John Ballantine, Manager
Municipal Finance Policy Branch
Ministry of Municipal Affairs and Housing
13th Floor, 777 Bay St.
Toronto, ON M7A 2J3

Re: Proposed regulatory matters pertaining to community benefits authority under the Planning Act, the Development Charges Act, and the Building Code Act (ERO 019-1406)

About FRPO

The Federation of Rental-housing Providers of Ontario (FRPO) has been the leading voice of the province's rental housing industry for over 30 years. We are the largest association in Ontario representing those who own, manage, build and finance, as well as those who service and supply residential rental units. We represent more than 2,200 members who own or manage over 350,000 units across the province.

Introduction

On behalf of our members, I am pleased to have the opportunity to provide comments on the proposed regulatory matters pertaining to community benefits authority under the *Planning Act*, the *Development Charges Act*, and the *Building Code Act* (ERO 019-1406).

I would like to, once again, commend the Ford government for taking strong action to improve the development climate during a time when we are in the middle of a major housing supply crisis in the province. The move to a single and predictable community benefits charge is one example of a step in the right direction. It reduces time required for extended negotiations with local councillors and provides for more predictability in terms of costs for developers.

The previous regime of Section 37 and Section 42 created a framework where local neighbourhood politicians were able to stop much-needed housing projects by demanding unreasonable concessions in an attempt to please local NIMBY tendencies in their communities.

The system was fundamentally broken, and our members welcome much-needed reform.

Ontario's Rental Housing Environment

Our association has shared reports with the Ministry on the current state of Ontario's rental market, the number of new units required to balance the market and cost drivers that impact project feasibility.

The government is aware of the supply crisis that exists in the rental market. Vacancy rates have been declining for several years and at the end of last year, CMHC reported a vacancy rate of 2.0 per cent, near a 16-year low in Ontario. The vacancy rate in the City of Toronto was even lower, at 1.5 per cent. As a comparator, vacancy rates in other major cities were: 7.8% in Regina, 3.9% in Calgary, 3.1% in Winnipeg.

Demand for rental is at a 45-year high in Ontario driven by strong job growth, increasing population, and increasing unaffordability of home ownership. There hasn't been a significant increase in rental supply in decades – 83 per cent of units were built before 1980.

FRPO recently asked Urbanation to update its 10-year rental housing forecast, which found that Ontario now has a supply gap of 180,000 rental units over the next decade, barring significant policy intervention.

It is within this context that FRPO members believe that specific action must be taken to incent more purpose-built rental in the Province of Ontario. The overall changes to the land-use planning process in the More Homes, More Choice Act improve the overall development climate. However, rental developments need an extra “helping hand” in an environment where the business case for condominiums will always remain stronger and the market needs a good mix housing which includes a healthy rental supply.

Our recommendations in this submission are premised on helping achieve this common objective that our members have with the Government of Ontario, and based on what Ontarians need and deserve – access to more rental housing.

Required content of a community benefits charge strategy

FRPO recommends the required components of a community benefits strategy be strengthened in order to create a well-defined structure required for accountability measures to adequately function.

We support the inclusion of an ability to appeal a community benefits charge (CBC) by-law to the Local Planning Appeal Tribunal (LPAT) similar to what is available to a development charge (DC) by-law. However, the regulatory framework governing DCs is significantly more prescriptive than what is currently being proposed for the CBC. DCs have to be based on a rigorous set of background studies which are well-defined and familiar to all stakeholders.

Even with a significantly stronger accountability structure, the primary factor in appeals associated with the DC by-law is due to lack of prescription, so there is a significant risk of mass appeals in a far less prescriptive framework such as what is being proposed for CBCs.

Barring an increased level of rigour in the components of a CBC strategy, it is entirely possible municipalities would be able to justify the full 15% CBC rate in most cases and the government's proposed ceiling becomes the default rate.

Services eligible to be funded through development charges

FRPO recommends the proposed list of “soft services” be kept under the community benefits charge framework and not added as eligible to be funded under subsection 2(4) of the *Development Charges Act*.

The original intent of the CBC framework was to shift costs associated with “soft” DCs, parkland dedication and Section 37 into a capped rate applied to the value of land, while keeping cost of “hard” services under the DC



framework. This proposal would place capital costs of certain community services such as public libraries, parks development (other than land), long-term care, public health and recreation facilities back into the DC framework.

There are two issues associated with this approach which may likely add cost to rental housing development:

1. Shifting of costs from a capped (CBC) to an uncapped (DC) framework, and
2. Removal of the 10 per cent municipal contribution associated with these costs under the previous regime.

In essence, the only material bucket of costs left under the CBC regime per this proposal would be costs associated with parkland. The next section will get into challenges on development posed by that factor.

Percentage of land value for determining a maximum community benefits charge

In our submission to ERO 019-0183, FRPO recommended purpose-built rental developments be exempt from charges for community benefits under the *Planning Act* until such a time where a balanced rental market is achieved.

As outlined earlier, there is a significant shortfall of rental housing in the Province of Ontario while project economics are preventing the level of supply needed to fill the gap. In this environment, keeping the current level of costs for rental development will lead to a 180,000-unit rental deficit over the next decade.

FRPO commissioned Altus Group Economic Consulting to conduct an analysis of the proposed CBC and DC regime compared to the previous regime for growth-related costs. Altus looked at illustrative project pro forma for two cities, Toronto and Ottawa to determine the impact.

'Appendix A' provides the full pro forma analysis report but FRPO would like to make two key observations on that analysis:

1. The total cost on development in the City of Toronto appear to be close to neutral. The per unit cost increases under the new regime by \$452 from \$52,793 to \$53,245 per unit.
2. The total cost in communities where Section 37 (density bonusing) was not used, as illustrated in the City of Ottawa example, appears to be a 10 per cent unit increase under the new regime.

The analysis assumed a 15 per cent CBC rate given the flexibility municipalities have to, in effect, charge the rate at the 15 per cent ceiling as outlined earlier.

The analysis assumed the same level of density as developers were able to obtain under the previous regime, including bonusing in communities which had Section 37. However, with many of those municipalities such as the City of Toronto being highly "under zoned", it remains unlikely that holds true in the new regime, further deteriorating the business case for rental development as reduction of density has a direct negative impact on pro formas.

Overall, it appears that this new regime for growth-related costs will actually increase development cost for purpose-built rental development in a context where we are facing a severe shortage, leading to an even further increase in the supply shortfall.



As a result, FRPO still holds its recommendation that purpose-built rental development be exempt from the CBC regime in order to provide slight relief to the business cases for new development.

However, in the event the government decides not to proceed with a full exemption, FRPO recommends all purpose-built rental housing developments receive a special and discounted CBC rate of 50% of the rate determined by CBC by-laws in municipalities for other developments.

Timeline to transition to the new community benefits charge regime

FRPO has no comment on the Ministry's proposal for the specified date for transition be one year after the proposed regulation comes into effect.

Community benefits charge by-law notice

FRPO has no comment on the Ministry's proposal for CBC notice provisions being similar to ones under the *Development Charges Act*.

Minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed

FRPO supports the concept interest being payable on any refunds associated with a successful appeal of a CBC by-law similar to DC by-laws.

Building Code applicable law

FRPO has no comment on the Ministry's proposal to amend the Building Code to enable the payment of a CBC prior to the issuance of a building permit.

Conclusion

We appreciate the opportunity to share our comments on proposed regulatory matters pertaining to the community benefits authority and would welcome any further discussions on broader implementation aspects relating to the *More Homes, More Choice Act*.

Please feel free to contact me at tirwin@frpo.org or (416) 385-1100 x20 if you have any questions.

Sincerely,



Tony Irwin
President & CEO

CC:

Hon. Steve Clark – Minister of Municipal Affairs & Housing
Alex Earthy, Senior Policy Advisor – Housing, Office of the Minister of Municipal Affairs & Housing
Stephen Hamilton, Senior Policy Advisor – Planning, Office of the Minister of Municipal Affairs & Housing
Kate Manson-Smith – Deputy Minister, Ministry of Municipal Affairs & Housing

