



Report to: Development Services Committee

Meeting Date: October 17, 2023

SUBJECT: Comments on Bill 134 – Affordable Homes and Good Jobs Act, 2023

PREPARED BY: Duran Wedderburn MCIP, RPP, Manager, Policy (ext. 2109)
Nadia Lawrence, Special Projects Coordinator (ext. 3141)

RECOMMENDATION:

1. That the report dated October 17, 2023 titled “Comments on Bill 134 – Affordable Homes and Good Jobs Act, 2023” be received;
2. That the City not support the proposed changes to the definition of Affordable Residential Unit in the *Development Charges Act*;
3. That this report be forwarded to the Minister of Municipal Affairs and Housing as the City of Markham’s comments on Bill 134;
4. That this report be forwarded to the Region of York; and
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution

PURPOSE:

This report provides comments on the Province of Ontario’s proposed Affordable Homes and Good Jobs Act, 2023 (Bill 134).

BACKGROUND:

On September 28, 2023 the Ontario government introduced the [Affordable Homes and Good Jobs Act, 2023 \(Bill 134\)](#).

According to the Province, Bill 134 proposes changes intended to help more people find affordable homes and support municipalities across the province to attract jobs. The proposed changes contained in Bill 134 have been posted for consultation on the Environmental Registry of Ontario and the Ontario Regulatory Registry with a comment deadline of October 28, 2023:

- [Changes to the definition of an “Affordable Residential Unit” in the Development Charges Act, 1997 for the purpose of municipal development-related charge discount and exemptions](#)
- [Amendments to the St. Thomas – Central Elgin Boundary Adjustment Act, 2023](#)

On September 28, 2023 the Province released a [backgrounder](#) related to Bill 134 that announced additional actions that are to be undertaken by the government:

- **Streamlining Decisions at the Ontario Land Tribunal (OLT)**

As part of the strategy to streamline hearings and speed up decisions at the OLT, Ontario is consulting on and developing regulations to set service standards and to prioritize resolution of certain cases, including cases that would create the most housing. Consultations will begin this fall.

- **Enabling Greater Municipal Procurement Collaboration**

Ontario is proposing to help ensure municipalities can benefit from provincial supply chain programs and strategies, led by Supply Ontario, including category management and Vendor of Record arrangements, which combine Ontario's purchasing power together to obtain better value for procurements. Municipalities can collaborate with Supply Ontario on a voluntary basis to enable cost savings and efficiencies in all levels of government in Ontario.

At the time this report was prepared, Bill 134 has received 2nd reading in the Ontario Legislature.

This report will provide comments on the proposed changes to the definition of Affordable Residential Units for the purposes of discounting and exempting these units from municipal development-related charges (including community benefits charges, parkland dedication requirements and development charges).

OPTIONS/ DISCUSSION:

The following section provides an overview of the City response to previous legislation from the province that amended the definition of affordable residential unit and affordable housing and provides discussion on the new definition for Additional Residential Unit proposed in Bill 134.

The City has advocated for a definition of affordable housing that is tied to income thresholds for low to moderate income individuals

[Bill 23 – More Homes Faster Act, 2022 \(Council Resolution\)](#) amended the Development Charges Act to define affordable residential as units where the rent is no greater than 80% of the average market rent, or non-rental units where the home is sold at no greater than 80% of the average purchase price. During consultation, the City provided comments requesting that the definition of affordable residential units for the purpose of municipal development related charges should be linked with income thresholds to ensure low to moderate income individuals are targeted and further that the City could support incentives for affordable and purpose built rental units where there is no net impact on municipal finances as the City of Markham has already exempted and deferred development charges for previous subsidized housing projects.

Further, City comments were provided on the [Proposed Provincial Planning Statement, 2023 \(Council Resolution\)](#) that requested the province include policies tied to affordable housing and maintain a definition of affordable tied to income thresholds for low to moderate income individuals for the purpose of land use planning which were proposed to be removed from the current policy statement.

New Affordable Residential Unit Definition Proposed in Bill 134

Bill 134 proposes a new definition for affordable residential unit in the Development Charges Act rather than the current definition which was enacted through Bill 23 in November, 2022. The proposed definition re-introduces income thresholds and market prices to support the determination of affordable. This change is positive as it reflects comments previously provided by the City of Markham. The proposed definitions also suggest a shift from a focus on affordability in regional market areas to local market areas. This could have potential benefits, including increased consideration of the Markham context around incomes and affordability. Please refer to **Appendix A - Affordable Residential Unit and Affordable Housing Definition Comparison Table** for an overview of the existing and proposed definitions.

While there are positive elements of the proposed definition, Staff have concerns with the application of the definition. The City currently relies on York Region to provide the affordability thresholds annually through the [Affordable Housing and Measuring Monitoring Report](#). Based on the proposed definition, the determination of what is to be deemed locally affordable within municipalities would be put in the hands of the Minister of Municipal Affairs and Housing, with no information on the parameters, methodology, and sources being provided at this time. Specifically, the Minister would be responsible for the following:

- Establishing an Affordable Residential Unit bulletin to set out income based affordable rents and purchase prices
- Determine the income of a household that in the Ministers opinion, is at the 60% percentile of gross annual income for households in the local municipality
- Determining the purchase price and rent that in the Minister's opinion, would result in annual accommodation costs equal to 30% of the income threshold

Through Bill 134, income levels and purchase prices within municipalities such as Markham, would be solely determined by the Minister in "Affordable Residential Unit" bulletins, based on yet to be released criteria. With many of the key decisions to be made based on the Minister's opinion, there is uncertainty about how affordable would be calculated and the potential impacts on municipal finances. The potential loss of revenue associated with exemptions may impact the ability and timing to deliver infrastructure required to support growth.

Changes Needed to Support Bill 134

Given the issues brought forth in previous City resolutions and the lack of clarity around how local municipal definitions of affordability will be set through Ministerial bulletins, **staff do not support proposed changes to the Affordable Residential Unit definition in Bill 134.**

The following items are suggested for Provincial consideration in order for the proposed changes to Bill 134 to potentially be supported:

- Develop a consistent methodology for defining affordability – in order to consider the proposed approach using Ministerial bulletins, more information and consultation on the anticipated criteria, release timing and frequency is needed
- Review the potential to apply flexibility to the affordability parameters, that are reflective of local municipal contexts
- Give thought to utilizing the most accurate sources possible for municipal income and market purchase price and rent data in the affordable methodology used

Provincial consideration on the above items would enable the City to thoroughly review the implications of the affordable definition changes and be in a position to provide potential support to the Bill 134 changes.

Staff have no comments on the Amendments to the St. Thomas – Central Elgin Boundary Adjustment Act and look forward to upcoming consultation on Streamlining Decisions at the Ontario Land Tribunal (OLT) and enabling greater municipal procurement collaboration.

FINANCIAL CONSIDERATIONS

The City has provided development charge (DC) incentives for affordable housing in the form of conditional grants for affordable rental units, and deferrals of up to 20 years for affordable residential ownership for non-profit organizations that are eligible for Federal, Provincial and Regional funding. Generally, the take-up on these incentives has been minimal.

Under the current Bill 134 proposal, organizations seeking to provide affordable ownership and rental housing will be provided with DC exemptions (deferrals are not contemplated); these organizations do not have to be non-profit corporations. This will have a greater impact on DC revenues when compared to the City's past incentives.

Staff previously provided a high-level estimate on the impact to DC revenues from Bill 23, where the affordable housing exemption was anticipated to have a \$4M annual impact, based on the assumption of \$80M in annual DC revenues with 5% of this constituting affordable housing.

The actual impact will be dependent upon the final definition of affordable residential unit enacted by the Province and the issuance of Housing Bulletins outlining local thresholds.

The potential loss of revenue associated with exemptions may impact the ability and timing to deliver infrastructure required to support growth, and may require consideration of other sources of revenue (including additional property tax) should the City need or wish to move forward with a similar pace of growth in the absence of DCs.

HUMAN RESOURCES CONSIDERATIONS

No human resources implications are associated with this report.

ALIGNMENT WITH STRATEGIC PRIORITIES:

This report aligns with Goal 3.2 of Markham’s Future Together, 2020-2023 (BMFT): “Build complete communities that offer a range of housing and employment opportunities, transportation options and outstanding community amenities”.

BUSINESS UNITS CONSULTED AND AFFECTED:

Finance, Legal, and Procurement departments were consulted on this report.

RECOMMENDED BY:

Darryl Lyons, MCIP, RPP
Deputy Director, Planning & Urban Design

Giulio Cescato, MCIP, RPP
Director, Planning & Urban Design

Arvin Prasad, MCIP, RPP
Commissioner, Development Services

ATTACHMENTS:

Appendix A: Affordable Residential Unit and Affordable Housing Definition Comparison Table