

October 21, 2020

Affordable Housing Coalition of York Region Report and Recommendations to the Region of York

Introduction:

On behalf of the Affordable Housing Coalition of York Region, we are pleased to present our report and recommendations for York Region staff.

The role of the **Affordable Housing Coalition of York Region** is to promote Housing as a Human Right, to take leadership on sharing information and increasing understanding about the steps and resources necessary to increase safe, affordable housing options for residents of York Region and to facilitate capacity building and networking among coalition members (community leaders, organizations and individuals with lived experience of homelessness or who require affordable housing) toward these ends.

We'd like to thank Paul Freeman, Chief Planner for Planning & Economic Development with the Region of York, for inviting the Affordable Housing Coalition of York Region (AHCYR) to contribute our recommendations as the region works to update its housing policies as part of the Municipal Comprehensive Review, and makes plans for a fall Housing Directions Report to be presented to Regional Council. Paul explained that the fall report will outline work being done to examine supply and affordability issues in relation to the Growth Plan forecast, a scan of best practices to increase the supply of affordable housing and next steps to develop our updated housing policies. To that end, the Advocacy and Public Awareness Sub-committee of the AHCYR is pleased to provide the following for staff consideration:

- A.) Proposal and rationale for York Region to adopt a Right to Housing Framework
- B.) Recommendations re: By-Law amendments to protect and increase affordable housing stock
- C.) Recommendations re: Housing First and Encampments for Homeless Residents of York Region
- D.) Advocacy at other levels of government for Tenant Rights and Investments in NFP Housing

A. Proposal and Rationale for York Region to adopt a Right to Housing Framework

1. Adequate Housing Is a Fundamental Human Right

Home is at the centre of human rights. Without a safe, affordable, secure, and accessible home, our other rights—such as privacy, freedom of expression, equality, liberty, security of the person, dignity, and even life—are threatened. International covenants signed by Canada guarantee a right to adequate housing.¹ To meet their obligations, states must demonstrate “progressive realization” of the right to housing – that is, steady progress towards realizing the right for all, over time, beginning with those most in need. States have a duty to dedicate the “maximum of their available resources” to meeting

¹ International Covenant on Economic, Social and Cultural Rights, Ratified by Canada on 19 May 1976

these obligations. All levels of government, including municipal governments, have the ability and obligation to respect, protect, and fulfill the human rights set out in international agreements, in their areas of jurisdiction.

The United Nations Committee on Economic, Social and Cultural Rights identifies seven necessary components of adequate housing:

1. Affordability
2. Security of tenure
3. Accessibility
4. Habitability
5. Location
6. Availability of services, materials, facilities & infrastructure
7. Cultural adequacy

2. A Rights-Based Assessment of Housing Opportunities

“All residents should have a safe, secure, affordable and well-maintained home from which to realize their full potential.”

Challenge: Compared to 10 years ago more people are facing homelessness, and they remain in shelters longer; rental vacancy rates are even lower; and affordable rental stock is disappearing.

3. Key Policies and Programs to Advance Progress on Housing

In order to advance progressive realization of adequate housing for all residents of York Region, a new Plan must address the drivers of homelessness and inadequate housing; prioritize the rights and needs of current and future residents over the interests of investors; and use municipal and regional resources, land, and powers to achieve the most affordable housing possible.

A Housing Plan in York Region must incorporate effective policies and programs to strengthen key action areas:

- a.) Create housing opportunities in all neighbourhoods

Initiatives in this area must address exclusion of the majority of York Region’s households from most new residential development. Any plan should:

- Implement a strong Inclusionary Zoning program that requires affordable, accessible units in all new development across the Region;
- Enact measures to curb harmful speculative demand and under-use of our housing supply;
- Build affordable housing requirements, and measures to discourage speculation, into community plans and zoning changes
- Eliminate discriminatory zoning, such as the prohibition of rooming houses, which are unlawful, but prevalent in York Region.
 - Like unregistered or illegal basement apartments, our housing crisis would be worse without these units operating. This creates a significant underground economy that puts tenants, homeowners and neighborhoods at risk. Lower tier-municipalities should

provide some inspection and/or licensing regime to allow these facilities to operate safely.

- Make the planning process responsive to the needs and priorities of current and aspiring residents of neighbourhoods undergoing redevelopment - particularly under-represented groups such as tenants and members of racialized and immigrant communities.

b.) Help homeless and vulnerable people find and keep homes

In this area, the Region must maximize the impact of the resources invested through the Housing Allowance and Coordinated Access programs, and address exclusion of vulnerable tenants, by coordinating a roster of designated landlords. Housing Allowances should be targeted to non-profits, and private landlords who meet identified criteria with regards to unit conditions and nondiscrimination.

c.) Assist families and individuals to afford rents

A plan should call for a coordinated strategy to protect private market tenants facing renovictions and other unfair evictions.

d.) Preserve and repair rental housing

In order to promote tenants' rights to safe, secure, and habitable homes, a York Region plan must ensure that measures to improve conditions in private and non-market rental housing don't lead to gentrification-induced displacement of lower-income tenants.

e.) Revitalize neighbourhoods

Any housing plan should ensure tenant leadership and collective self-determination, and preserve community ties.

f.) Create new affordable rental homes

A made in York Region Housing Plan must play a significant role in shaping, directing, and balancing the housing system. It should:

- Set targets not only for affordable housing development, but for all new supply, in order to limit unaffordable supply, and ensure adequate new supply in a range of forms and tenures;
- Adopt a rights-based definition of "affordable housing" that measures affordability in relation to household income, not average market rent; and
- Leverage maximum value from municipal and regional lands, resources, and zoning changes, to create perpetually affordable housing, owned and operated by public and non-profit entities.

4. A Way Forward: A Rights-Based Approach to Housing York Region

A York Region Housing Plan based in human rights would create a strong foundation for effective housing and homelessness policies and programs in the coming decade. First, it is important to clarify what the right to housing would, and would not, mean for York Region.

In a human rights-based Housing Plan, the Region WOULD NOT:

- Be obligated to provide every resident with an adequate home;
- End homelessness tomorrow;
- Be taken to court by individuals to claim their housing rights;
- Unduly interfere with private property rights; or
- Have to take responsibility for housing problems outside its jurisdiction.

Instead, the Region WOULD:

- Commit to dedicating the maximum of its available resources to ensuring everyone has equitable access to adequate housing;
- Make a plan to progressively realize the right to housing for all, and take immediate action to address urgent threats to human life and dignity, such as homelessness;
- Implement mechanisms outside the court system to monitor and enforce housing rights, and to engage rights-based participation and leadership of people directly affected;
- Use its existing powers—such as planning, zoning, licensing, by-law enforcement, fees, and taxation—to secure residents’ housing rights; and
- Take responsibility for problems within its control, and call upon higher orders of government to fulfill their human rights obligations by providing the resources and powers York Region needs to end homelessness and ensure access to adequate housing for all residents.

A York Region Housing Plan based in human rights would include protocols and mechanisms for upholding the right to adequate housing. Key components include:

- Recognition of housing as a human right: A rights-based housing plan is founded on the recognition of the human right to adequate housing, and the commitment to uphold that right.
- Rights-based decision-making: Region staff and officials would review the impact of policies on the right to housing, and make human rights the primary consideration in decision-making.
- **Coordinated governance & action: A rights-based York Region Housing Plan would set out structures to coordinate the Region’s work on housing and homelessness.**
- Goals, targets, timelines, and mechanisms: The Plan would include goals, targets, and timelines for the reduction and elimination of homelessness and for ensuring adequate housing for all residents, and put in place specific policies, programs, and resources to meet those goals.
- Transparent, evidence-based monitoring: In order to ensure it is advancing the right to housing, the Housing Plan would be subject to evidence-based monitoring, using high-quality, disaggregated data.
- Rights-based participation and leadership: A rights-based plan would be implemented and monitored with the participation of diverse individuals and communities directly affected by inadequate housing and homelessness, and civil society organizations.
- Accountability mechanisms: A rights-based York Region Housing Plan would include independent mechanisms through which the right to adequate housing can be monitored, claimed and enforced.

In closing this section, the AHCYR membership would like to recommend that it is critical to establish a coordinated approach to all departments in the regional government that have involvement in an aspect of housing: Housing York, Planning, Land Use, By-Laws, Housing Services/Service Manager, Community

and Health Services (Homelessness), etc. The appointment of a Housing Officer would go a long way to achieving this coordination and would be an integral piece of implementing a Right to Housing Framework.

Members of the AHCYR are available for further discussion with region staff, about the implementation of a Right to Housing framework. We have been consulting and working with the Centre for Equality Rights in Accommodation (CERA) and they are available to support municipal and regional governments interested in adopting the framework. Founded in 1987, CERA has worked tirelessly for over thirty years at the intersection of human rights and housing and is one of Canada's leading NGOs working in the area of social and economic rights. CERA works to advance the right to adequate housing by:

- Serving clients to help them stay housed
- Providing training and education about housing rights
- Advancing progressive housing policy

B.) Recommendations re: By-Law amendments to protect and increase affordable housing stock and provision of land/properties/support and expertise to the NFP Sector which is committed to provision of affordable housing options.

The AHCYR recommends that there are a number of legislative directions at the local level that would protect existing rental stock, which is one of the best options we have to provide affordable housing for individuals and families and that could incentivize/encourage the building of new stock with an emphasis on affordability for the long-term.

a. Inclusionary Zoning

Although permissive zoning is important, more important is mandating housing at price points (and suitable size, repair etc.) to meet household income groups. And that will not happen without more construction and operating subsidy from senior government, probably delivered through non-speculative or not for profit providers. Community land trusts, scaling up non-profits, and a federal strategy that will allow rapid acquisition are all key.

The other problem with zoning reform is that it doesn't ensure that new housing will be affordable. If it's dependent on market-driven development, and the market supply is focused on meeting investor demand, then it's not increasing supply of affordable housing.

b. Second Suite Legislation

Second suite legislation is a critical step to allow for an increase in the availability of legal, safe and adequate rental options for the hundreds if not thousands of York Region residents who are seeking these options. Determining how to incentivize municipalities to move in that direction, if they have not already, becomes part of the strategy. Having municipalities not just have a system in place to register units is important, but having incentives for people to register is also important.

c. Auxillary Suite Legislation

The province has encouraged municipalities to adapt their by-laws for the inclusion of auxillary suites which are yet another piece of the puzzle in providing a variety of affordable options for tenants and also additional income for home owners.

d. Demolition Control By-laws:

It is our understanding that section 33 of the *Planning Act* and section 99.1 of the *Municipal Act* allow municipalities to enact flexible regulations to create demolition control areas. In these areas, developers are prohibited from demolishing rental housing without first meeting the requirements stipulated under the by-law. This can discourage the destruction of residential rental properties. Several other municipalities have implemented these by-laws including Brampton, Ottawa, and Mississauga. These by-laws are rules of general application that can apply to all or part of a municipality, and which are distinct from temporary use or interim control by-laws.

e. Provision of public available land owned by the Region and individual municipalities to Not-for-Profit Developers for the building of primarily Affordable Units

The acquisition of land, either through expropriation or lease, by local governments, is the most reliable and expeditious way for affordable housing to be built. Not-for-profit organizations (NFPs) are able to apply for and access CMHC seed funding and eventually long-term low-interest loans, and are in a unique position to build what is required for priority populations. The main barrier standing in the way is access to land.

In April 2019, a study was published by the Centre for Urban Research and Land Development at Ryerson U. titled, "Governments in Ontario Making Headway in Using Surplus Lands for Housing." The study identified Ontario as having the largest share of households (27.6%) paying more than 30% of their income on housing. The Report states that to tackle the affordability issue, governments at all levels have turned to the use of surplus public land to build affordable housing. This could include selling at market price or below, or leasing land for development. The report cited examples across Ontario (Windsor, London, Peel Region, Toronto) and Canada where municipal lands have been used for this purpose, many of which were successful in acquiring CMHC funds.

Long term leasing (30 to 50 years) of municipal lands at nominal rates could be the solution. The land remains owned by a municipality while CMHC provides funds for NFP organizations and/or developers, to construct/operate affordable housing making considerable investments in the community. Whereas private developers usually offer between 5-15% of their units as affordable, when required to do so, NFPs traditionally include 50-80% of affordable units in their buildings. By paying serious attention to and supporting the capacity of Not-for-Profit organizations/developers to invest in purpose built, affordable rental stock, provincial, regional and municipal governments can accelerate the growth of affordable housing options.

f. Acquisition of Land/Properties to protect these assets for future public use. With federal funding being made available for capital acquisitions we encourage the Region to explore opportunities to purchase lands/properties for affordable housing development.

g. Not-for-Profit Sector Housing Support in the Region

Identifying a York Region or Housing York Inc. Housing staff person that can work directly with the not-for-profit housing sector and developers in York Region to assist them in navigating the housing landscape and requirements, could facilitate a substantial increase of not-for-profit affordable housing stock in the region.

C.) Recommendations re: Housing First and Encampments for Homeless Residents of York Region

Modular homes

In this past year, modular housing has become the option of choice in a number of municipalities, to house those who are homeless. Relatively lower costs, the speed of building time and adaptability to chosen locations are factors that have made modular housing the attractive option. With a renewed commitment at the federal level to not just reduce homelessness across Canada but to eliminate it and recent announcements about new money available to house the homeless, particularly as we head into a second wave of COVID 19, it's the right time for York Region to seriously consider investing in solutions that can be implemented quickly to meet the needs of the most vulnerable.

A Human Rights Approach: A National Protocol for Homeless Encampments in Canada

Homeless encampments threaten many human rights. People living in encampments face profound challenges with respect to their health, security, and wellbeing, and encampment conditions normally fall far below international human rights standards. Residents frequently face criminalization, harassment, violence, and discriminatory treatment. The existence of encampments are the ultimate reflection of our governments' failure to successfully implement and ensure the right to adequate housing.

As encampments are becoming increasingly common across Canada, there is an urgent need for governments to interact with them in a manner that upholds human rights. The former UN Special Rapporteur on the Right to Housing with the input of many experts, has developed a Protocol that outlines eight Principles based on international human rights law, to guide governments and other stakeholders in adopting a rights-based response to encampments.²

Encampments are not a solution to homelessness, however given the current reality, it is critical that governments uphold the basic human rights and dignity of those who reside in encampments while they await adequate, affordable housing solutions. The Protocol is based on the recognition that encampment residents are rights holders and experts in their own lives. It is intended to assist governments in realizing the right to adequate housing for this group.

We urge the Region of York and Municipalities across York Region in cooperation with law enforcement, to recognize this protocol and respect/protect the rights of homeless people to exist in encampments when safe, adequate, affordable and appropriate housing is not available for them.

² A National Protocol for Homeless Encampments in Canada, UN Special Rapporteur on the Right to Adequate Housing. April 30, 2020.

D.) Advocacy at other levels of government for Tenant Rights and Investments in NFP Housing

We believe that advocacy at other levels of government for tenants' rights and additional investments of funding to allow the not-for-profit sector to be centered in the building and provision of affordable housing solutions, is part of the work of local and regional governments. We realize that the Region of York has been diligent in identifying and accessing sources of funding from both provincial and federal levels; we applaud these efforts and encourage region leadership to continue and in fact, ramp up their efforts in this arena. We are witnessing the rising up of a movement across Canada where municipal leaders are the ones taking the leadership roles in addressing homelessness and the financialization of housing that underscores the global crisis.

We propose advocacy/action in a number of areas:

i. Re-Establish the Moratorium on Evictions during this second wave of COVID 19.

We urge the Region of York to join other municipalities in advocating that the province halt unsafe evictions by restoring the court ordered moratorium on residential evictions put in place in March. We know that housing is the first defense against the spread of COVID-19. Congregate living spaces such as emergency shelters and long-term care homes are at high risk of outbreaks. We have already witnessed the tragic loss of many innocent lives. Most major cities in Ontario have a severe shortage of affordable rental housing, and renters struggle to find a safe place to call home. Renters living on lower incomes, racialized communities, lone-parent households, young people and people living with disabilities are disproportionately affected by this affordable rental housing crisis.

We are hearing that in Ontario approximately 7% of renters were unable to pay their rent in full after losing their income from the pandemic crisis. This means nearly 105,000 renter households are at risk of being evicted into homelessness. An eviction may push these individuals into already crowded emergency shelters, informal and unsafe residences, or living in encampments during the cold winter months – creating situations with high risk of COVID-19 outbreaks. Many emergency shelters are already overwhelmed or will be as the colder weather approaches and cannot increase their capacity, especially as they need to meet physical distancing requirements to keep their clients safe. Without a freeze on residential evictions, cities will be unable to contain the spread of the virus during this second wave, putting our healthcare systems at risk of collapse.

We call on our municipal and regional governments to advocate with the province to protect renters across Ontario and stop unsafe evictions during this pandemic crisis; the health of our communities depends on it.

ii. Challenge Bill 184: Protecting Tenants and Strengthening Community Housing Act

The legislation threatens tenant protections in several ways. Given the impact of the pandemic on tenants' financial situations and their ability to pay rent, we fear that the

increase of evictions that this legislation will lead to will be hazardous for thousands. It allows eviction orders to be issued when tenants are in breach of repayment agreements even if those agreements were not agreed to through the Landlord and Tenant Board.

We urge the Region to direct Housing York Inc. and Rent Geared to Income providers to refrain from seeking evictions, through the use of the new powers provided in Bill 184. We also urge the Region of York to join other jurisdictions in challenging Bill 184.

iii. Vacancy De-Control Legislation

The AHCYR agrees with the position of the Advocacy Centre for Tenants in Ontario (ACTO) on Rent Control (Vacancy De-Control). Ontario's rent control system permits annual rent increases equal to Ontario's Consumer Price Index (CPI). Any other rent increases must be justified and approved by the Landlord and Tenant Board. These limits on rent increases protect sitting tenants, as they should.

However, when a unit is vacated there are no limits and the landlord is allowed to charge any rent a new tenant will pay. As a result, landlords have a financial incentive to push out sitting tenants and the number of affordable rental units decreases. This creates serious impacts on tenants living on lower incomes - seniors on fixed incomes, young people just entering the job market, people who are unemployed, households on social assistance, sole-support families and newcomers to Canada. According to the 2016 Census, 45.6% of Ontario tenant households (i.e. 709,245 households) pay 30% or more of their household income on shelter costs. The risk of homelessness increases as rents take a greater portion of tenants' incomes. To help keep existing rental housing affordable, rent control should apply to all rental units, whether vacant or occupied. ³

We urge the Region of York to advocate for the province to eliminate vacancy decontrol, ensuring that all sitting and new tenants are protected by rent control.

iv. Advocacy for more Investment in the NFP Sector for Affordable Housing

Ontario needs to build at least 10,000 new rental units annually to meet the demand of a growing population. However, we've seen an average of 5,110 rental completions annually over the period of 1990 to 2017 – about half of what we need. Our province has the highest proportion of renter households in Canada paying over 30% of their income on housing. Provincial dollars are essential to produce the deeply affordable rental housing and provide the support services needed by those most financially disadvantaged in our society.

We ask that the Region advocate for the province to fund a stand-alone provincial program to build new social housing - including non-profit rental, co-op housing and supportive housing - with annual targets that will more effectively address the needs of Ontario's low-income tenants.⁴

³ Advocacy Centre for Tenants of Ontario (ACTO). Tenant Duty Council Program. www.acto.ca

⁴ Advocacy Centre for Tenants of Ontario (ACTO). Tenant Duty Council Program. www.acto.ca

We also encourage the Region to advocate for and create opportunities for Not-for-Profit developers who traditionally include 50-80% of affordable units in their buildings as opposed to private developers that usually offer between 5-15% of their units as affordable, when required to do so. By paying serious attention to and supporting the capacity of Not-for-Profit organizations/developers to invest in purpose built, affordable rental stock, provincial, regional and municipal governments can accelerate the growth of affordable housing options.

v. Regulation of Speculation and the Financialization of Housing

Matching funds from different levels of government to build more affordable housing are great but insufficient and unable to compete in the market with Real Estate Investment Trusts (REITs). We can't build our way out of this global housing crisis which is underpinned by the increasing financialization/commodification of housing. There are several regulations and controls that need to be implemented to stem the flow of housing and land into the hands of large investors and speculators.

For example:

- Need to cut off the flow to REITs from our pension funds.
- Need to provide some capital gains tax exemptions to provide reason for landowners to sell buildings to nonprofit housing providers or cities over the higher prices and simpler sales that REITs can offer.

For a comprehensive list of guidelines on how to achieve this work, please refer to *Guidelines for the Implementation of the Right to Adequate Housing – A Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. Guideline No. 12.*** Ensure the regulation of businesses in a manner consistent with State obligations and address the financialization of housing; Section 64. To 69. 5

In Closing:

We would like to thank Region of York Staff for receiving and considering our report and recommendations. Please let us know if you have any questions or would like to discuss any part of this report further. As mentioned in the report, we are working closely with the Centre for Equality Rights in Accommodation who are also available to support the work highlighted in the recommendations, with a particular focus on establishing a Right to Housing Framework.

Sincerely,

**Yvonne Kelly, Co-Chair of the Social Planning Council of York Region
Founding Member of the AHCYR**