



**CITY OF HAMILTON**  
**HEALTHY AND SAFE COMMUNITIES DEPARTMENT**  
**Housing Services Division**  
**and**  
**CORPORATE SERVICES DEPARTMENT**  
**Financial Planning, Administration and Policy Division**

<b>TO:</b>	Chair and Members Emergency and Community Services Committee
<b>COMMITTEE DATE:</b>	August 11, 2022
<b>SUBJECT/REPORT NO:</b>	Approaches to Addressing the Challenges of Financing for Non-profit Housing Developments in Hamilton (HSC22050/FCS22073) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Brian Kreps (905) 546-2424 Ext. 1782 Kirk Weaver (905) 546-2424 Ext. 2878 Al Fletcher (905) 546-2424 Ext. 4711
<b>SUBMITTED BY:</b>	Angela Burden General Manager, Healthy and Safe Communities Department
<b>SIGNATURE:</b>	
<b>SUBMITTED BY:</b>	Mike Zegarac General Manager Corporate Services Department
<b>SIGNATURE:</b>	

**RECOMMENDATION(S)**

- (a) That respecting the request for waiver of Development Charges for 60 Caledon:
- (i) That, in order to provide an equity contribution toward the development of the affordable housing project at 60 Caledon Avenue, the City enter into a forgivable loan agreement with Caledon Community Collaborative LP (CCC) in an amount equal to the municipal development charges for residential

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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dwelling units, to be assessed at the time of building permit issuance, on such terms and conditions set out in the Terms Sheet attached as Appendix “A” to Report HSC22050/FCS22073 in a form satisfactory to the City Solicitor;

- (ii) That and the General Manager of Healthy and Safe Communities or their designate, be authorized and directed to execute and administer the agreement and any ancillary agreements in a form satisfactory to the City Solicitor;
  - (iii) That the forgivable loan be funded via an internal loan from the Investment Stabilization Reserve (#112300) to be repaid from the annual Housing Services tax supported operating budget over a term of 20 years at an annual interest rate of 4.25%, resulting in a net tax levy impact of approximately \$570,400 beginning in 2024;
  - (iv) That a Municipal Housing Project Facilities By-Law, attached as Appendix “B” to Report HSC22050/FCS22073, be approved;
  - (v) That the Loan Agreement provided in Recommendation (a) to Report HSC22050/FCS22073 be approved as a municipal housing project facility agreement in accordance with the City of Hamilton Municipal Housing Facilities By-law #16-233; and,
  - (vi) That the Clerk be authorized to give written notice of the Municipal Housing Project Facilities By-law to the Minister of Finance;
- (b) That respecting viable options for other affordable housing projects, staff report back as part of the 2023 Tax Operating Budget with program guidelines and a financing strategy for a program to provide financial assistance to affordable housing developments by non-profit developers to replace the existing approach of exempting development charges through the Development Charges By-law 19-142; and,
- (c) That Council, given the significant financial pressures facing the City of Hamilton related to supporting new affordable housing developments, continue to advocate with the Federal and Provincial governments to secure new funding to support affordable housing and express the financial burden affecting the City of Hamilton taxpayers.

## **EXECUTIVE SUMMARY**

At its July 15, 2022 meeting, City Council approved the following motion:

“That the General Managers of the Healthy and Safe Communities and Corporate Services Departments work with other City staff to review the challenges facing not-for-profit housing developments, such as the Hamilton is Home project at 60 Caledon Avenue, regarding the requirements of the City of Hamilton Development Charges By-Law and of Federal funding, and develop available options for that project and other known or expected in-year requests, and report back to the August 12, 2022 Council meeting.”

Over the past few years, the development of affordable housing in Hamilton, has seen significant cost escalations related to land values, materials, trades and then been impacted by supply chain issues increasing carrying costs. It is only the not-for-profit housing providers, versus private sector builders, who propose new affordable housing developments consistent with their mandates to build, operate and maintain building housing to address the deeper housing needs. New funding from Federal and Provincial governments has incentivized affordable housing projects bringing many new not-for-profit projects to the table looking for funding in order to respond to the current housing crisis. However, financial viability of these projects requires municipal investment/incentives to make the projects successful.

There is not enough funding at the Federal, Provincial and municipal levels of government to support every project, which has led to a growing competition for every dollar to create financial viability of each project. Increasingly, the gap between cost of development and available funding from provincial and federal programs is translating to local requests for municipal funding to cover shortfalls. The goal has been to work with the not-for-profit providers to move forward as many projects as possible to address the housing needs in Hamilton. As not-for-profit organizations aggressively pursue the important goal of creating as many units as possible the magnitude of financial requests has grown. The two delegations at the July 7, 2022 Emergency and Community Services Committee highlighted the challenges facing 60 Caledon and similar needs of another 19 projects presented by Hamilton is Home.

### **Caledon Community Collaborative - 60 Caledon**

The specific project developed by Hamilton East Kiwanis Community Homes and Victoria Park Community Homes partnership under the name Caledon Community Collaborative LP (CCC) will develop 266 units of affordable housing at 60 Caledon Avenue. The \$133 M project has received \$7,835,265 in municipal funding (outlined in the Analysis section below). The project's financing was built on the proponent's

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assumption that the project would be exempted from development charges (DC) and is not financially viable without the DC exemption.

Hamilton's DC By-law No. 19-142 exempts affordable housing development from paying development charges as long as they have received funding from an upper level government funding program which does not allow the development charges as an eligible expense. CCC has submitted an application to Canada Mortgage and Housing Corporation's Co-Investment Fund (COI). Under the COI, development charges are an allowable expense and as a result, the project at 60 Caledon Avenue does not qualify for the DC exemption. However, if the project did not receive CMHC funding and secured upper level government funding from an alternate source, the project would be eligible for Hamilton DC exemption.

To support the development of 60 Caledon, staff recommends that that a forgivable loan be provided to CCC in an amount equal to the City and GO Transit DCs on the residential units assessed at the time of building permit issuance. Based on information known to date, the current estimated DCs for City and GO Transit is approximately \$9.1 M.

Council approved a Municipal Housing Project Facilities (MHPF) By-Law for 60 Caledon at the time of the property sale and this By-Law would need to be modified to reflect the additional loan being provided. MHPF by-laws and agreements are required where a proponent is not a not-for-profit entity, as the loan would otherwise potentially contravene the anti-bonusing provision contained in section 106 of the Municipal Act, 2001.

### **Known or Expected In-Year Requests**

The COI is currently the primary vehicle for financing affordable housing in Canada so it is likely that other affordable housing developments will encounter this challenge. At its July 8, 2022 meeting, Hamilton City Council directed staff to explore the challenges facing 60 Caledon Avenue and other not-for-profit affordable housing projects.

In an effort to address the challenges faced by 60 Caledon and other similar projects, staff will be working on a financial assistance program that will recommend that the DC exemption contained in the DC By-law be replaced by a Housing Services program offering financial assistance to qualifying affordable housing projects. This funding can also address the pressures of capital cost overruns, pre-development costs and other financial pressures affecting the construction of new affordable housing units. Consideration will also be given to how to effectively invest into private sector development to create opportunities for new affordable housing. This program and a

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plan to fund the program will be brought to Council as part of 2023 Tax Operating Budget process.

**Alternatives for Consideration – Not Applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The recommendations would provide a forgivable loan equal to the amount of the City and GO Transit DCs payable on the 60 Caledon project. The loan would be advanced at the time of building permit issuance to offset the DCs applicable to the project. The loan would become forgivable should all of the terms outlined in Appendix “A” to Report HSC22050/FCS22073 be met. The loan would be funded through an internal loan from the Investment Stabilization Reserve and repaid over 20 years from the annual Housing Service budget. Based on current project information, the estimated annual levy impact would be approximately \$570,400. The City has previously committed \$7,835,265 in municipal funding (see Table 1 - Municipal Funding Support – 60 Caledon) in the form of other fee waivers and exemptions and financial assistance toward the purchase of the land. The provision of a forgivable loan estimated at \$9.1 M, to fully offset the City and GO Transit DCs, would bring the City’s total commitment to this project to approximately \$16.9 M or 12.7 % of the \$133 M project cost.

The estimated \$9.1 M City and GO Transit DCs have been calculated using the following assumptions:

- 130 two-bedroom apartments, 76 one-bedroom apartments, 60 Towns / Other Multiple Units
- Site plan application date: July 2022
- Building permit issuance date: March 2023
- Applicable interest rate between site plan application and building permit issuance: 4.7% (Policy rate is Bank of Canada prime rate fixed at time of site plan application - the July 20, 2022 rate has been used as estimate).

The amount of DCs that will be applicable at permit issuance will be based on the actual development facts and may differ from the estimate.

**Staffing:** N/A

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Legal: Staff will be required to prepare the necessary term sheets, agreements and Municipal Facilities By-law to support the forgivable loan funding to CCC for the 60 Caledon development.

## **HISTORICAL BACKGROUND**

In May 2018, the federal government announced the Co-Investment Fund (COI) as a central part of its National Housing Strategy. The COI – New Construction Stream is Canada Mortgage and Housing Corporation's (CMHC's) primary program for supporting the development of new affordable housing. The program generally offers an equity contribution in the form of a forgivable loan. The balance of financing is made up through a low-interest loan. The program guidelines include municipal DCs as allowable expenses. The projects, however, must meet strict criteria in terms of financial viability.

On June 9, 2019, the Audit, Finance and Administration Committee approved Report FSC19050 which authorized a new DC By-law. The By-law provided a DC exemption for affordable housing projects where the project secured upper level government funding and that funding does not have DCs as an eligible expense.

Caledon Community Collaborative LP (CCC) were the successful proponents in the City of Hamilton's call for offers of 60 Caledon Avenue. The affordable housing project is designed as 100% affordable 266 units consisting of one, two and three-bedroom designs with rents for 84 of the units set at 80% Median Market Rents (MMR) and the balance at 125% MMR.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The Council approved DC By-law (By-law No. 19-142) automatically exempts DC for affordable housing developments subject to certain criteria. The specific project criteria are:

- (A) approved to receive construction funding from the Government of Canada or the Province of Ontario (including their Crown corporations) under an affordable housing program or have been approved by the City of Hamilton through an affordable housing program; and
- (B) such affordable housing dwelling unit is not eligible for funding for development charge (DC) liabilities from the Government of Canada or the Province of Ontario (including their Crown corporations). This clause refers to DCs being an eligible expense.

The DC By-law further states that this DC exemption shall be removed at such time as the City's Housing Services Division develops and implements a Development Charge Incentive Program. The rationale for this provision was to maximize access to senior government funding where available. The program criteria to be developed through Recommendation (b) to Report HSC22050/FCS22073 which is intended to be the Development Charge Incentive Program referred to in the current DC By-law.

The CCC project located at 60 Caledon Avenue does not qualify for a waiver under By-law No. 19-142 because it has received a funding commitment from CMHC's Co-Investment Fund which allows DCs as an eligible expense.

### **RELEVANT CONSULTATION**

Legal and Risk Management Services Division, Corporate Services Department

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

Current models for affordable housing development by non-profits rely heavily on mortgages. This is the case with CMHC's Co-Investment Fund (COI), the primary vehicle for affordable housing development in Canada. This approach requires that each project must be able to sustain the associated mortgage payments through its revenues as there is no ongoing subsidy. This is a marked change from the legacy social housing programs. As most affordable housing developments are undertaken by not-for-profit organizations, most projects have limited equity to contribute and revenues are inherently constrained by the goal of offering the units at rates below the true market, generally between 80% MMR and 125% MMR.

Legacy funding models were designed so many projects would break even or run small surpluses not having ready access to equity for new development. Possible sources of equity include selling existing units or applying for funding from the other levels of government or the Federation of Canadian Municipalities.

The City of Hamilton has created incentives and policies to encourage / support new affordable housing developments which include:

- Parkland By-law which exempts affordable housing developments from paying cash-in-lieu of parkland;
- Waiver of planning development application fees;
- Council approved DC By-law which exempts affordable housing developments from payment of DCs provided they receive upper level government funding and that funding does not permit DCs as an eligible expense.

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These incentives provide valuable cost savings within the business proforma of the development which helps support the financial sustainability of the project to afford the mortgage payment costs.

Where developments receive upper level government funding such as Rapid Housing Initiative (RHI), Investment in Affordable Housing and Extension (IAH, IAH-E), Social Investment Fund (SIF), Social Service Relief Fund (SSRF), Canada Ontario Community Housing Initiative (COCHI) or Ontario Housing Priority Initiative (OPHI), all the above noted incentives would apply. Under the DC By-law, the projects would automatically qualify for the DC exemption. The cost to the City would be that the DC Act requires that the DC Exemption amount would have to be found internal to the City to compensate the DC Reserve Fund.

It should be noted that should 60 Caledon have secured other sources of funding than COI, (which did not have DCs as an eligible expense or CMHC change their eligible expense to remove DCs as an eligible expense), the project would automatically qualify for the DC exemption and the City would have to find the \$9.1 M to compensate the DC reserve fund. While the DC By-law requirements under a COI application creates a financial challenge for the development of 60 Caledon and affects the financial viability without the recommended support, it is important to note that the rationale for the provision in the DC by-law was intended to protect the City from assuming financial liability on the tax levy where it could be funded by other senior government programs.

60 Caledon Avenue

The Caledon Community Collaborative development proposes 266, 100% affordable units with a total estimated project cost of \$133 M project. The project has received \$7,835,265 in municipal funding in the form of:

**Table 1  
Municipal Funding Support Received to Date – 60 Caledon**

Municipal Funding Support	Amount
Contribution and Municipal Housing Project Facility Agreement forgivable loan	\$5,000,000
Poverty Reduction Fund toward the land purchase	\$800,000
Parkland Dedication Exemption	\$2,000,000
Planning Fee Waiver	\$35,265
<b>Total Municipal Funding Support</b>	<b>\$7,835,265</b>



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In their financing plan submission to CMHC for Co-Investment funding, the exempting of \$9.1 M in development charges is included in their proforma. Their understanding of the exemption contained in the City of Hamilton's DC By-law applied to 60 Caledon development. CCC will secure their equity contribution of \$18 M through the sale of approximately 40 aging single and semi-detached homes. The project has applied for a \$20 M Co-Investment Fund (COI) forgivable loan from CMHC. Under the COI, municipal DCs are an allowable expense. According to the City of Hamilton's DC By-law, affordable housing projects that receive funding from an affordable housing program that allows the funding to be used towards DCs, do not qualify for the exemption.

The proforma for 60 Caledon assumed that 84 units will be rented at 80% of Median Market Rent (MMR) and the remaining 182 will be rented at 125% of MMR. These rents would not be affordable to families living in poverty or in receipt of social assistance or the Ontario Disability Support Program, nor would they take any households off the Access to Housing (ATH) waitlist. Since Kiwanis Homes is selling 40 single-family homes that are currently subsidized by the City, staff will also bring a recommendation in 2023 to request to transfer the subsidy attached to these units to 60 Caledon. The exact amount of subsidies is yet to be determined.

To support the development of 60 Caledon, staff recommends that that a forgivable loan be provided to CCC in an amount equal to the City and GO Transit DCs assessed at the time of building permit issuance. Under the current DC By-law, the DC exemption estimate would be \$9.1 M. CCC is required to pay the education development charges and estimated at approximately \$791 K.

The forgivable loan agreement would incorporate the terms outlined in Appendix "A" to Report HSC22050/FCS22073. The terms ensure that the units in this development would remain affordable for 20 years. The terms and conditions for the loan include a requirement that the lender provide proof satisfactory to the General Manager, Finance and Corporate Services, that the borrower is not a commercial enterprise within the meaning of section 106 of the *Municipal Act, 2001* in order to ensure the City is not providing prohibited assistance.

Sub-section 110 of the *Municipal Act, 2001* and Ontario Regulation 603/06 require that the City enact a municipal housing facility by-law and enter into a municipal housing facility agreement for the provision of Municipal Housing Project Facilities (MHPF). MHPF by-laws and agreements are required where a proponent is not a not-for-profit entity, as the loan would otherwise potentially contravene the anti-bonusing provision contained in section 106 of the *Municipal Act, 2001*. The loan agreement to be entered into pursuant to Report HSC20051 is deemed an MHPF agreement and

thereby protects the loan from challenge for being a prohibited form of assistance pursuant to section 110(3) of the *Municipal Act, 2001*.

Sub-section 110(5) of the *Municipal Act, 2001* requires that upon the passing of a by-law permitting a municipality to enter into an MHPF agreement, the Clerk of the municipality shall give written notice of the by-law to the Minister of Finance.

### **Known/Expected Affordable Housing Projects Under Development**

Given that CMCH's Co-Investment Fund (COI) is the primary funding source for affordable housing in Canada, it is anticipated that other affordable housing projects will face similar problems securing necessary funding to ensure viability. Staff has identified 24 such affordable housing projects, including 60 Caledon Avenue, currently under development in Hamilton, representing more than 1,500 units. The proponents have anticipated completion dates between 2022 and 2024. However, the various projects are in different stages of development, not all projects have capital funding and the projects could be revised prior to construction.

Under the development charge by-law, if these projects receive funding from another level of government that does not allow development charges as an eligible expense, then all the projects would qualify for DC exemptions. CityHousing Hamilton's (CHH) projects are excluded as DC are not imposed on CHH under the DC By-law as they are City owned properties. The potential DC exemptions for the 24 proposed affordable housing developments, with the information we know to date, are estimated at \$30.7 M (as outlined in Appendix "C" to Report HSC22050/FCS22073), inclusive of 60 Caledon (9.1M), spread over the 2022-2024 time period.

There are several challenges with the current approach to development charge exemptions for affordable housing. In Report 18-005 to the Audit, Finance and Administration Committee on April 23, 2018, when the DC exemption by-law was created, staff was given direction to fund affordable housing development charge exemptions from the Social Housing Stabilization Reserve. However, there is no identified funding to ensure that the Housing Stabilization Reserve has funding to cover the exemptions. Under Section 5(6)3 of the DC Act, a municipality cannot make up the shortfall of exemptions through higher development charges for other types of development and, therefore, needs to fund any exemptions provided.

The other challenge with the current approach to DC exemptions for affordable housing is that there is currently no process to control the cost to the City. Under the DC by-law, an affordable housing project whose project meets the criteria automatically receives an exemption. This makes it difficult for staff to budget for these expenses and is the reason that the affordable housing DC exemption is to be removed from the DC by-law

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once an alternate program is developed by housing services and adopted by Council. Another limitation is that there is no ability under the DC by-law to impose any additional requirements of providers such as a requirement to maintain affordability for a set period of time.

As with 60 Caledon, the proformas for these projects project revenue based on rents of 80% to 125% MMR. To bring rents down to Rent-Geared-to-Income (RGI) level to make them deeply affordable, rent supplements must be provided.

It is important to note that the potential costs to the City are not limited to only DC Exemptions. Depending on the type of affordable housing development, the City could expect additional costs related to building operations (such as rent supplements) and costs related to program support for residents. While difficult to forecast due to development timelines that occur over a period of several years, the City has already seen additional funding pressures as follows:

- Rapid Housing Initiative Development cost overages – When the City signed onto the agreement with CMHC to receive the RHI funding, the City took on the responsibility to pay any costs over and above the RHI funding. To date, the City is aware of the following cost overruns:
  - St. Matthews, 412 Barton Street – approximately \$1 M
  - Good Sheppard, 35 Arkledun – \$3.1 M (Report HSC22047)
  - City Housing Hamilton – 256 King William – \$2.5 M – however, CHH has been able to cover this cost through the sale of properties and their Poverty Reduction Fund
- Requests for Pre-Development Cost funding – Township of Glanbrook Non-Profit Housing Corporation has requested \$1.7 M to support their 100-unit project in Binbrook (Report HSC22049/FCS22070)

Staff recommends that a financial assistance program be established to replace the current DC exemption contained within the by-law. This would allow the City to set a budget, create guidelines beyond those outlined in the DC By-law and institute an application process, as well as, consider how much new affordable housing development is affordable.

## **ALTERNATIVES FOR CONSIDERATION**

N/A

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

### **Built Environment and Infrastructure**

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

### **Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

### **Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report HSC22050/FCS22073 – Terms Sheet

Appendix “B” to Report HSC22050/FCS22073 – Municipal Housing Project Facilities  
By-law

Appendix “C” to Report HSC22050/FCS22073 – Affordable Housing Projects - Potential  
DC Exemptions