

Request to Speak to a Committee of Council

Added 4.3

If your request is for a specific committee meeting, this form must be received by NOON the day before the scheduled committee meeting. Requests for Monday meetings must be received by NOON the Friday before the meeting. Requests for meetings scheduled for the day after a statutory holiday must be received by NOON the last business day before the meeting.

Committee Requested

Kindly indicate which Committee: *

Emergency & Community Services

If you selected Advisory/Sub-Committee from the above list, please indicate name of Committee:

Requestor Information

Name of Individual: *

Benjamin Ries

Name of Organization:

Hamilton Community Legal Clinic

Do you or your organization represent a lobbyist (voluntary)

Yes
 No

Contact Number: *

905-527-4572 x61

Email Address: *

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100 Main Street East, Suite 203 Hamilton, ON L8N 3W4

Reason(s) for delegation request: *

To speak to the draft Hamilton Housing and Homeless Action Plan on behalf of the Hamilton Community Legal Clinic

Will you be submitting a formal presentation?*

Yes
 No

Requests to speak to Council are forwarded to the Committee for consideration. Once considered by Committee, and approved, you will be notified of the date for your presentation.

This form is not for the purpose of presenting unsolicited proposals by Vendors to Committee. Such proposals are subject to a competitive process as required by the City's Purchasing Policy.

Personal information collected on this form is authorized under Section 5.10(2) of the City's Procedural By-law No. 10-053 for the purpose of contacting individuals and/or organizations requesting an opportunity to appear as a delegation before a Committee and will be published with the Committee Agenda. The Voluntary Lobbyist Registry is a public document and will be available for viewing in the City Clerk's office. The Procedural By-law is a requirement of Section 238(2) of the Municipal Act. Questions about its collection can be directed to the Manager, Legislative Services / Deputy Clerk, City Hall, 71 Main St. W., Hamilton, ON L8P 4Y5 (905 546-2424 ext. 4304).

BRIEF REMARKS FROM THE HAMILTON COMMUNITY LEGAL CLINIC ON THE PHASE ONE DRAFT, “A HOUSING & HOMELESSNESS ACTION PLAN FOR HAMILTON”

EMERGENCY AND COMMUNITY SERVICES COMMITTEE, CITY OF HAMILTON
JUNE 11, 2012
BASED ON DRAFT PLAN DATED APRIL 10, 2012

WHO WE ARE

The *Hamilton Community Legal Clinic / Clinique juridique communautaire de Hamilton* is the largest community legal clinic in the province, and is funded by Legal Aid Ontario. Our service area aligns with the boundaries of the City of Hamilton, and we serve and represent low-income members of the community with respect to housing, income security, employment and human rights law.

SHARED VALUES, CAUTIOUS CRITICISM

The City’s draft Phase One Housing & Homelessness Action Plan (“HHAP”) contains plenty of ideas and values that we support, as advocates for people who typically have the greatest need for housing assistance and reform. We recognize and appreciate that the draft represents a significant investment of time and effort by City staff and community members.

Moreover, this draft is somewhat difficult for us to criticize at all, for two reasons. The first reason is that, because the City has adopted a two-phase approach to the development of the HHAP, it is difficult to determine the necessary completeness of the document at this stage. For each feature that we may find lacking in this draft, it is easy to hope that those features will appear as the ‘implementation’ phase gets underway. The second reason is that the multiple housing planning processes adopted by the City to date have made it difficult to identify the City’s specific, intended policy direction on housing and homelessness issues (as will be discussed further below). We raise our concerns with these inherent limitations in mind.

OUR PERSPECTIVE: A RIGHTS-BASED HOUSING & HOMELESSNESS PLANNING SYSTEM

As the draft acknowledges, all persons have a human right to an adequate standard of living that includes adequate housing. This right is recognized in several international covenants to which Canada is signatory. We believe that when federal, provincial and municipal governments develop and execute housing programs, regulation and legislation, these efforts should be understood as part of a broader attempt to implement the universal human right to housing. While clinics have also taken the position that both Canada and Ontario have substantially failed in this exercise (a position advanced in a court action launched by our partners at the Advocacy Centre for Tenants Ontario against those governments), we do not believe that this excuses any municipality from its obligations.

When a resident of Hamilton is unable to obtain adequate housing, they have been failed by all three levels of government – including the City. The *Municipal Act, 2001* makes clear that municipalities are a

mature level of government with robust duties and powers (fiscal and otherwise). The *Social Housing Reform Act, 2000* (“SHRA”) devolved provincial responsibility for social housing to municipal service managers; subsequent federal-provincial funding programs have followed the same principle of municipal responsibility with respect to rent bank assistance, rent supplements, and affordable housing development. In each case, municipalities have played a largely passive role, becoming caretakers for an aging stock of social housing units and waiting for further fiscal and program initiative from the province.

We believe that the HHAP is a required part of a domestic legal scheme – continued and extended by the province under the *Housing Services Act, 2011* (“HSA”) – to implement the human right to housing on a local level. In addition to continuing the scheme of municipal service manager responsibilities from the SHRA, the HSA also creates – through Part II – a housing and homelessness *planning system* that mirrors the language of the *Planning Act*. Following the established, hierarchical system of land-use planning in Ontario, the HSA articulates broad matters of provincial interest in the field of housing, empowers the Minister of Municipal Affairs and Housing to issue policy statements expanding on those matters, and requires municipalities to enact housing & homelessness plans that are consistent with the aforementioned legal instruments. In this sense, the HHAP is comparable to an Official Plan.

Ontario’s system of housing and homelessness planning is, admittedly, in its infancy. Housing & homelessness plans are subject to public consultation but no appeal to the Municipal Board; the Minister is given an opportunity to review plans but cannot approve or deny them. Neither does the HSA go on to specify other legal instruments or decisions that must be consistent with the HHAP (i.e. equivalent to zoning by-laws). We imagine that these kinds of checks and balances may evolve over time. Until then, we believe that Hamilton must follow both the spirit and the letter of the HSA when adopting its HHAP.

PLAN MUST BE CONSISTENT WITH *HOUSING SERVICES ACT, 2011*, ONTARIO HOUSING POLICY STATEMENT, AND HAMILTON’S LOCAL NEEDS

The HSA requires that housing & homelessness plans specifically address each of the matters of provincial interest identified in the Act, and that they be consistent with the Minister’s policy statement. The Ontario Housing Policy Statement (“OHPS”) expands upon matters of provincial interest and gives specific policy direction to service manager plans (i.e. the HHAP) in seven distinct areas: accountability and outcomes, the goal of ending homelessness, non-profit housing corporations and cooperatives, the private market, co-ordination with other community services, a broad range of community needs, and environmental sustainability.

In contrast, the HHAP divides itself into five “outcomes” that do not necessarily correspond to the seven policy areas directed by the OHPS. While we understand that the implementation phase may add greater detail, we are frankly concerned that the current outcomes and strategies listed in the HHAP do not rise to the breadth or depth implied by the OHPS – nor do they necessarily adapt OHPS policy to Hamilton’s local needs. For example:

1. *Housing adequacy*: while the OHPS articulates that ending and preventing homelessness is a required goal, the HHAP appears to soften this approach to merely suggest an increase in affordable housing supply (i.e. with new federal and/or provincial spending). Definitive, binding policies and hard targets are needed.
2. *Housing quality*: while the HHAP mentions a coordinated approach to bed bug infestations, it stops short of any elaboration specific to Hamilton's needs. From our perspective, a rather obvious legal gap in the City's approach to bed bugs is the failure of Hamilton Public Health to recognize bed bugs as a "health hazard" for the purposes of the *Health Protection and Promotion Act*, which would commit the health department to statutory duties of inspection and enforcement. In our view, this would be an example of the kind of policy co-ordination with community services envisioned by the OHPS.
3. *Accountability and user access*: while the HHAP speaks broadly of a commitment to a more user-friendly housing system, it stops short of identifying the gaps between the housing system provided in the HSA by law, and the system currently offered by the City. In our view, the service manager's review body mandated by Part X of the HSA (allowing tenants to appeal social housing subsidy decisions) should have been in place by January 2012, but remains entirely unimplemented. Social housing households are currently left in a legal quagmire when they disagree with a housing provider's decision; the City continues to direct providers and households to pretend as though the SHRA is still in force.
4. *Missing subject areas*: the OHPS directs service managers' plans to identify and consider aboriginal off-reserve housing needs; the HHAP only proposes to develop a public awareness campaign regarding anti-discrimination. The OHPS directs that plans demonstrate a commitment to the environmental sustainability of housing stock; the HHAP only proposes to "explore options to increase energy efficiency of homes." Clearly the OHPS envisions the development of actual policy in these and other areas.

STRATEGIES TO MAKE PLANS; PLANS TO MAKE STRATEGIES

While the current Phase One draft HHAP lists an impressive 54 strategies, nearly half of these fall into one of the following categories: feasibility studies, lobbying of other governments, generic endorsements of coordination, communication and education, and passive data collection. While each of these approaches may have their place, they are clearly secondary to the intended function of the HHAP, which is to set definitive local policy.

Once these passive approaches are held aside, the remaining strategies mostly begin with variants of the phrase "develop a strategy to..." achieve some broadly-defined end. While we recognize the importance of visioning exercises, we are concerned that the strategies listed in the current draft HHAP provide little detail to direct the implementation phase. What we would hope to see, at some point, is a robust set of targeted policies that reflect the City's commitment to and responsibility for the realization of the right to adequate housing in Hamilton.

LACK OF SOCIAL HOUSING POLICY INTEGRATION

As mentioned earlier, other service manager responsibilities for social housing under the HSA are not yet developed or implemented by the City, despite the fact that the statute was in force at the beginning of 2012. The City has refused to develop a subsidy review system under Part X, and is currently following an entirely separate process to develop its “local rules” for social housing through its Community Consultation Committee on Social Housing (“CCCOSH”). This committee, composed largely of representatives from social housing landlords, has broken into smaller “working groups” to propose new local rules in various areas of social housing administration.

While this process has just begun, we have received the first set of minutes from one of the working groups and find it disconcerting, insofar as it appears to be exclusively preoccupied with the interests of social housing landlords. While easing the operation of social housing by providers is certainly one valid consideration for HSA local rules, we suggest that the policy content and purpose of the HSA, the OHPS and the HHAP ought to direct and control these rules as subordinate legal instruments. For that reason, the HHAP’s social housing policy content ought to enact policy from which specific local rules could conceivably and rationally follow.

TRUE PUBLIC CONSULTATION NEEDED

While we appreciate the City’s efforts in holding community roundtable discussions on the HHAP to date, we suggest that these types of consultations are only part of the public consultation required by the HSA for this plan. Specifically, the public deserves to see a final draft of the plan – for comment and iterative modification – before it is approved by council. Meaningful consultation requires that the public have a specific idea of what the City proposes to do (and not do), so that members of the public can advance relevant and specific opinions to open-minded decision makers. We hope that the City provides this opportunity to the public at the close of Phase Two.

RECOMMENDATION

We are hopeful that the concerns outlined above can largely be answered during Phase Two of the HHAP’s development. For this reason, we suggest that the Emergency and Community Services Committee accept the draft and endorse it, in principle, with the following caveats: that nothing in the current draft should limit the content of the final proposal (particularly with respect to detailed compliance with the HSA and the OHPS) and that a final draft of the HHAP be circulated to the relevant stakeholders, after Phase Two but before consideration by committee or council. We thank the Committee for considering our comments, and the perspective of low-income Hamiltonians who need and deserve a plan that ensures their access to adequate housing.