

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 2009-52

**BEING A BY-LAW TO PROVIDE
FOR MUNICIPAL HOUSING FACILITIES
CASTLE ARMS NON-PROFIT APARTMENT CORPORATION**

WHEREAS The Corporation of the City of North Bay, pursuant to Section 110 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, may enter into agreements for the provision of municipal capital facilities by any person;

AND WHEREAS the District of Nipissing Social Services Administration Board, as Consolidated Municipal Service Manager is the delivery agent under the *Ontario Works Act, 1997*, S.O. 1997, c.25, *Schedule A* and is authorized to operate and manage housing projects as well as to establish, fund and administer programs for the provision of residential accommodation in its service area under the *Social Housing Reform Act*, S.O. 2000, c.27;

AND WHEREAS Section 6 of the *Social Housing Reform Act* provides that the provision of residential accommodation by a Consolidated Municipal Service Manager is deemed to be a municipal purpose of that Consolidated Municipal Service Manager and a Consolidated Municipal Service Manager may exercise for the purposes of the *Social Housing Reform Act*, the powers that it has as a municipality;

AND WHEREAS Section 110 of the *Municipal Act 2001*, S.O. 2001, c.25, as amended, allows municipalities to enter into agreements for the provision of municipal capital facilities by any proponent;

AND WHEREAS Ontario Regulation 189/01 was filed May 31, 2001, to amend Ontario Regulation 46/94 to add "municipal capital facilities" to the class of municipal capital facilities for which municipal councils may enter into agreements pursuant to Section 110 of the *Municipal Act 2001*, S.O. 2001, c.25.

AND WHEREAS the said Ontario Regulation 46/94, as amended, requires that before a by-law authorizing an agreement under Section 110 of the *Municipal Act 2001*, S.O. 2001, c.25 respecting Municipal Housing Project Facilities is entered into a Municipal Housing Facilities By-Law must be enacted, which must comply with requirements set out in that Regulation;

AND WHEREAS Council is of the opinion that making use of Section 110 of the *Municipal Act 2001*, S.O. 2001, c.25 is a desirable means of increasing the supply of affordable housing by providing financial or other assistance at less than fair market value to Castle Arms Non-Profit Apartment Corporation (Ron Girard) on the criteria set out in this by-law;

AND WHEREAS by Resolution No. 2009-182 passed by Council on the 16th day of March 2009 and by the District of Nipissing Social Services Administration Board by Resolution No. 2009-047 on the 11th day of February, 2009, the Council and the District of Nipissing Social Services Administration Board have approved this Affordable Housing Program at 350 Olive Street, North Bay, comprising 55 units, to be operated by Castle Arms Non-Profit Apartment Corporation under the supervision of the District of Nipissing Social Services Administration Board with an annual Tax Reduction Grant provided by the City;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY ENACTS AS FOLLOWS:

1. In this by-law,

"Act" means the *Municipal Act 2001*, S.O. 2001, c.25, as amended, and its Regulations;

"Affordable housing" means affordable housing as set out in Sections 5 and 6 of this By-law;

“Affordable rent” means rents achieving an average project rent, which is 20% below the CMHC average market rent; if CMHC does not publish an annual survey of rents for the City of North Bay, then the “affordable rent” for that period shall be determined by the Service Manager;

“Average Project Rent” means the average monthly unit rent by unit type, located within the City of North Bay as determined and amended from time-to-time by CMHC; if CMHC does not publish an annual survey of rents for the City of North Bay, then the “average project rent” for that period shall be the average rent as determined by the Service Manager;

“Canada/Ontario Affordable Housing Program” Affordable Housing Agreement signed by the Province of Ontario and the Government of Canada on April 29th, 2005;

“Clerk” means the Clerk of The Corporation of the City of North Bay;

“CMHC” means the Canada Mortgage and Housing Corporation;

“Council” means the Council of The Corporation of the City of North Bay;

“Household” means an individual who lives alone or two or more individuals who live together;

“Housing Project” means a project or part of a project designed to provide or facilitate the provision of residential accommodation, with or without public space, recreational facilities and commercial space or building appropriate thereto;

“Housing Provider” means a corporation or individual legally entitled to own real property in the District and with whom the City of North Bay has entered into or will enter into a Municipal Housing Project Facilities agreement under Section 2 of this by-law;

“Maximum Household Income” means maximum household income level eligibility requirements will apply to all tenants housed in designated affordable rental housing units. All tenants occupying the units rented at 80% of CMHC market rent levels must have incomes at or below the maximum income threshold requirement of \$55,100. All tenants occupying the units rented at 60% of CMHC market rent levels must have incomes at or below the maximum income threshold requirement of \$39,000.

“Municipal Housing Facility” means the class of municipal capital facilities, as prescribed by paragraph 6.1(1) of Section 2 of Ontario Regulation 46/94, as amended;

“Municipal Housing Facilities Agreement” means an agreement as set out in Section 2 of Ontario Regulation 46/94, as amended;

“Municipal Housing Facility By-Law” means a by-law enacted by Council pursuant to paragraph 6.1(1) (a) of Ontario Regulation 46/94, as amended;

“Proponent” or “Castle Arms Non-Profit Apartment Corporation” means a non-profit corporation with whom the Service Manager has entered into a municipal housing facility agreement under Section 2 of this by-law;

“Rent” means the amount charged for accommodation in a housing unit and is used in this by-law to mean the same thing as a housing charge under the Co-operative Corporations Act;

“Service Manager” or “DNSSAB” means the District of Nipissing Social Services Administration Board (hereinafter referred as to “DNSSAB”), the Consolidated Municipal Service Manager for the City of North Bay under the *Ontario Works Act*,

1997, S.O. 1997, c.25, Schedule A authorized to operate and manage housing under the *Social Housing Reform Act, S.O. 2000, c.27*, as the context requires;

“Social Housing Program” means a program prescribed as a housing program under the *Social Housing Reform Act, 2000*;

“Northern Remote” means a sub-component of the Canada/Ontario Affordable Housing Program and established by the Province to make funding available for the construction of affordable rental units;

“Unit size” means the size of a unit within a Municipal Housing Project facility or potential Municipal Housing Project facility, measured by the number of bedrooms;

“Waiting list” means the District of Nipissing Social Housing Coordinated Access Centre.

Service Manager

2. The City is hereby authorized to enter into a Municipal Housing Facility Agreement with the DNSSAB and Castle Arms Non-Profit Apartment Corporation, dated March 12, 2009, pursuant to Subsection 110(1) of the Act, for the provision of the Municipal Housing Project Facilities.
3. The Service Manager shall ensure that all, (or an agreed upon percentage), of the housing units to be provided as part of the municipal housing facility, fall within the definition of affordable housing as set out in the agreement referred to in Section 2.
4. Upon passing of this by-law, the Clerk shall give written notice of the by-law to the Minister of Education or successor, as set out in the Act.

Affordable Housing

5. The definition of “affordable housing” for the purpose of a Municipal Housing Project Facilities Agreement shall be:
 - (a) Housing which is modest in terms of floor area and amenities, based on household needs and community norms, in Projects that achieve rent levels in accordance with the Program Guidelines, but does not include residential premises used as a nursing home, retirement home, shelter, crisis care facility or any other type of similar facility.
 - (i) Affordable ownership housing is housing where monthly housing expenses (including mortgage principle, interest and property tax but excluding insurance or utilities expenses) do not exceed 30% of gross monthly household income.
 - (b) For the purposes of participating in the “Canada/Ontario Affordable Housing Program”, the definition of “affordable housing” shall be Municipal Housing Project Facilities in which the average project rent for each unit size, exclusive of utilities, parking, telephone, cable and other related fees, is less than or equal to the most recently released average CMHC rent for the City of North Bay for that unit size. Where CMHC average rent amounts are not defined, the average rent shall be determined by the Service Manager;
 - (c) For the purpose of participating in the Canada/Ontario Affordable Housing Program—“Northern Remote,” affordable housing shall be Municipal Housing Project Facilities in which the “affordable rent” is 20% below the CMHC average rent for the City of North Bay for that unit size. Where CMHC average rent amounts are not defined, the affordable rent shall be determined by the Service Manager;

Eligibility

6. Eligibility for affordable housing to be provided as part of a Municipal Housing Facility Agreement will be determined in accordance with the following:
 - (a) Maximum household income level eligibility requirements will apply to all tenants housed in designated affordable rental housing units. All tenants occupying the units rented at 80% of CMHC market rent levels must have incomes at or below the maximum income threshold requirement of \$55,100. All tenants occupying the units rented at 60% of CMHC market rent levels must have incomes at or below the maximum income threshold requirement of \$39,000. Proponents are required to check incomes for prospective tenants of Affordable Rental Housing units to ensure compliance with the Maximum Household Income Level requirement at initial occupancy ("rent up") and when any new tenants are selected as ensuing vacancies occur during the twenty (20) year period following the Project Completion Date. Proponents are not required, expected or allowed to check incomes for approved tenants once they have taken possession of their units.
 - (b) Subject to subsection 6(a), affordable market rent housing units; tenants may be selected by the landlord in accordance with any maximum income policies adopted by the Service Manager, and provided that tenant selection is carried out through a non-discriminatory process following all applicable legislation and to the satisfaction of the Service Manager.
 - (c) Housing units subject to an Agreement shall not be rented to the Housing Provider or Shareholder or Director of the Housing Provider, or any individual not at arm's length to the Housing Provider or Shareholder or Director of the Housing Provider unless the Housing Provider is a Non-Profit Co-Operative as defined in the *Co-operative Corporations Act*, R.S.O. 1990, c.35, as amended, or is a Not-For-Profit Corporation.
7. Despite Section 6, under no circumstances shall a housing unit be made available,
 - (a) at rent that is higher than the CMHC average market rent, or
 - (b) if at the time the housing unit was rented or re-rented, the household's income would exceed the maximum income limit.
8. Despite Subsection 6 and, unless specified differently in the project specific Municipal Housing Facility Agreement, a housing unit shall not be made available to households which, at the time the housing unit is initially rented to them, already own a residential property, as determined by the landlord after making all reasonable inquiries. The Service Manager may waive this requirement at its discretion.

Agreement with Castle Arms Non-Profit Apartment Corporation

9. A Municipal Housing Facility Agreement shall contain, but not be limited to, the following provisions:
 - (a) a clause stating that each housing unit in the Municipal Housing Facility shall meet the definition of affordable housing in Section 5 of this by-law;
 - (b) a clause providing that initially each housing unit shall be made available to only households within eligible maximum income limits;
 - (c) the term of the agreement;
 - (d) the number of housing units being provided;
 - (e) the housing design must be similar in size and amenities to other housing in the City. "Unit Size" must meet the provincial size requirements;

- (f) provisions regarding increases to rent as described in Section 7;
 - (g) units subject to the agreement shall not be rented to Castle Arms Non-Profit Apartment Corporation or Shareholders or Directors of Castle Arms Non-Profit Apartment Corporation, or any individual not at arm's length to Castle Arms Non-Profit Apartment Corporation;
 - (h) the Service Manager may register the agreement on title;
 - (i) a list of the benefits being conveyed to Castle Arms Non-Profit Apartment Corporation; under this by-law, including their estimated present day value;
 - (j) the conditions attached to the financial or other assistance given to Castle Arms Non-Profit Apartment Corporation;
 - (k) if Castle Arms Non-Profit Apartment Corporation; does not comply with the terms and conditions of the agreement, Castle Arms Non-Profit Apartment Corporation shall, if demanded, pay to the Service Manager the entire amount of benefits conveyed under the agreement, together with any applicable costs and interest, and any other penalties or consequences as determined by the Service Manager;
 - (l) such other contractual provisions respecting the sale, transfer, mortgage or assignment of the Municipal Housing Facility;
 - (m) that Castle Arms Non-Profit Apartment Corporation; shall be required to submit required supporting documentation and report annually to the satisfaction of the Service Manager;
 - (n) other terms and conditions satisfactory to the Service Manager which may include, but which are not limited to, any and all forms of property transactions together with any and all general and specific security as the Service Manager considers necessary or desirable;
 - (o) such other contractual provisions, which are required to be inserted, based on fundamental contractual drafting principles satisfactory to the Service Manager;
 - (p) the Municipal Housing Facility Agreement shall be binding on Castle Arms Non-Profit Apartment Corporation's heirs, successors and assigns;
 - (q) during the time period in which the Municipal Housing Facility Agreement is in force, Castle Arms Non-Profit Apartment Corporation shall, as a condition precedent to a sale to a subsequent purchaser, require the subsequent purchaser to enter into an agreement with the City, and that agreement shall impose the terms of the Municipal Housing Facility Agreement on that subsequent purchaser;
 - (r) in addition to a general indemnity, Castle Arms Non-Profit Apartment Corporation shall specifically indemnify the City and the Service Manager if the provision set out in clause (p) is breached.
10. A Municipal Housing Project Facilities Agreement may with respect to the provision, lease, operation or maintenance of the Municipal Housing Project Facilities that are subject to the agreement, provide for financial or other assistance at less than market value or at no cost to Castle Arms Non-Profit Apartment Corporation; with respect of the provision, lease, operation or maintenance of the Municipal Housing Project Facilities that are subject of the agreement, and such assistance may include:
- (a) giving or lending money and charging interest;
 - (b) giving, lending, leasing or selling property;

- (c) guaranteeing borrowing, and
 - (d) providing the services of employees of the Service Manager.
11. This by-law may be cited as the Municipal Housing Facilities By-Law for the Castle Arms Non-Profit Apartment Corporation Project.

READ A FIRST TIME IN OPEN COUNCIL THIS 16TH DAY OF MARCH 2009.

READ A SECOND TIME IN OPEN COUNCIL THIS 16TH DAY OF MARCH, 2009.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS 16TH DAY OF MARCH, 2009.

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MAYOR VIC FEDELI

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CITY CLERK CATHERINE CONRAD