

The Corporation of The City of North Bay

By-Law No. 2015-32

**Being a By-Law to Provide
for Municipal Housing Facilities
2453454 Ontario Limited**

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 Ontario Regulation 189/01 was filed May 31, 2001, to amend Ontario Regulation 46/94 to add “municipal housing 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 District of Nipissing Social Services Administration Board, as municipal Service Manager is the delivery agent under the *Ontario Works Act, 1997*, S.O. 1997, c.25, Schedule A, O.Reg. 136/98 and is authorized to establish, administer and fund housing and homelessness programs and services and may provide housing directly in its service area under the *Housing Services Act, 2011*;

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 2453454 Ontario Limited on the criteria set out in this by-law;

And Whereas by Resolution No. 2015-128 passed by Council on the 16th day of March 2015 and by the District of Nipissing Social Services Administration Board by Resolution No. 2015-49 on the 17th day of February, 2015, the Council and the District of Nipissing Social Services Administration Board have approved this Affordable Housing Program at 377 Lakeshore Drive, North Bay, comprising 19 units, to be operated by 2453454 Ontario Limited 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 it’s Regulations;

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

“Affordable rent” as per the program guide in respect of a Unit of rental housing means a monthly occupancy cost that are at or below 80% of the CMHC Average Market Rent (AMR) for that Unit, unless CMHC AMR’s are not available, in which case the Proponent may request an alternate AMR by submitting a business case including local market rent survey for the Board’s consideration;

“Average Market Rent” (AMR) means the average rent figures, based on geographical areas and classified by bedroom count, as determined annually in the CMHC Average

Market Rent Survey or as determined by the Board, based on available data, in areas where there is no information from the CMHC Average Market Rent Survey;

“Board” means District of Nipissing Social Services Administration Board;

“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;

“Investment in Affordable Housing for Ontario Program – Rental Housing Component” 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;

“Investment in Affordable Housing for Ontario Program – (2014 Extension) Rental Housing Component” 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;

“Maximum Household Income” means maximum household income level eligibility requirements will apply to all tenants housed in designated affordable rental housing units based on unit size. All tenants occupying a (1) one bedroom affordable housing unit must have incomes at or below the maximum income threshold requirement of \$34,485. All tenants occupying a (2) two bedroom affordable housing unit must have incomes at or below the maximum income threshold requirement of \$42,675.

“Municipal Housing Project 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 “2453454 Ontario Limited” means a 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 municipal Service Manager for the City of North Bay under the *Ontario Works Act, 1997, S.O. 1997, c.25, Schedule A*, O.Reg. 136/98 authorized to establish, administer and fund housing and homelessness programs and services and may provide housing directly in its service area under the Housing Services Act, 2011, as the context requires;

“Social Housing Program” means a program prescribed as a housing program under the Housing Services Act, 2011;

"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 Nipissing District Housing Registry.

Service Manager

2. The City is hereby authorized to enter into a Municipal Housing Facility Agreement with the DNSSAB and 2453454 Ontario Limited, 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. Only units with rents that meet affordability requirements will be eligible for funding pursuant to this by-law;
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.
 - (b) For the purposes of participating in the “Canada/Ontario Affordable Housing Program —“Investment for Affordable Housing Program – Rental Housing Component and Investment for Affordable Housing Program (2014 Extension) – Rental Housing Component””, the definition of “affordable housing” shall be Municipal Housing Project Facilities in which the monthly occupancy cost are at or below 80% of the CMHC AMR for that Unit, unless CMHC AMR’s are not available, in which case the Proponent may request an alternate AMR by submitting a business case including local market rent survey for the Board’s consideration;
 - (c) Rent increases after initial occupancy must be made in accordance with rules established in the *Residential Tenancies Act (RTA)*. New rental buildings (built after 1991) are technically exempt from RTA rent increase guidelines, but are subject to terms and conditions in the Administration

Agreement. The Administration Agreement states that rent increases follow the RTA rent increase guidelines, but must still remain at 80% of CMHC AMR.

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, based on unit size. All tenants occupying a (1) one bedroom affordable housing unit must have total household incomes at or below the maximum income threshold requirement of \$34,485. All tenants occupying a (2) two bedroom affordable housing unit must have total household incomes at or below the maximum income threshold requirement of \$42,675. 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 a rent that is higher than the CMHC average market rent, or if at the time the housing unit was rented or re-rented, the household's income would exceed the maximum income limit.
8. Despite Section 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 2453454 Ontario Limited

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 based on unit size;

- (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 57;
 - (g) units subject to the agreement shall not be rented to 2453454 Ontario Limited or Shareholders or Directors of 2453454 Ontario Limited, or any individual not at arm's length to 2453454 Ontario Limited;
 - (h) the Service Manager may register the agreement on title;
 - (i) a list of the benefits being conveyed to 2453454 Ontario Limited; under this by-law, including their estimated present day value;
 - (j) the conditions attached to the financial or other assistance given to 2453454 Ontario Limited;
 - (k) if 2453454 Ontario Limited does not comply with the terms and conditions of the agreement, 2453454 Ontario Limited 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 2453454 Ontario Limited; 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 2453454 Ontario Limited's heirs, successors and assigns;
 - (q) during the time period in which the Municipal Housing Facility Agreement is in force, 2453454 Ontario Limited 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, 2453454 Ontario Limited 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 2453454 Ontario Limited; 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 2453454 Ontario Limited Project.

Read a First Time in Open Council this 16th Day of March 2015.

Read a Second Time in Open Council this 16th Day of March, 2015.

Read a Third Time in Open Council and Enacted and Passed this 16th Day of March, 2015.

Mayor Allan McDonald

City Clerk Catherine Conrad