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The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Finance
Report: #2023-F-30
Date: November 14, 2023

Subject:

Durham Region's response to the proposed Affordable Homes and Good Jobs Act (Bill 134)

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That Report #2023-F-30 be endorsed as Durham Region's response to the Environmental Registry of Ontario (ERO) posting regarding the proposed Affordable Homes and Good Jobs Act, 2023 with the following key comments and recommendations that the Province:
- i. refine the definition of "affordable residential unit" to consider affordability across various unit types (i.e., single-detached, semi-detached, townhomes, and apartments by number of bedrooms);
 - ii. update the definition of "affordable residential unit" to ensure that affordable residential units are only available to households that meet and maintain certain income thresholds;
 - iii. allow municipalities to structure the affordable residential unit exemption to address timing of when DCs are collected relative to when the final purchase price or rental rate is known; and
 - iv. make municipalities whole by fully funding the shortfalls created by the affordable residential unit exemption to avoid transferring the cost of this exemption to the existing property tax, and water and sewer user rate base.
- B) A copy of this report and Council resolution be sent to all area municipalities in Durham Region and Durham members of provincial Parliament(MPPs).

Report:**1. Purpose**

- 1.1 The purpose of this report is to seek endorsement of Regional staff's submission dated October 27, 2023 regarding the proposed Affordable Homes and Good Jobs Act, 2023, pursuant to Bill 134: An Act to amend the Development Charges Act, 1997 (DCA) and the St. Thomas - Central Elgin Boundary Adjustment Act, 2023.
- 1.2 On September 28, 2023, the Province of Ontario introduced the proposed Affordable Homes and Good Jobs Act, 2023. If enacted, the legislation would amend the DCA to change the definition of an affordable residential unit for the purpose of discounting and exempting these units from Development Charges (DCs).
- 1.3 The proposed Bill was posted for a 30-day comment period on the Environmental Registry of Ontario, which ended on October 28, 2023 ([019-7669](https://www.ero.on.ca/019-7669)). As such, Regional staff had to submit preliminary comments prior to the November Committee and Council meetings.

2. Background

- 2.1 On October 25, 2022, the provincial government introduced: 'More Homes, Built Faster: Ontario's Housing Supply Action Plan 2022-2023', which is intended to advance the government's commitment to getting 1.5 million homes built across Ontario over the next 10 years. It made a series of changes intended to support the Provincial objective of building more homes, reduce construction costs and fees, and streamline development approvals, in an effort to help future new homebuyers.
- 2.2 On November 28, 2022, the Province passed the More Homes, Built Faster Act, 2022 through Bill 23, which introduced a DC exemption for affordable residential ownership and rental units, with the threshold for affordability determined by the Province through a bulletin posted on the website for the Ministry of Municipal Affairs and Housing (i.e. "Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin").

3. Previous Reports and Decisions

- 3.1 Further details on the implications of Bill 23 can be found in Report #[2022-COW-33](#).

4. Affordable Homes and Good Job Act, 2023 (Bill 134)

- 4.1 On September 28, 2023, through Bill 134, the Province introduced new legislation, titled the [Affordable Homes and Good Jobs Act, 2023](#) (Attachment 1) designed to supplement the current definition of affordable residential units that was embedded in the DCA through Bill 23.

- 4.2 The proposed approach to define an affordable residential unit would use the income, rental, and sales data by area municipality as a factor to determine which residential units would be deemed affordable. In addition, the DCA requires a 25-year agreement be executed between the area municipality and the developer/owner with the Ministry to provide a template agreement.
- 4.3 If passed, the legislation would amend the criteria for an affordable rental residential unit as follows:
- a. For rental housing, the rent is no greater than the lesser of:
 - i. the income-based affordable rent for the residential unit set out in the “Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin”, as identified by the Minister of Municipal Affairs and Housing, and
 - ii. the average market rent identified for the residential unit set out in the “Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin”.
 - b. In identifying the income-based affordable rent applicable to a residential unit, the Minister of Municipal Affairs and Housing shall,
 - i. determine the income of a household that, in the Minister’s opinion, is at the 60th percentile of gross annual incomes for renter households in the applicable local municipality; and
 - ii. identify the rent that, in the Minister’s opinion, is equal to 30 per cent of the income of the household referred to in clause (a).
- 4.4 If passed, the legislation would amend the criteria for an affordable ownership residential unit as follows:
- a. For ownership housing, the purchase price no greater than the lesser of:
 - i. the income-based affordable purchase price for the residential unit set out in the “Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin”, as identified by the Minister of Municipal Affairs and Housing, and
 - ii. 90 per cent of the average purchase price identified for the residential unit set out in the “Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin”.
 - b. In identifying the income-based affordable purchase price applicable to a residential unit, the Minister of Municipal Affairs and Housing shall,
 - i. determine the income of a household that, in the Minister’s opinion, is at the 60th percentile of gross annual incomes for households in the applicable local municipality; and
 - ii. identify the purchase price that, in the Minister’s opinion, would result in annual accommodation costs equal to 30 per cent of the income of the household referred to in clause (a).

- 4.5 Regional staff have reviewed the proposed legislation and provided the following comments and recommendations that the Province:
- a. refines the definition of “affordable residential unit” to consider affordability across various unit types (i.e., single-detached, semi-detached, townhomes, and apartments by number of bedrooms);
 - b. updates the definition of “affordable residential unit” to ensure that affordable residential units are only available to households that meet and maintain certain income thresholds;
 - c. allow municipalities to structure the affordable residential unit exemption to address the timing of when DCs are collected relative to the final purchase price or rental rate being known; and
 - d. make municipalities whole by fully funding the shortfalls created by the affordable residential unit exemption to avoid transferring the cost of this exemption to the existing property tax, and water and sewer user rate base.
- 4.6 Attachment 2 is Regional staff’s submission to the Province through the Environmental Registry of Ontario, pending Council’s approval. Due to the short comment period, it was not possible to obtain Council’s endorsement prior to submission. Should Committee or Council wish to supplement or modify the submission, staff will update the Ministry.

5. Financial and Administrative Implications

- 5.1 Our analysis suggests that for every 5 per cent of residential units in Durham Region that qualify for the proposed affordable residential unit exemption, there will be an estimated \$204M in lost DC revenue for the Region of Durham (not including lost DC revenue at the local municipal level), over the 10-year period between 2024-2033. This lost revenue will need to be recovered from property taxes, and water and sewer user rates.
- 5.2 The final sale price of a home, including all selected upgrades, etc., is not known until the sale is closed. Similarly for rentals, the rent is not known until a lease is signed. The proposed structure of the exemption requires municipalities to rely on incomplete information and provide an exemption for affordable residential units before the final home prices or rental rates are known. Consequently, additional steps need to be taken to verify that each unit will meet the affordability criteria once all information becomes available (i.e. sale price or rental rate). These steps will also need to reoccur each time the unit is sold or rented over a 25-year period covered by the affordability agreements. Compared to similar applications without this exemption, it is expected that the time to process applications with affordable residential unit exemptions could be more than double.
- 5.3 This administrative challenge can be mitigated if the Province considers including a mechanism in the 25-year affordable residential unit agreement that requires the developer/owner to supply the necessary information required to grant an exemption, at closing and on an annual basis, to confirm that the unit still meets the affordability criteria. If the unit no longer satisfies the affordability criteria, then the DC would become payable.

- 5.4 A commitment from the Province to make municipalities whole by fully funding the shortfalls created by the affordable residential unit exemption would avoid transferring the cost of growth-related infrastructure to the existing property tax and user rate base, while ensuring that growth pays for growth.

6. Next Steps

- 6.1 Staff will continue to monitor the financial and other impacts of Affordable Homes and Good Jobs Act, including the impacts to effective planning, and financial impacts to the Region.
- 6.2 Through the provincial budget process, the Region will advocate for provincial funding to mitigate the negative financial impacts of the More Homes Built Faster Act (Bill 23) and the Affordable Homes and Good Jobs Act (Bill 134) to property taxpayer and rate payers in the Region.
- 6.3 Work with Province and area municipalities to develop a process that minimizes the administrative burden of implementing these changes.

7. Relationship to Strategic Plan

- 7.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Goal 1 Environmental Sustainability
 - b. Goal 2 Community Vitality
 - c. Goal 4 Social Investment

8. Conclusion

- 8.1 The Province introduced the Affordable Homes and Good Jobs Act through Bill 134 that aims to amend the current definition of affordable residential units, for both ownership and rental tenure, in the DCA.
- 8.2 It is recommended that this report and its recommendations be endorsed and submitted to the Province as Durham Region's response to the proposed changes to the DCA related to affordable residential units.
- 8.3 This report has been prepared in consultation with the CAO's office, Corporate Services – Legal Services, Planning, Social Services, and the Finance Departments.

9. Attachments

- 9.1 Attachment 1 - Bill 134: Affordable Homes and Good Jobs Act, 2023
- 9.2 Attachment 2 - Region of Durham Submission to the Environmental Registry of Ontario (019-7669), commenting on the Affordable Homes and Good Jobs Act (Bill 134)

Respectfully submitted,

Original Signed By

Nancy Taylor,
Commissioner of Finance

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 43RD LEGISLATURE, ONTARIO
2 CHARLES III, 2023

Bill 134

An Act to amend the Development Charges Act, 1997 and the St. Thomas - Central Elgin Boundary Adjustment Act, 2023

The Hon. P. Calandra
Minister of Municipal Affairs and Housing

Government Bill

1st Reading September 28, 2023
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

**SCHEDULE 1
DEVELOPMENT CHARGES ACT, 1997**

The *Development Charges Act, 1997* includes provisions exempting affordable and attainable residential units from development charges. Amendments are made to the provisions that set out when a residential unit shall be considered to be an affordable residential unit.

**SCHEDULE 2
ST. THOMAS - CENTRAL ELGIN BOUNDARY ADJUSTMENT ACT, 2023**

The *St. Thomas - Central Elgin Boundary Adjustment Act, 2023* is amended to enable the City of St. Thomas to grant assistance to a specified corporation during a specified period. A new section 12.1 establishes the total amount of certain assistance that may be granted and enables the Minister to make regulations, including regulations that impose restrictions, limits and conditions on the City's powers under the section.

In addition, the title of the Act is changed to the *Supporting Manufacturing in St. Thomas Act, 2023*. Other amendments are made to provide for the Act being divided into Parts.

Bill 134

2023

**An Act to amend the Development Charges Act, 1997 and the
St. Thomas - Central Elgin Boundary Adjustment Act, 2023**

CONTENTS

1.	Contents of this Act
2.	Commencement
3.	Short title
Schedule 1	Development Charges Act, 1997
Schedule 2	St. Thomas - Central Elgin Boundary Adjustment Act, 2023

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Affordable Homes and Good Jobs Act, 2023*.

**SCHEDULE 1
DEVELOPMENT CHARGES ACT, 1997**

1 (1) Subsection 4.1 (1) of the *Development Charges Act, 1997* is amended by adding the following definition:

“Affordable Residential Units bulletin” means the bulletin entitled the “Affordable Residential Units for the Purposes of the *Development Charges Act, 1997* Bulletin”, as it is amended from time to time, that is published by the Minister of Municipal Affairs and Housing on a website of the Government of Ontario; (“bulletin relatif aux unités d’habitation abordables”)

(2) Paragraph 1 of subsection 4.1 (2) of the Act is repealed and the following substituted:

1. The rent is no greater than the lesser of,
 - i. the income-based affordable rent for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing in accordance with subsection (5), and
 - ii. the average market rent identified for the residential unit set out in the Affordable Residential Units bulletin.

(3) Paragraph 1 of subsection 4.1 (3) of the Act is repealed and the following substituted:

1. The price of the residential unit is no greater than the lesser of,
 - i. the income-based affordable purchase price for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing in accordance with subsection (6), and
 - ii. 90 per cent of the average purchase price identified for the residential unit set out in the Affordable Residential Units bulletin.

(4) Subsections 4.1 (5) and (6) of the Act are repealed and the following substituted:

Rent based on income

(5) For the purposes of subparagraph 1 i of subsection (2), in identifying the income-based affordable rent applicable to a residential unit, the Minister of Municipal Affairs and Housing shall,

- (a) determine the income of a household that, in the Minister’s opinion, is at the 60th percentile of gross annual incomes for renter households in the applicable local municipality; and
- (b) identify the rent that, in the Minister’s opinion, is equal to 30 per cent of the income of the household referred to in clause (a).

Purchase price based on income

(6) For the purposes of subparagraph 1 i of subsection (3), in identifying the income-based affordable purchase price applicable to a residential unit, the Minister of Municipal Affairs and Housing shall,

- (a) determine the income of a household that, in the Minister’s opinion, is at the 60th percentile of gross annual incomes for households in the applicable local municipality; and
- (b) identify the purchase price that, in the Minister’s opinion, would result in annual accommodation costs equal to 30 per cent of the income of the household referred to in clause (a).

Commencement

2 This Schedule comes into force on the later of the day section 3 of Schedule 3 to the *More Homes Built Faster Act, 2022* comes into force and the day the *Affordable Homes and Good Jobs Act, 2023* receives Royal Assent.

SCHEDULE 2
ST. THOMAS - CENTRAL ELGIN BOUNDARY ADJUSTMENT ACT, 2023

1 The title of the *St. Thomas - Central Elgin Boundary Adjustment Act, 2023* is repealed and the following substituted:

Supporting Manufacturing in St. Thomas Act, 2023

2 The Act is amended by adding the following heading before section 1:

PART I
ST. THOMAS - CENTRAL ELGIN BOUNDARY ADJUSTMENT

3 Sections 1, 8, 11 and 12 of the Act are amended by striking out “this Act” wherever it appears and substituting in each case “this Part”.

4 The Act is amended by adding the following Part:

PART II
ASSISTANCE PERMITTED

Definitions

12.1 (1) In this Part,

“assistance” means, except as otherwise provided in subsection (4),

- (a) a grant, including the giving of money and the selling or leasing of land for less than fair market value or the granting of land,
- (b) a total or partial exemption from any levy, charge or fee imposed during the assistance period, and
- (c) any other assistance as may be prescribed; (“aide”)

“assistance period” means 2023 to 2036 or to such other prescribed year; (“période d’aide”)

“land” includes buildings; (“bien-fonds”)

“prescribed” means prescribed by the regulations made under this Act. (“prescrit”)

Assistance permitted

(2) Despite the *Development Charges Act, 1997*, the *Building Code Act, 1992* and section 106 of the *Municipal Act, 2001*, the City of St. Thomas may, in accordance with this section, grant assistance directly or indirectly to 1000511515 Ontario Inc. during the assistance period.

Total amount of assistance

(3) The total of the amount of assistance, as defined in subsection (4), that is granted under this section shall not exceed the amount equal to the total amount that would otherwise be owed by 1000511515 Ontario Inc. before the assistance in respect of,

- (a) taxes for municipal purposes levied by the City of St. Thomas under the *Municipal Act, 2001* on real property during the assistance period; and
- (b) fees and charges imposed by the City of St. Thomas under any Act during the assistance period.

Same

(4) For the purposes of subsection (3), “assistance” means,

- (a) a grant, other than the selling or leasing of land for less than fair market value or the granting of land; and
- (b) a total or partial exemption from any levy, charge or fee imposed during the assistance period.

Area where assistance may apply

(5) For clarity and subject to the regulations, assistance granted under this section may apply to any area within the City of St. Thomas.

Regulations

(6) The Minister of Municipal Affairs and Housing may make regulations,

- (a) prescribing anything that is referred to in this section as being prescribed;
- (b) imposing restrictions, limits and conditions on the powers of the City of St. Thomas under this section, including providing that assistance or certain types of assistance may only apply to specified areas within the City.

Commencement

5 This Schedule comes into force on the day the *Affordable Homes and Good Jobs Act, 2023* receives Royal Assent.

Sent via email: minister.mah@ontario.ca



October 27, 2023

The Honourable Paul Calandra
Minister of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, ON M7A 2J3

Dear Minister Calandra:

RE: Affordable Homes and Good Jobs Act (Bill 134)

The Regional Municipality of Durham shares the province's goal of increasing housing supply, and we are committed to working together to find collaborative solutions to address housing affordability. We appreciate the opportunity to comment on the proposed legislation and have enclosed a comprehensive set of remarks prepared by Regional staff which will be presented for endorsement at the Regional Council meeting in November.

There are aspects related to the proposed changes in the Development Charges Act (DCA) that may have unintended consequences that hinder our shared efforts to expedite development and deliver housing sooner. Therefore, we request the following specific changes:

- That the Province refines the definition of “affordable residential unit” to consider affordability across various unit types (i.e., single-, semi-detached, townhomes, and apartments by number of bedrooms). This would facilitate a better range of affordable housing options to address missing middle housing options.
- That the Province updates the definition of “affordable residential unit” to ensure that affordable residential units are only available to households that meet and maintain certain income thresholds (i.e., at or below the 60th percentile of gross annual income in the ownership or rental categories).

- That the Province consider allowing municipalities to structure the affordable residential unit exemption in a way that addresses the timing issue related to when DCs are collected relative to the final purchase price or rental rate being known. For example, this may include a requirement that developers or owners provide proof that a housing unit meets the definition of affordability as provided in the DCA at closing and on an annual basis over a 25-year period. If proof is not provided, or the unit failed to meet the affordable DC criteria, then the DC would become payable. Durham Region would welcome the opportunity to further discuss the administrative challenges related to providing an exemption before purchase prices or rental prices are known, and the complexity of tracking these exemptions and real estate transactions over a period of 25 years.

The proposed changes to the DCA may incent affordable housing development, however, municipalities have limited options for revenue and reducing development charges will lead to a deficit in funding for growth-related infrastructure. These changes will result in a transfer of the costs of growth-related infrastructure to the existing property tax and user rate base, which is unsustainable over the long-term. Durham Region would welcome an opportunity to discuss modifications that would limit the impact of the Bill on existing property taxpayers, and water and sewer user ratepayers. For example, having the Province make municipalities whole by fully funding the shortfalls created by the affordable residential unit exemption would avoid transferring the cost of this exemption to the existing tax and user rate base, while ensuring that growth-pays-for-growth. Our analysis suggests that for every 5 per cent of residential units in Durham Region that qualify for the proposed affordable residential unit exemption, there will be \$204M in lost development charge revenue for the Region of Durham (i.e., does not include lost DC revenue at the local municipal level), over the 10-year period between 2024-2033. This lost revenue will need to be recovered from property taxes, and water and sewer user rates.

Housing forms the building blocks of our communities. The delivery of an ambitious supply of new housing demands processes that are properly aligned, with a commitment to cooperate and collaborate

with a vast array of players. Our communities must be properly planned, financed, and serviced, with impacts managed so that growth can flourish. We look forward to discussing the recommendations provided in this letter and the comments in the attachment as we work towards our collective goal of increasing housing supply across Ontario.

Sincerely,

A handwritten signature in black ink that reads "Nancy Taylor". The signature is written in a cursive, flowing style.

Nancy Taylor, Acting CAO
On behalf of Elaine Baxter-Trahair, Chief Administrative Officer

Attachment 1: Comments on the ERO Postings Associated with Bill
134

Attachment 1 – Region of Durham Submission on Bill 134

Summary and Comments in Support of Affordable Homes and Good Jobs Act, 2023 through Bill 134 (“An Act to amend the Development Charges Act, 1997 and the St. Thomas – Central Elgin Boundary Adjustment Act, 2023”).

ERO Posting and Comment Period	Regional Comment
<p>Schedule 1 of Bill 134</p> <ul style="list-style-type: none"> Definition of Affordability <p>019-7669 September 28, 2023 – October 28, 2023 (30 days) https://ero.ontario.ca/notice/019-7669</p>	<p>(1) Definition of Affordability</p> <p><u>Requires Further Review: Recommend income-based approach by unit type (e.g., single-, semi-detached, townhomes, and apartments by number of bedrooms) and a requirement that units with affordable development charge (DC) exemptions are available to lower income households.</u></p> <p>The proposed Development Charges Act definition for “Affordable Residential Units” is very similar to the Provincial Policy Statement (2020) definition for “Affordable Housing”. There are some differences with the proposed Development Charges Act definition, including that it no longer cross-references “Low and Moderate Income Households”. Instead, the proposed definition embeds this household income (60th percentile) measure within the definition. While this proposed revision creates a longer definition, it reduces the need to cross-reference a secondary defined term – generally considered a positive streamlining of the current definition.</p> <p>Centralizing the data collection and release of affordability to a singular source provided by the province would be a major improvement – most notably by providing consistency across municipalities. While the current PPS and Region of Durham Official Plan (ROP) definition provide sufficient direction for calculating affordability, the process is constrained by custom data cost and timing/availability. In some instances, these constraints can lead to differences between inputs (and results) among municipalities. The Province should develop a methodology for calculating affordability using a process that is consistent with how municipalities have done so.</p> <p>Durham has measured affordable housing for the purpose of developing the goals of “At Home In Durham, the Region’s Housing Plan for 2014 to 2024”, and assessing the ROP affordable housing target through the Housing Policy Planning Discussion Paper. Statistics Canada Census data for household incomes were used to calculate the income-based affordability thresholds. Some other key assumptions for this analysis included using conventional 5-year mortgage rates reported by the Bank of Canada, 25-year amortization period, and a 5 percent downpayment. Shelter costs for homeowners also include property taxes and CMHC mortgage insurance. Durham’s affordable housing monitoring process is consistent with methodologies used by both Peel and York Region.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> Key assumptions that are necessary to determine affordability thresholds should be clearly identified by the Ministry of Municipal Affairs and Housing. It will be critical for the province to use consistent and reasonable assumptions for calculating the affordable housing in the Affordable Residential Units bulletin. The Province

should clarify the assumptions that are being used to determine shelter costs such as mortgage rates, amortization period, downpayment, property tax, or mortgage loan insurance.

- It is recommended that the Province provides a process that allows municipalities to review the details supporting the calculation of the affordable purchase price and rental rate thresholds.
- The Province needs to provide clarification on the level and extent of geographies to be included and the frequency of publication.
- Another area that needs clarification by the Province are the references to “in the Minister’s opinion”. The definition appears to be largely based on transparent statistical inputs, and it is not clear where opinion-based decision making would be appropriate.
- One area for reconsideration is the use of “average market rent” as one of the measures of rental affordability. Depending on the data source, average may not equate to being affordable. It is recommended that the bulletin reference the CMHC Rental Market Survey where data is available to be consistent with affordable housing incentive programs.
- It is recommended that the Province provide further stratification by unit type (i.e., housing unit types should include single-, semi-detached, townhomes, and apartments by number of bedrooms) within the affordable residential unit definition to assist in addressing all housing needs including missing middle housing options. If the Province wishes to provide financial incentives such as DC exemptions, it is strongly recommended that the calculation of the price or rent of an affordable unit be done by housing type (including number of bedrooms for apartments) to ensure that development reflects the needs of all households, including singles, couples and families, and not merely smaller units such as bachelor and 1-bedroom apartments.
- Of key importance, the proposed legislation does not stipulate that affordable residential units will only be available to individuals or households that fall within the income distribution used to determine affordable residential unit purchase prices or rent (i.e., at or below the 60th percentile of gross annual income in the ownership or rental categories). The legislation should prioritize this income group that would benefit most from this proposed affordable housing DC exemption. Additionally, the Province may want to consider other assets such as savings accounts (including tax-free accounts such as TFSAs and FHSAs), GICs, bonds, stocks, term deposits, treasury bills, mutual funds, and trust funds as a qualifying factor for accessing affordable residential units.

Administrative Implications

019-7669 September 28, 2023 – October 28, 2023 (30 days)
<https://ero.ontario.ca/notice/019-7669>

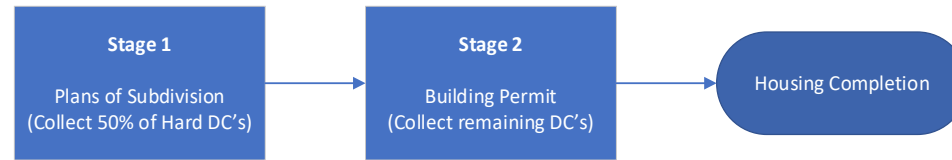
(2) Administrative Implications for Municipalities

Requires Further Review: Recommend the Affordable DC agreement include a mechanism that requires the developer / owner to provide proof on an annual basis that demonstrates that each respective unit meets the affordable residential unit criteria, to maintain the Affordable DC exemption status

The proposed definition for affordable residential units does not consider the considerable administrative implications of administering this DC exemption.

Current DC Collection Process

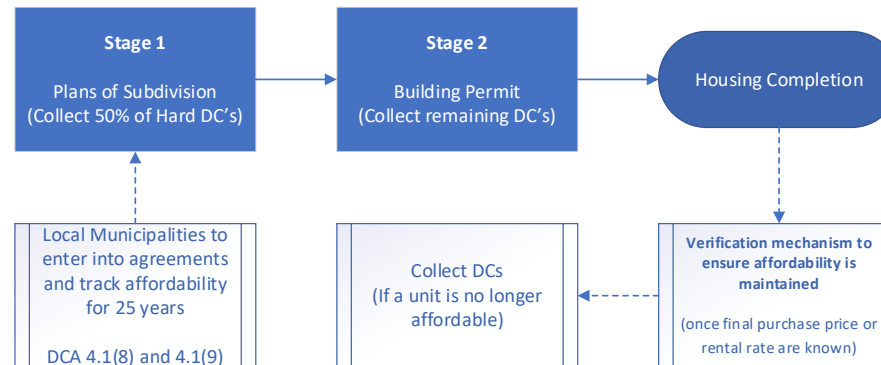
The figure below outlines the current process for collecting DCs at the Region of Durham:



At Stage 1 (Plans of Subdivision) 50 per cent of Hard-Service DCs (i.e. Regional Roads, Water and Sewer DCs) are payable at signing of a subdivision agreement with the remaining 50 per cent due at the first anniversary date of signing. At Stage 2 (Building Permit), any outstanding Hard-Service DCs and all Soft-Service DCs must be paid prior to issuance of the building permit.

Potential New DC Collection Process (Under Bill 134)

The figure below outlines additional administrative steps which we anticipate would be required to satisfy the requirements of Bill 134:



It is requested that the Province provide clarity regarding the process to be followed (see Recommendations below). The changes in the process described above would require developers to identify which lots/units will meet the affordable residential unit criteria prior to signing a subdivision agreement or having a building permit

issued. The Region would need to add a verification mechanism to the DC collection process to confirm that the assumptions used at Stage 1 (Plans of Subdivision) and Stage 2 (Building Permit) are correct once the final purchase price or rent are known. Once this verification has taken place, the Region may need to undertake collection actions, which can be difficult post-development.

Administrative Issues

- The final price of a home, including all selected upgrades, etc., is not known until the sale is closed. Similarly for rentals, the rent is not known until a lease is signed. Therefore, the proposed structure of the exemption would require the municipality to rely on incomplete information since DCs are due before the sales are closed or the leases are signed. To administer this exemption, using the system outlined above, the municipality would need to grant the exemption without knowing if the information provided by a developer is correct or not. Consequently, the additional steps need to be taken to verify that the development meets the affordable residential unit exemption criteria once all information becomes available (i.e. sale price or rental price). These steps will also need to reoccur each time the unit is sold or rented over the 25-year period defined in DCA 4.1(8) and 4.1(9). Compared to similar applications without this exemption, it is expected that the time to process these applications could be more than doubled.

- Monitoring and enforcing the 25-year affordability agreements will be challenging and resource intensive. For example, it would be difficult to prevent situations where affordable ownership units are rented at market rates or where affordable rental units are subleased at market rates.

- Administrative issues can be compounded if a new bulletin is posted for development applications that are in progress. This will result in staff needing to review the new bulletin against existing applications to determine if the development still qualifies for a DC exemption. If the unit no longer qualifies then the municipality would need to collect the outstanding DCs.

- The proposed legislation defines the purchase price or rental price of a residential unit. It does not provide any requirements that guarantee that the units will be occupied by individuals that fall within the income distribution that is being used to define affordability and would benefit most from these housing options.

Clarification questions:

- How is the municipality able to ensure that it will be paid by the developer if units do not meet the affordability exemption requirements at occupancy?

- What happens if new bulletins are published between the time of the subdivision agreement and housing completion/occupancy?

- How often will the bulletins be updated?
 - What happens in terms of DC payments if the unit fails the affordability test over the 25 years of the agreement? Will DCs be pro-rated based on the number of years that a unit was considered affordable?
 - Will the Province include provisions in the template 25-year affordability agreements that ensure that affordable residential units are only available to households that meet certain income thresholds (i.e., at or below the 60th percentile of gross annual income in the ownership or rental categories)?
- Recommendations:**
- The proposed legislation does not define how savings from DC reductions will be passed on to homeowners or renters so that they receive 100 per cent of the benefit of the DC exemption. Nor does it address the situation where a unit becomes unaffordable over the 25 years of the agreement. Without this level of detail it is difficult to ensure that the DC exemption is passed onto homeowners and renters to preserve the integrity of the Province’s proposed definition of affordable residential unit.
 - Regional staff recommend that the Province considers including a mechanism in the affordable residential unit DC agreement that requires the developer / owner to supply the necessary information, at closing and on an annual basis, to confirm that the unit still meets the affordability criteria. If the information is not provided or the unit no longer satisfies the definition of affordability, then DCs become payable.
 - We support the Minister providing standard forms of agreement as noted in DCA 4.1(12) to alleviate some of the administrative burden. However, the Province should consider provisions to ensure the units are occupied by lower income households, and consider the unique collection processes of single-, upper- and lower-tier municipalities. Consultation with the municipal sector by the Province in developing these standard form agreements would be appreciated.

Financial Implications

019-7669 September 28, 2023 – October 28, 2023 (30 days)
<https://ero.ontario.ca/notice/019-7669>

(3) Financial Implications

Requires Further Review: Recommend that the Province fully funds this exemption

It is estimated that for every 5 per cent of units that qualify for the affordable residential unit DC exemption that the Region of Durham will lose approximately \$204M in development charge revenue, over the 10-year period between 2024-2033. That lost DC revenue would have been used to build the infrastructure required to support new development. Approximately 60 per cent of this lost revenue will have to be funded by water and sewer user rate payers, and the remaining 40 per cent will fall on property taxpayers.

The proposed affordable residential unit DC exemptions do not guarantee that developers will pass along savings to new home buyers or renters. However, these exemptions will increase housing costs for all property owners, as taxpayers and user ratepayers will need to cover the DC funding shortfall.

Staff Recommendation:

- The Province should commit to making municipalities whole for any losses incurred to avoid passing along the costs to existing homeowners through property tax and user rate increases.