



Bill 7, Promoting Affordable Housing Act, 2016

Submission to the Legislative Committee on Social Policy

November 21, 2016

On behalf of the Association of Municipalities of Ontario and our members, I would like to thank you for the opportunity to speak to you today to contribute to your deliberations on the proposed *Promoting Affordable Housing Act*.

Municipal governments have long advocated for enabling and flexible legislative frameworks. With this in mind, we support the introduction the proposed Act. That said, we would like to give you a brief overview of our key comments and concerns with the proposed legislation in order to improve it from a municipal perspective.

AMO believes that the municipal sector needs a well-considered voice in this process. We are unique in the federation. Ontario's municipal governments are the only ones in Canada who are responsible for housing at the local level. Collectively, the municipal sector contributes more funding than the federal and provincial governments. As such, AMO is of the opinion that we should be the principal policy makers in respect to housing in Ontario.

The changes proposed in Bill 7 should go a way toward modestly increasing the supply of affordable housing and promoting a more people centered vision as envisioned in the provincial Long-Term Affordable Housing Strategy. However, it cannot be understated that further provincial funding is still needed to help address affordable housing and meet the Province's own goal of ending chronic homelessness in ten years. We have concerns that some aspects of the bill will inappropriately transfer costs to municipal governments, which we will speak more of today.

I would now like to provide comments on the specific proposed changes to the affected Acts. This is a housing omnibus bill of sorts affecting numerous pieces of legislation and each deserves due consideration.

Housing Services Act

AMO supports the proposed changes to the *Housing Services Act* in general as they will create a more enabling and flexible legislative framework for social housing administration. However, we do ask that the committee consider a few technical changes to make the legislation more workable. For example, the Act proposes to further reduce consent provisions. This will facilitate better portfolio level management of housing assets. This is good, however, the consents could be more flexible to be more workable. These are outlined in further detail in the appendix of our submission.

AMO is pleased to see the change that will allow other forms of Service Manager-funded housing assistance to contribute towards Service Level Standards. This provides needed flexibility and meets a long-standing ask.

We also agree with the policy intent to require Service Managers to undertake periodic local enumeration of homeless populations. AMO supports the proposed change. It is the right thing to do to contribute to ending chronic homelessness in Ontario. However, it will result in added costs and administration. A funding source needs to be identified to help offset the new costs associated with developing and implementing local enumeration.

In the existing legislation, we have very serious concerns with Section 157 which allows for appeals of Service Manager decisions by housing providers. It should be revoked from the Act. It is neither appropriate or necessary.

It is not appropriate as municipal Service System Managers need the ability to manage their housing portfolios in a fiscally responsible manner to be accountable to municipal councils and District Social Service Administration Boards, and to safeguard the existing housing units available in the system. Most importantly, as a matter of principle, it will serve to undermine the authority of municipal Councils and DSSAB Boards to make decisions, effectively usurping their authority under the *Municipal Act* and the *District Social Services Administration Boards Act*.

It is not necessary as the Act already contains safeguards for housing providers with recourse to the courts, and with the Ontario Ombudsman. It could potentially involve a fiscal impact to municipal governments in cases where appeals are successful as Service System Managers hold the contingent liability with respect to the housing provider's obligations. An outside body should not determine that a Service Manager must consent to actions that might place it at risk.

Residential Tenancies Act

AMO supports changes that would prevent unnecessary evictions of tenants from Rent-Geared-to-income social housing units when their circumstances improve. However, this change should not apply to termination of tenancies in modified or supportive units, if the tenant no longer requires the modification or support.

AMO does not support the change regarding the Province's intention to end its role in enforcing local residential rental maintenance standards. It will transfer administrative burden and cost to municipal governments. We acknowledge that many municipal governments have already assumed this responsibility voluntarily. The others, however, will find it challenging given fiscal and human resource capacity issues. This will disproportionately affect smaller and rural municipalities in the province.

Development Charges Act

AMO does not support exempting secondary suites from development charges as 'growth should pay for growth'. Decisions to exempt, reduce, defer, or waive development charges should remain a local choice. The government should find ways to incent the development of second suites with provincial revenue. Municipal governments already exercise a range of planning and financial tools to facilitate affordable housing at a cost to the local tax base.

Elderly Persons' Housing Aid Act

AMO does not object to the repeal of the *Elderly Persons' Housing Aid Act*. It has not had any funding attached to it for some time and the Investment in Affordable Housing program is a more appropriate funding vehicle. However, funding seniors housing is of critical importance in the province and should be given some priority.

Planning Act

AMO does in principle support inclusionary zoning as a welcome new planning tool for municipal governments. It should help expand affordable housing. However, it should be acknowledged that it is not a panacea solution. It will not meet the housing needs of all Ontarians in need in all areas of the province. More funding will still be needed to increase the supply of affordable housing in a meaningful way.

Inclusionary zoning will be more suited for some areas more than others, for example, in high growth areas. Further, inclusionary zoning is typically more effective at helping moderate income households rather than very low income ones. In planning for the housing system and coming up with solutions, the Province should consider that there are different housing markets in Ontario. These will require different solutions in different areas. In short, a 'one size fits all' approach will not work.

Local municipal service managers know their contexts well, and are required to develop local housing and homelessness plans for their areas which identify priorities and solutions. The success of the proposed legislation and accompanying regulations will depend on ensuring a high level of flexibility to ensure local relevance and applicability. Since housing needs vary significantly across the province, unless there is a clear reason for standardization, the default should be local autonomy to identify zoning details.

With this in mind, our key asks are as follows:

- AMO would not support the ability for a Minister to impose an inclusionary zoning program on a municipal government. Instead, we support the principle that municipal governments need to have the autonomy to impose bylaws as appropriate to local circumstances.
- AMO would welcome provincial incentives to help facilitate affordable housing in inclusionary zoning developments, especially to deepen the level of affordability. Examples of this could include tax credits and tax waivers.
- We do not support the condition that would effectively prohibit municipal governments from being able to gain section 37 benefits on the same lands, buildings or structures as inclusionary zoning. There should not be trade-offs between affordable housing and other community amenities such as libraries, parks and community space.
- We believe that the restrictions on off-site development and payment of cash in lieu are not warranted. This will make inclusionary zoning by-laws less feasible. Not all developments are suited for the inclusion of affordable units. Providing payment of cash in lieu should be allowed with the condition that funds are invested in affordable housing units elsewhere.
- AMO does not support the restriction of minor variances from developments in inclusionary zones, as minor variances may be required for some developments and would not necessarily hinder the development of affordable housing. We are unclear on the rationale for this change.

These are our key asks.



Attached to our submission are all our proposed changes that we would ask you to consider as the Standing Committee develops the critical amendments needed to Bill 7.

Thank you for the opportunity to provide feedback on this important issue. I look forward to working with our provincial partners to ensure strong and effective solutions for facilitating the development of affordable housing in municipalities across Ontario. Again, we support the introduction of this Act. It will be instrumental to implement and further the vision of the provincial Long-Term Affordable Housing Strategy.

Thank you, for your attention and I would be happy to answer any questions you may have.

APPENDIX: PROPOSED AMENDMENTS TO BILL 7

The Association of Municipalities of Ontario (“AMO”) requests the following amendments to Bill 7.

Housing Services Act

1. Section 35(1) – The notice period for consents should be increased to 30 days up from 10 concerning changes to Local Housing Corporations.
2. Section 163(2) – Delete the new requirement for the Service Manager to give the Minister notice at least 45 days before giving a consent to transfer specified housing projects, unless the Minister waives or abridges the time for giving the notice.

As worded, this proposed revision necessitates an unreasonable delay in the implementation of the Council’s decision. In short, it is not workable. Such a decision would be made by Council and could not practically be communicated to the Minister as intent to give consent until a decision has been made to do so.

3. Section 19 – Delete the requirement in the Act that permits the Minister to issue policies and directives in respect of Service Manager consents and binds the Service Manager to follow these.

Greater flexibility will enable better portfolio level management of assets and respect the will of local Council decisions.

4. Section 164 – Delete the ability for the Minister to override a Service Manager’s authority to provide consent for mortgage or redevelopment.

Greater flexibility will enable better portfolio level management of assets and respect the will of local Council decisions.

5. Section 157 – Delete this section from the Act as it is neither appropriate or necessary to have appeals by housing providers of Service Manager decisions.

It undermines council and DSSAB boards authority and may adversely affect municipal governments who have contingent liability for social housing.

Residential Tenancies Act

6. Sub-section 58 (3) – Maintain the new requirement that does not authorize a notice of termination on the ground that the tenant has ceased to be eligible for, or has failed to take any step necessary to maintain eligibility for, rent-geared-to-income assistance as defined in the Housing Services Act, 2011. However, add an exemption that these does not apply to tenancies in modified or supportive units, if the tenant no longer requires the modification or support.
7. Section 224(2) and (3) – Do not repeal these sections and replace with a new requirement that all municipal governments are transferred the provincial responsibility to enforce local residential rental maintenance standards.

AMO does not support this change as it will transfer administration burden and cost to municipal governments, many of whom will find it challenging in the face of fiscal and human resource capacity issues.

Development Charges Act

- 8. Schedule 1 – Do not amend the Act to prohibit municipal governments from imposing development charges when a second dwelling unit is created in prescribed classes of proposed new residential buildings.

Decisions to exempt, reduce, defer, or waive development charges should remain a local choice and ‘growth should pay for growth’.

Planning Act

- 9. Section 25(2)(5) – Remove the prohibition on Section 37 benefits.

There should not be a trade-off between affordable housing and other community amenities such as libraries, parks, and community spaces.

- 10. Section 45(1) – Delete the provision that a committee of adjustment cannot allow a minor variance for areas under inclusionary zoning.

Minor variances may be required for some developments and would not necessarily hinder the development of affordable housing. It is unclear the rationale for this.

- 11. Section 35(2)(6a) – Enable the provision of payment in cash in lieu with the condition that it is invested in affordable housing elsewhere.

Not all developments are suitable for affordable housing, however, conditional payment of cash in lieu will still facilitate affordable housing in the community.

- 12. Section 35(2)(6b) – Enable the ability to offer a location in lieu and allow off-site development.

Not all developments are suitable for affordable housing, however, the ability to allow off-site development will still facilitate affordable housing in the community.