Ontario
Home Builders'
Association

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November 25, 2022

Ministry of Municipal Affairs and Housing
777 Bay St, 13th Floor
Toronto, ON
M5G 2C8

Regulatory proposal Number: 22-MMAH017
RE: Seeking Feedback on Municipal Rental Replacement By-Laws

The Ontario Home Builders' Association (OHBA)

The Ontario Home Builders' Association (OHBA) is the voice of the residential construction industry in Ontario. OHBA represents over 4,000 members including builders, developers, professional renovators, trade contractors and many others within the residential construction sector.

The OHBA is coordinating our public policy response with regards to Bill 23, the *More Homes Built Faster Act, 2022* with input from members across Ontario. OHBA is proudly affiliated with the Building Industry and Land Development Association (BILD), the West End Home Builders' Association (WEHBA) and the Greater Ottawa Home Builders' Association (GOHBA).

Background

Ontario's housing supply crisis means too many people are unable to find a home that meets their needs and budget. A solution in addressing this crisis and improving affordability is to ensure more supply is created and readily available. And that 'supply' – should include more rental stock at greater densities. We support the province's respective reviews and appreciate the intent of each. OHBA believes that we can make improvements and refinements to rental policies to help increase the supply of housing units. This would support the government in achieving its commitment to build 1.5 million homes over the next ten years.

OHBA agrees with the provincial government's goal of significantly increasing the supply of all housing types in the province and reducing the regulatory burden that increases costs and delays for future residents. OHBA knows that industry and government can work together to address the housing supply gap and construct the homes current and future Ontarians are counting on.

Provided that rental replacement policy is most prevalent in the City of Toronto, the comments provided within this section are Toronto-centric but are expansive and can work in other jurisdictions. Generally, OHBA members have noted that Toronto's rental replacement requirements are reasonable in achieving the objective of maintaining the rental house stock. However, OHBA also believe there are still opportunities for refinement and strengthening which we will analyze further in this section.

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Allow Cash-in-lieu Payments

Currently in the City of Toronto and other municipalities require that rental housing replacement on-site in connection with a re-development that demolishes existing rental housing. We recommend a policy change from on-site replacement to cash-in-lieu (CIL) payment. A cash-in-lieu payment is a more effective and efficient means to replace rental housing supply and historically is how rental housing policies used to be.

For a developer who typically does not develop and own rental apartments, having a separate freehold strata group of rental housing units in a large condo building is very inefficient, a CIL payment would provide greater flexibility in this regard. Additionally, CMHC will not insure the mortgage, so it is very difficult to finance rental replacement units in a condominium.

Most large condos are developed by partnerships/joint ventures/third party investors. The mandate of most of these projects is to be fully liquidated after completion. There is no organized market for these rental replacement units, and they end up being a problem to sell upon completion of the condominium project. Again, allowing CIL would provide ease and flexibility to complex development projects.

With cash-in-lieu, the municipality could buy condominium units in existing buildings and rent them to whomever they want. It is better to have the municipality own an asset than force developers to own assets that they don't want nor have experience managing. From the time an owner pulls a demolition permit and renters vacate their units, it is typically 4.5 to 6 years until the rental units are replaced inside a new mid- or high-rise condominium building. That is a long time for a municipality to have fewer available rental units. Cash-in-lieu allows a municipality to more quickly and efficiently replace the rental stock by (a) purchasing existing condominium units and converting to rental or (b) constructing shorter or smaller rental buildings, without the additional condominium use, which are quicker to complete.

The City of Toronto's current rental replacement policies were designed, in part, to allow renters who have been displaced to return to their units, on site, once reconstructed. However, from the renter's perspective that is not a practical solution. They have been living in a different home during the 4.5 to 6 years of construction and moving again, back into the replacement building, is inconvenient and often no longer practical. That is why most renters choose not to return to the replacement unit in their previous location. It would be better from the renter's perspective if the city owns a rental stock of buildings into which a displaced renter could move, rather than requiring the renter to move twice.

Provided there is a limited market to sell rental replacement units, the units will likely end up being purchased by smaller investors or retained by the condominium developers, both of whom would be less experienced in managing and maintaining rental units than professional rental management companies.

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Financial Components of Rental Replacement Requirements

Rental replacement requirements come at a cost to tenants, as well as the applicants. When new apartments are being constructed at current development costs, each apartment is built at a negative value provided rental units are limited to a below market-rate. As such, we recommend that municipalities' wave community benefits charges, development charges, parkland requirements and application fees on rental replacement applications as these charges have a direct effect on the viability of these projects.

Further to these charges being waved, OHBA believes that the solution to rental replacement viability and cost concerns is to increase permissions for significant densities to allow for a greater number of market-rate apartments to cross-subsidize the rental replacement costs. By allowing this, it will not burden the costs and reduce positive policy outcomes and instead provide the necessary effect of increasing housing supply overall.

Apartment Sizes for Rental Replacement

The requirement to replace each apartment with an apartment of the same size is challenging as it increases the cost of each replacement apartment. It is not unusual for rental apartments identified for redevelopment to be in older buildings where floorplans were far larger, and costs associated were much different when compared to modern day apartments. OHBA believes that municipalities should allow housing applicants to replace the same number of apartments but allow for modest size reductions. This would aid in the reduction of costs and increase development feasibility for housing applicants.

Formalized and Consolidated Rental Replacement Requirements

To allow for transparent, fair and consistent requirements, OHBA recommends that practices and requirements related to rental replacement be formalized and consolidated into policy. Using the City of Toronto as an example, many of their practices and requirements are not set out in the Municipal Chapter 667 or in the Official Plan 3.2.1 and therefore creates uncertainty for tenants, applicants and City staff.

Additional Considerations for Rental Replacement Requirements

- OHBA believes that when an application for rental replacement is submitted, timelines as set out in the *Planning Act, R.S.O, 1990* need to be adhered too.

- There is a policy challenge as it relates to dealing with incentivizing vacant apartments subject to rental replacement. Building owners should not be incentivized to hold apartments vacant or

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evict tenants as it is not healthy for the supply of rental apartments. Though a complex policy challenge, a formalized solution needs to be considered.

- Considering "last known rent" as an appropriate rent limit for replacement apartments is not suitable in every situation. As an example, a vacant unit with an old rent from years ago could be categorized as affordable or mid-range and the applicant would be required to build a replacement apartment corresponding to this rent category. This is a significant cost opportunity for the applicant.

- In the *Residential Tenancies Act, 2006*, there are policies that require compensation of three months' rent and four months' notice in the case of building demolition. Any additional payments to tenants relating to moving and the rent gap should be reduced based on the compensation already provided by the RTA.

We thank the Ministry for the opportunity to comment on these proposals. We also recognize that there is still more work to do and OHBA as a critical housing stakeholder in the housing sector may provide further comments at a later date. We look forward to continuing engaging with the Ministry in order to ensure these proposals are aligned with the goals of improving housing attainability.