

SF-23-22

May 5th, 2023

SUBMISSION TO OSHAWA'S SAFETY AND FACILITIES SERVICES COMMITTEE REGARDING THE RESIDENTIAL RENTAL HOUSING LICENSING PROGRAM

Dear Committee Members,

The Public Report SF-23-18, titled, "*Proposed Policy Options for the Residential Rental Housing Licensing Program and Other Rental Housing Regulatory Considerations*" (the "subject report") submitted to the Safety and Facilities Services Committee by Tracy Adams, C.A.O., is missing significant impact analysis in order for committee members to make a fully-informed decision.

Lost Property Tax Revenue

No financial impact analysis appears to have been done to determine what property tax revenue loss the City will incur from imposing licensing fees:

- MPAC's (et al) "Direct Capitalization Method" can be simplified as each \$1.00 in operating costs that are not offset by income—such as licensing fees and insurance premiums—results in a \$20 loss in property value, assuming a 5% capitalization rate, or a \$25 loss assuming the current 4% cap rate for rental properties.
 - Assuming an average \$500/year licensing fee results is a permanent \$12,500 equity loss per building license.
 - **10,000(?) buildings(?) means an immediate, permanent loss of \$125 million in property value. The lower the property value, the lower the City's property tax income** (unless it raises taxes, which reduces property value the following year – a vicious negative spiral).
- This financial impact does not include the additional repercussive costs related to the many negative impacts discussed below.

The Critical Success Factor Statistic

Any fees, taxes, levies, etc. imposed on top of already debilitating rental property operating cost increases will exacerbate already dwindling-per-capita rental stock. **Appendix A offers a simplified breakdown of where each \$1.00 of rental income pays goes** in a typical missing middle multiresidential property.

Many media and government reports speak to increases in building permits and housing sales volumes but those are incomplete or and can be misleading. **The critical statistic every politician and housing-related civil servant needs to know is the net housing growth per capita** in their geography.

If population growth notably exceeds housing supply, then a housing crisis arises. Lack of adequate housing, particularly housing that's affordable (not necessarily "affordable housing"), will result in:

Consequences of a Lack of Housing

- **Homelessness:** with not enough homes to go around, people may be forced to sleep on the streets, in cars, or in shelters.

- **Overcrowding:** puts accelerated wear-and-tear and strain on properties, increasing operational and capital costs disproportionate to rent-controlled income, making housing stock more difficult to maintain and discouraging future construction.
- **Economic hardship:** difficult for people to maintain steady employment and earn a living wage, as they may have to travel long distances to work or spend a significant portion of their income on housing – HWY 401 congestion is a testament to this for all Durham municipalities but particularly Oshawa, being further east from Toronto than Ajax, Pickering and Whitby
- **Education:** Children who lack stable housing may have difficulty attending school regularly, which can lead to a range of academic and social challenges and medium-to-long-term impacts on Oshawa’s labour force
- **Crime:** Homelessness and overcrowding can lead to increased crime rates, as people are more likely to resort to desperate measures to survive.
- **Social dislocation:** leads to the displacement of entire communities, causing social dislocation and disruption.
- **Poverty:** Housing is one of the most basic necessities of life. When people spend a large proportion of their income on housing, they may struggle to afford other essentials such as food, healthcare, and education.
- **Social inequality:** housing shortages exacerbate social inequality—disproportionately affects low-income individuals and families, further contributing to the widening wealth gap between haves and have-nots and a lack of upward mobility for those who are most in need.
- **Vulnerable demographic groups:** veterans, the elderly, individuals with disabilities, single moms, newcomers, indigenous people, and the like are at higher risk of experiencing barriers to economic growth or homelessness
- **Housing tenure and insecurity:** Even those who are not homeless are still at risk of losing their home when living expenses exceed income
- **Environmental impact:** inadequate housing near workplaces forces people to live far away and commute long distances, leading to increased traffic congestion, air pollution and carbon emissions, which overburden, and can overwhelm, municipal infrastructure
- **Health problems:** inadequate housing leads to a range of health problems, from malnutrition and exposure to the elements to chronic diseases such as diabetes and mental health issues such as depression and anxiety – increases burden on healthcare sector and OHIP
- **Mental health:** The stress of finding and maintaining a place to live, regardless of its condition, has significant impact on mental health, particularly for individuals and families who are experiencing homelessness or housing insecurity.

- **Physical safety:** there is a direct and well-established correlation between crime and housing shortages along with all the ramifications on municipal costs for police, fire, courts, incarceration, etc.
- **Strained public resources:** puts a strain on public resources, spending more on emergency shelters, healthcare, and other services to support victims of homelessness and housing insecurity.
- **Economic growth:** Housing shortages have significant negative impacts on economic growth. Businesses cannot attract and retain workers. Leads to a decline in property values and tax revenues.
- **Social cohesion:** Housing provides a sense of stability and community. The lack of it leads to fragmentation of neighborhoods and communities, and makes it difficult for people to connect with one another.
- **Domestic violence:** Women experiencing domestic violence can't leave their abuser putting them at further risk of abuse, and perpetuating further unnecessary cycles of violence.

Relevance of Above Points

All of the above points are direct consequences of trading off the perceived advantages of property standards licensing at the expense of the longer-term impacts and consequences that licensing will have on housing availability and affordability, city revenues versus increased expenses, reduction of private rental property investor living and retirement income, and increased living expenses and consequent reduced net incomes of citizens.

Impact of Licensing on Bill 23 Objectives

The subject report addressed how Ontario's Bill 23, *More Homes Built Faster Act, 2022* will have "minimal impacts" on the licensing program. However, the report did not address how the licensing program will impact Bill 23's legislated objectives.

The licensing program appears to be in material conflict with some of Bill 23's objectives:

- Addressing Missing Middle housing
 - **Licensing eliminates any business case for developing missing middle housing.**
- Supporting the Growth and Standardization of Affordable and Rental Housing
 - **Any costs like licensing added to housing operations makes housing less affordable,** per the next point below.
- Freezing, Reducing and Exempting fees for Building Attainable, Affordable and Non-Profit Housing

- From Ontario's Newsroom backgrounder: *"Government charges and fees significantly impact the cost of housing—adding up to \$250,000 to the overall cost of building a home ... Ontario changed the Planning Act, the Development Charges Act and the Conservation Authorities Act to freeze, reduce and exempt fees, spur the supply of new home construction and help address Ontario's housing supply crisis."* (<https://news.ontario.ca/en/backgrounder/1002525/more-homes-built-faster-act-2022>)
- **Licensing-related fees and costs of any kind are in conflict with the above objective**
- Streamlining Bureaucratic Processes to Get More Homes Built Faster
 - **A licensing program adds significant bureaucratic processes to housing construction and management.** A licensing program is in conflict with the above objective for myriad reasons.
- Improving the Ontario Land Tribunal to Support Building More Homes Faster
 - The subject licensing report presumes that there are significant deficiencies in Oshawa's housing that will presumably result in a high number of breaches (otherwise, why have a licensing program?). This will almost certainly result in a greater number of court challenges, resulting in further **exacerbating the massive backlog of cases already present at the Landlord and Tenant Board**, which is facing 9-month wait lists for most applications and up to four years for fractional "cost recovery" (Above Guideline Increase) applications.
- Creating a New Attainable Housing Program
 - **The committee heard testimony last year that any licensing program will discourage housing investors from investing in Oshawa** and encourage investors toward more landlord-friendly municipalities that are anxious to attract much-needed housing
- Protecting Ontario Homebuyers from Unethical Developers
- Taking Action to Crack Down on Land Speculation
 - If developers are unwilling to invest in licensed-housing municipalities, land speculation is likely to be less of an issue since no housing means less industrial, office, and retail development as well
- Improving Ontario's Heritage and Growth Planning
 - The subject report does not mention heritage designations as part of its licensing. Presumably, special considerations may be required with respect to licensing
- Calling for Federal Action on GST/HST
 - **Adding licensing fees is counterintuitive and counterproductive to Ontario's efforts to reduce federal taxes and provide housing incentives.** Licensing is a compelling housing disincentive.
- Promoting Fairness to Support Affordable and Other Rental Housing
 - *"... Ontario will consult with municipalities on potential approaches to reduce the current property tax burden on multi-residential apartment buildings in the province."*
 - **Adding licensing fees is counterproductive to reducing the "... tax burden on multi-residential apartment buildings"**

- Helping Homebuyers and Renters: Addressing Vacant Homes
- Strengthening the Non-Resident Speculation Tax
- Sustainable Building Practices
 - *“... allow municipalities to require certain green standards to promote energy-efficient buildings.”*
 - I have tried for years to interest O.P.U.C. in working with me to install solar panels, heat pumps (replace gas boilers), battery storage, water conservation (not OPUC) and other options for making housing more affordable ... with no responses from multiple inquiries.

FURTHER CONSIDERATIONS FOR COMMITTEE MEMBERS

- **Oshawa’s Exit from Affordable Housing:** for many years, the City struggled with the operational financial deficits and social challenges of its own affordable housing inventory, which I believe the City has completely sold off now, mostly to private sector concerns after trying for four years to encourage any public sector agency to take them over, even for a \$1.00 buyout.
 - Analysis of the financials showed that the affordable rental income was below actual operating costs. Presumably, the City had to divert funds from other programs and services to maintain this property.
 - With no net profit, there were no property-originating funds to fund desperately-needed capital expense improvements and upgrades that resulted in a roughly-estimated backlog of \$1.5 million.
 - This affordable housing property was not affordable to the owner-operator and was unsustainable – hence, presumably, the sell-off.
 - Additionally, Durham Police reported in a phone inquiry that there were between 60 and 100 calls annually to the property for reports of:
 - Domestic violence
 - Noise
 - Mental health-related
 - Unwanted visitors
 - Criminal harassment
 - Breaking and entering
 - How much did these additional services costs the City?
- **Missed Alternative Options to Licensing:** the 13-page submission by the Landlords Association of Durham (LAD) to last year’s Committee meeting was not cited in the report. That submission presented a lengthy list of impacts and a variety of detailed and well-thought-through alternatives to implementing a licensing program, which suggestions would still achieve the aims of the City and the Committee.

In the detailed email response received from Ms. Adams, CAO, the reason proffered was (to paraphrase), “all submissions were carefully considered.” What appears at odds here is that City staff considered the one-line submission from “a local property owner” to be more deserving of the committee members’ attention and consideration (Attachment 9) in the

report's preferential list of attachments than the multiple options presented by an association that represents hundreds of landlords.

The concern is that the spartan brevity of the single sentence from a single landlord might be misconstrued as a representation of complacency or disinterest by and of all other landlords, especially since no other landlord submissions made it into the report. To anticipate one response, property managers are only representatives of landlords and are not vested in, or ultimately responsible for, all the legal, financial and moral responsibilities of a landlord.

- **Unreported Petition:** Committee members should consider the formal petition submitted through due process to the committee last year, which asked that the licensing program not be implemented. It was signed by 1,240 residential landlords from Oshawa, Durham, other provinces and stakeholders in the U.S.A.
 - This petition represents the voices of over a thousand landlords but was not mentioned in the subject report while a mostly blank page attachment (#9) in the report cited a single sentence from “a local property owner.”
- **Region of Durham, Durham Region Affordable Housing and Homelessness, and Durham Community Legal Clinic** all expressed a **singular concern** for “... *tenants being displaced due to the results of inspections that may identify illegal property uses (e.g. Zoning) or unsafe properties (e.g. Fire Code and Property Standards issues).*”
 - The subject report did not address this pivotal concern of several major housing agencies.
- The report cited various **objections** to licensing that were **raised from the April 04, 2022 Special Meeting**.
 - The subject report does not address any of these concerns.
- The **survey of tenants and landlords** conducted by the City cites numerous conclusions that may be faulty due to the leading nature of some of the questions, their poor construction, and the choice of words used that could reflect predisposition towards a conclusion.
 - The three separate forms for Tenants, Renters and Non-rental Property Owners asked questions such as if the City should regulate and license rental properties but then asked, “... what regulations should the City inspect for and confirm *when* issuing a two (2) year residential rental housing licence ... fire safety, adequate heat, long grass, snow removal, noise and nuisance, etc.

The question didn't say “if” but “when” issuing a license. Most non-housing provider respondents will naturally say yes that these violations must be monitored and managed. However, all of the cited issues were already being handled city-wide, even with the limited-area program in effect so the question might mislead respondents into believing that all of the cited issues weren't already being addressed at some level.
 - The Landlord form stated, “Licensing is a good way to let potential tenants know that your property is safe and complies with all applicable standards.” In legal parlance, it's “leading the witness” and presumes a predetermined position.
 - The surveys do not appear to have been constructed by an outside, independent and objective third party.

- The subject report stated, *“The most common issue the [Legal] Clinic sees is evictions, but this often stems from maintenance issues. In the Clinic’s experience, once a tenant complains, rather than getting their property up to code a landlord will often evict the tenant instead.”*
 - Housing providers might consider such a statement highly-inflammatory unless it was backed by facts and statistics. The Legal Clinic’s experience is not supported by the statistics of the Landlord and Tenant Board (LTB), which is the primary legislative body that adjudicates all residential tenancy evictions.
 - An L.T.B. annual report provided the following statistics:
 - 91% of all applications were filed by landlords
 - 9% filed by tenants
 - 71% of landlord applications were L1 applications: Terminate and Evict for Non-Payment of Rent
 - Therefore, **65% (71% of 91%) of all LTB eviction applications were for non-payment of rent**
 - 9.9% of landlord applications were L2 applications: Terminate for Other Reasons and Evict.
 - There is no provision in the Residential Tenancies Act (RTA) that permits a landlord to evict because of any dispute due to maintenance.
 - To the contrary, **Section 83.3a requires the LTB tribunal to immediately dismiss any landlord application of any kind where the landlord is deemed to be in serious breach of any its obligations**, which includes especially property maintenance, safety and other security concerns that are exhaustively addressed in the RTA as well as LTB policies, guidelines, findings and orders.
- City Staff cited municipalities that adopted licensing. Would a balanced analysis not also include the reasons for why other municipalities voted to not implement licensing?
 - I’m aware that the City of Cornwall twice looked at licensing but did not proceed
 - A petition is currently underway to asking the City of Windsor to revoke its licensing program. It has so far received 2,883 signatures.
- A detailed study titled, *“Rental Housing Conditions Discussion Paper: Rental Accommodations”*, dated May 09, 2019, was conducted by Maclaren Municipal Consulting Inc. on behalf of the City of Ottawa. The study referred to 311 calls that were then referred to Property Standards or Zoning By-law officers.
 - **About 100,000 rental units were part of the ten-year study**
 - 91.4% of properties never received any property standards complaints
 - Table 7 of the report titled, *“Frequency of 3-1-1 Calls by Unique Address”* analyzed the remaining 8,597 unique addresses that were the subject of one or more calls
 - 7,940 unique addresses (92.3%) received five or less calls over the 10-year period
 - Only 51 properties (0.6%)—half of one percent—had more than 20 calls over the 10-year period
 - *“The largest 311 call type for ownership properties was for external debris/waste (32.3%), which was twice the number for total rental property calls (16.2%)”*
 - **The study stated, “This indicates that most rental properties in Ottawa are well maintained and managed.”** (page 10)

- Numerous independent public service agencies throughout Oshawa (and nation-wide) struggle literally every day to work with private sector landlords to find housing for their mostly vulnerable charges. These agencies could offer significant insights into the impacts of residential licensing on their housing efforts but none of these independent agencies were included in the subject report.

Consider particularly the province’s overarching concern for housing unaffordability and homelessness, resulting in Bill 23. The Ministry of Municipal Affairs and Housing’s “*Community Housing Renewal Strategy*” dated April 17, 2019, states that **over the next three years** (by 2022), 289 non-profit and co-operative providers with 41,000 units **may exit the affordable housing portfolio**, and this number may **increase to 106,600 by 2027**. Any residential licensing program will impact and accelerate this mass exodus and inventory loss.

- **Alleged Conflict of Interest:** Last year, a committee member abstained from participating in the licensing program discussion because he owned property and felt that would be a conflict of interest. Since no other committee member declared such a conflict of interest then that left only councillors who don’t own a property.
 - By the same logic, would not owning a property or even just being a tenant be a conflict of interest as well?
 - Councillors who have an understanding of the housing industry would provide more balanced perspectives to make a fully informed decision.
- Altus Group reported in their April 2023 Canada-wide Rental Market Update report:
 - **Recent new construction** — averaging ... roughly 41,000 unit starts per year over the past five years — **hasn’t translated into an equivalent gain in the rental universe because demolitions have occurred along with, or as a precursor to, new development ... net new units at closer to 20,000 per year ...** [Canada-wide]
 - Millennials should be exiting the rental market ... yet there are some unprecedented impediments to the traditional generational trajectory. Recent research from CBRE Canada calculates that residents of the Greater Toronto Area need annual income of
 - nearly \$240,000 to affordably purchase a single-detached home at the region’s current average price
 - about \$146,000 for a condominium
- Of the 10 most affluent communities in Durham, Whitby and Pickering have four each. Ajax is no. 1 in terms of household wealth across Durham. Oshawa has none.

Of the ten least affluent communities (lowest median after-tax household incomes) in Durham, Oshawa has seven.

- Therefore, housing affordability is disproportionately acute concern in Oshawa with Oshawa tenants being particularly sensitive to any increases in living costs ... such as licensing fees.
- Most Oshawa citizens rely heavily on rental housing. Less rental housing that adhere to alleged higher property standards will still result in substantially higher tenant living costs.
- CHMC recently reported that there are an estimated 1,350,000 individuals (not corporations) who reported on their personal income tax returns that they received some form of rental

income. This could be residential or commercial but is likely mostly the former. Roughly prorating Oshawa's population to Canada's, that would result in about 6,000 small landlords in Oshawa.

- As of November 2022, Canada aims to welcome 465,000 new permanent residents in 2023, 485,000 in 2024 and 500,000 in 2025, totaling 1,450,000 over the next three years, averaging 484,000 per year. Ontario receives about 42%. Oshawa's population is about 1.2% of Ontario's, Therefore, roughly estimating, Oshawa may receive 5,800 new immigrants each year for a total 17,400 for the next three years.

Most immigrants will begin their new lives in a rental property. Vacancy rates are next to zero – where will they live?

Actually, they will likely win most of the very limited vacancy applications because they must be self-sustaining and therefore affluent in order to qualify for entry into Canada

Summary and Conclusion

Establishing a licensing regimen assumes that housing providers are to blame for the perceived shortfalls in rental property standards, which is not true. While slumlords certainly fall into, or even define, this stereotype, slumlords represent only a fractional percentage of the total rental housing inventory. The alleged degradation of property standards is a symptom of the much greater and infinitely more important housing unaffordability and unavailability crisis.

Licensing does not address or relieve the many crushing causes and consequences on property standards that are collectively beyond the control of any housing provider.

Licensing exacerbates the housing crisis and will cause rental housing inventory shrinkage. Any perceived gains in property standards will be trivial by comparison to the negative impacts the licensing program will have, not only on housing, but also on the significant consequences to the municipality as a whole.

The subject report cited many objections as well as numerous alternative options to licensing but the City staff's report didn't address any of those objections or discuss the merits and disadvantages of any of the proposed alternate solutions to property standards issues. Instead, they elected to provide only four variations all intended to expand licensing.

The cost of the licensing program could be inconsequential versus the potential revenue loss and increased operating costs the City would incur from the many consequences cited in this submission.

The licensing proposal appears to be in direct conflict with, and contrary to the intentions of, several of the major objectives of Ontario's Bill 23, *More Homes Built Faster Act, 2022*.

Respectfully,

Chris Seepe
Rental Housing Provider

Appendix A - Typical Operating Costs of a “Missing Middle” Rental Property

The following is a simplified breakdown of where each \$1.00 of rental income goes. The numbers are for a typical real-world, 60-year-old, 12-unit multiresidential property in southern Ontario (outside Toronto proper):

- 18.8¢ property tax (varies from 15% to 20% (per RTA)
- 09.4¢ repairs & maintenance (varies widely annually, in 2023 it was 16.7 ¢)
- 08.3¢ utilities – common area only, doesn’t include tenant utilities (except heat)
- 05.1¢ Property management, janitorial
- 03.5¢ building insurance
- 01.4¢ Professional fees

- Total of 46.5¢ operating expenses
- 39.8¢ financing (5-yr closed fixed, 25-year am, 75% LTV, **3.0%** interest) – higher now because of substantially increased interest rates
 - Roughly 85% of all rental properties have some level of financing
 - While varying widely, a common rough rule of thumb for many rental properties is that financing takes about one-third of total income

 - **Note:** Rapidly-increased mortgage interest rates without corresponding increase in rental income (because of rent control) may result in **significant mortgage defaults over the next few years**. This will significantly impact new rental housing starts and may decrease rental housing stock ... everywhere

85.3¢ Total Costs leaves 13.7¢ pre-tax profit (lower than many businesses)

- 06.85¢ then paid for corporate tax (your government)
- 06.85¢ net profit after-tax but BEFORE capital costs (new roof, furnace, boiler, windows, etc.)

The above operational costs are before capital costs such as replacing windows every 30 years. For this real-world property, that would currently be around \$50,000. Multiple hot water tanks at 10 years each, roof replaced every 25 years. Keeping the numbers simple, that’s about \$3,300 per year major capital costs. That comes out of the \$6,850 yearly “take home pay.”

Note: **Small and missing middle housing providers pay 50% corporate tax** because CRA considers all small rental property ownership as “passive income.” Large operators have a tax rate of about 13% as an “active income” business but enjoy economies of scale and tax incentives that may reduce that rate further.

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The original petition consisting of 1,294 signatures attached to this correspondence is available for viewing in the office of the City Clerk, Monday to Friday from 8:30 a.m. to 4:30 p.m.

The City of Oshawa is not accountable for the accuracy or reliability of petitions submitted.



**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

WINDSOR HOUSING PROVIDERS INC.

Applicant

- and -

WINDSOR (CITY)

Respondent.

NOTICE OF APPLICATION

(Re: Windsor By-law 14-2023)

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

X By video conference

at the following location

245 Windsor Avenue, Windsor, ON

on Tuesday May 16, 2023 at 10:00 am (*or on a day to be set by the registrar*).

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

DATE 04/24/2023

Issued by

Bailey E Trotti
Digitally signed by
Bailey E Trotti
Date: 2023.04.24
14:42:24 -04'00'

Registrar

Address of
court office

245 Windsor Avenue
Windsor, ON

TO: WINDSOR (CITY)
350 City Hall Square West
Windsor, Ontario, N9A 6S1

APPLICATION

1. THE APPLICANT makes application for:
 - a) An Order abridging time for service and filing.
 - b) An Order validating service upon the Respondent by email;
 - c) An Order quashing Windsor by-law 14-2023 (the “By-Law”);
 - d) An interim Order that the nothing shall be done under the By-law until the within application is disposed of pursuant to section 273(4) of the *Municipal Act, 2001*;
 - e) Costs; and
 - f) Such other relief that the Court deems just.

2. THE GROUNDS for this Application are:
 - a) *Municipal Act, 2001*, SO 2001, c 25.
 - b) *Constitution Act, 1897*.
 - c) *Canadian Charter of Rights and Freedoms*.
 - d) *Residential Tenancies Act*, SO 2006, c 17.
 - e) *Human Rights Code*, RSO 1990, c H.19.

- f) The Respondent, the City of Windsor (“Windsor”), enacted the By-law on February 13, 2023.
- g) the By-law is named: *“A By-Law To Establish A Licensing Program For The Regulation Of Residential Rental Housing In The City Of Windsor”*.
- h) The stated purpose of the By-law is *“to regulate the renting of residential premises for the purpose of protecting the health and safety of the persons residing in residential rental premises by ensuring that certain regulations are met, that the required essentials such as plumbing, heating and water are provided, for ensuring that the residential rental premises do not create a nuisance to the surrounding properties and neighbourhood and to protect the residential amenity, character and stability of residential areas”*.
- i) The requirement for compliance with the By-law comes into force June 1, 2023.
- j) Windsor is comprised of ten municipal electoral wards numbered 1 to 10. Ward 1 is the home of St. Clair College. Ward 2 is the home of the University of Windsor.
- k) The By-law was passed for an improper purpose, being the regulation of post-secondary student housing which is not the stated purpose of the By-law.
- l) The main debate and decisions related to the of the substance, purpose and passing of the By-law was done in closed meetings of council contrary to s. 239(1) of the *Municipal Act, 2001*.

m) The By-law unlawfully and arbitrarily discriminates against businesses of the same class based on geography without any authority or purpose.

n) The By-law is illegal as it is ultra-vires Municipal powers by unlawfully and arbitrarily imposing further sentences/sanctions on those who have already been sentenced of a criminal offence and as such involves the exercise of the criminal law power exclusively vested in the Parliament of Canada pursuant to s. 91(27) of the *Constitution Act, 1897*.

o) The By-law contravenes the freedom of expression guaranteed to the Applicant and others under section 2(b) of the *Canadian Charter of Rights and Freedoms* (the *Charter*) which cannot be justified under section 1.

p) The By-law contravenes equality rights based on age guaranteed to the Applicant and others under sections 15(1) and 6(2) of the *Charter* which cannot be justified under section 1. These provisions also violate sections 4(1) and 5(1) of Ontario's *Human Rights Code*.

q) The By-law unlawfully, arbitrarily and without purpose or authority requires licensees to be subject to invasions of privacy.

r) The By-law unlawfully, arbitrarily and without purpose or authority requires licensees to be resident in Windsor or to have an agent resident in Windsor (the "Residency Requirement"). Residency Requirement contravenes mobility rights to the Applicant and others under section 6 of the *Charter* which cannot be justified under section 1.

Residency Requirement unlawfully and arbitrarily discriminates against businesses of the same class based on geography without any authority or purpose.

- s) The By-law unlawfully conflicts with the *Residential Tenancies Act* (the “RTA”) by restricting the rights of tenants to sub-lease as provided for under Sec 95(5) or the RTA.
- t) The By-law regulates non-businesses and non-business activities and requires non-businesses to be licenced in order to sub-lease, advertise for sub-lease or otherwise make any public statement regarding the availability of a rental property.
- u) The By-law unlawfully, arbitrarily and without purpose or authority retains the right to deny a license on the basis of “*Financial impact to the City*”.
- v) The By-law unlawfully, arbitrarily and without purpose or authority requires licensees to permanently maintain licenses at a location despite the cessation of a rental business at a location. The failure to renew an license automatically revokes the person’s right to hold any license under the By-law at any other location for said failure to renew.
- w) The By-law unlawfully, arbitrarily and without purpose or authority automatically cancels licenses should the any of the licensee’s application information changes, including but not limited to phone number, address or name or in the case of a corporation, it’s officers or directors.
- x) The By-law unlawfully and without purpose or authority charges multiple persons the same licence fees for the same unit, thereby constituting a tax under the *Municipal Act, 2001*.

3. The following documentary evidence will be used at the hearing of the application:

- a) An affidavit on behalf of the Applicant yet unsworn;

b) Such further and other evidence as counsel may advise and the Court may permit.

April 24, 2023

**STEVEN PICKARD LAW
PROFESSIONAL CORPORATION**
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Lawyers for the Applicants

WINDSOR HOUSING PROVIDERS INC.

and

WINDSOR (CITY)

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Windsor, Ontario

NOTICE OF APPLICATION

**STEVEN PICKARD LAW
PROFESSIONAL CORPORATION**

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info@acornproperties.ca

May 9, 2023

via e-mail

City of Oshawa
50 Centre Street South
Oshawa, ON L1H 3Z7

Attention: Kenneth Man

Dear Mr. Man:

Please accept this letter as a submission for discussion about the proposed R.R.H.L. Program expansion. I am a third party property manager who manages 210 residential units in Oshawa and another 145 units in other parts of Durham Region. I have reviewed the document produced by Oshawa staff and I have serious concerns about the tone of the document and the intention of the program.

First, let me say that property owners have responsibilities but they also have rights, even as landlords. There is a lot of discussion about tenant rights; but there seems to be a complete disregard for the City's obligations toward property owners in this report. Supporting landlords and property owners, as they try to provide the best housing possible, should be the City's goal. Instead, I see a document that appears to want to push the responsibilities of tenants and the City onto private property owners. The language in the report is clearly prejudiced against property owners and landlords: it paints us all as villains rather than decent business people trying to make a good return on our investment while providing a much needed product. Let me assure you, all my clients care about their investments and are good landlords by all measures.

I know many other submissions about the proposed program expansion will focus on the costs to property owners and tenants. I will echo those sentiments. In my opinion, the proposed fully expanded program will penalize all landlords for the performance of a few bad actors. We already pay significant property taxes for you to employ bylaw officers and staff to enforce bylaws and standards. At the Grand Vista, a 144-suite purpose-built rental in North Oshawa, because we were not permitted to be categorized in the New Multi Family class for our tax rate, we pay approximately \$800,000 per year to the City of Oshawa and Durham Region, about half of that goes to Oshawa. We pay double the residential tax rate but it looks like we will also pay more in your licensing scheme. You are effectively increasing our property tax rate even more. What would you think if I told you, "You pay me \$800,000 for services, but I need another \$1725 to actually get the job done?" That's a tough sell.

Another critical concern is the lack of appeals process for landlords and property owners. The program's tenant bias will allow problem tenants to terrorize property owners and their neighbours since the system is geared to follow up on tenant complaints with no consideration

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for landlords or appeals. For example, a tenant could rip lighting fixtures down in their apartment and call the city for an inspection because of exposed live wires. The landlord would be instructed to make the unit safe or face daily fines. However, in the same case, the landlord cannot call the city for an inspection of a unit that a tenant has damaged willfully and seek justice or compensation. (I use this example because I know this very situation happened in Toronto). I see no supports in the system for landlords whatsoever. Much like property standards, owners will be at the mercy of the bylaw officer who attends. Bylaw officers don't care who is at fault and they won't consider inspection evidence demonstrating tenant willful damage. If I am licensed, shouldn't I have a method of appeal for charges against me that threaten my license? An appeals process must be included. Even the LTB allows landlords to present evidence and make legal arguments in the case of tenant complaints.

It also bears noting, the report states this program will not try to tackle RTA issues, but rather it will focus on fire code, electrical code, plumbing code, etc. If that is the case, how can Bylaw officers do this work? Wouldn't it make more sense for fire prevention, building inspectors, etc. to do this important work? It seems, if the intent is to ensure safe housing, you would use the experts you already employ to enforce the codes, bylaws and standards that already exist. You can understand that not using the appropriate staff is a red flag that this might be simply a measure to levy taxes and fees against multi-family residential housing providers to recoup revenues lost from measures imposed (or to be imposed) by the Places to Grow Act 2005 and Bill 23.

Finally, if you are going to have a service that is focused on healthy, affordable housing, how have you not included any consideration for assisting landlords in dealing with social issues that are beyond private property owners purview, such as mental health issues and hoarding? Landlords struggle to keep buildings safe and healthy when there is a tenant who puts everyone at risk. There needs to be real solutions included in this program; since it will be your inspectors and officers who can have eyes on the problem. The report completely ignores any dangers, risks or issues that are caused by tenants - surely that is the other half of the equation in housing licensing?

Ultimately, more housing needs to be the goal. The question council needs to ask, as they reflect on the report from staff, how will expanding the RRHL increase our housing supply? Affordable housing, today more than ever, means rentals. If that is the case, the City of Oshawa should be encouraging new purpose-built rental developments. The options in the RRHL program expansion do not do this. It sets a tone for an adversarial approach to rental housing providers that will discourage new rentals in Oshawa. If you drive out new purpose-built rental, by effectively increasing the property tax rates through licensing fees and fines, you will be left with aging housing stock. You will watch as surrounding regions like Clarington, Whitby and Ajax get the purpose-built rental projects and as their housing supply increases, they will enjoy the relief on pricing pressure, creating more affordable options. I hope you will consider the longer reaching effects of this expansion. Most importantly, I hope you will consider that we are all working together to build a community and creating an adversarial system is no way to achieve lasting results.

Sincerely,

Angelica Van Leeuwen
President, Acorn Properties Ltd.



May 18, 2023

To: Safety and Facilities Services Committee

From: Daryl Chong
President & CEO
Greater Toronto Apartment Association

Re: **Report SF-23-18**
Proposed Policy Options for the RRHL Program

The Greater Toronto Apartment Association (“GTAA”) represents the interests of the multi-family, purpose-built rental housing industry. GTAA Members own and manage more than 150,000 units of multi-family, purpose-built rental housing across the GTA.

GTAA Members are proud business owners and operators who care about their customers and properly maintain their buildings. Retaining existing and attracting new customers is a key component of success for any business. For apartments, this is done best by ongoing maintenance, upkeep and modernization.

GTAA Members support apartment building standards and maintenance. We believe a better approach would be to focus on poor operators and we encourage you to use every tool available to meet compliance.

The current Residential Rental Housing Licensing program was established in response to student housing around Durham College and Ontario Tech University. It was laser focused to address a specific issue. A very purposeful approach.

We don’t recommend broad or all-encompassing programs as these eliminate the laser focus and an extraordinary amount of staff time (bylaw enforcement and administrative) is spent on checking boxes by visiting a majority of exceptionally well-run buildings. Your time is better spent on aggressively remediating buildings and educating negligent operators that don’t meet the standards.

Continue to use your current complaints-based process to determine which apartment buildings to audit with your interdepartmental inspection teams. Focus on bad operators. Don’t dilute property standards staff time by sending them to well maintained buildings.

Oshawa's Apartment Universe CMHC Rental Market Report (Feb 2022)

	Bachelor	1 Bedroom	2 Bedroom	3 Bedroom +	Total
Zone					
Zone 1 - Oshawa (North)	55	1,039	2,194	303	3,591
Zone 2 - Oshawa (South/Central)	158	1,641	3,160	386	5,345
Oshawa Total (Zones 1-2)	213	2,680	5,354	689	8,936

Oshawa's purpose-built rental inventory is 9,000 units according to CMHC's February 2022 Rental Market Report.

Rossland Park (Q Residential) has more than 900 units, which is 10% of the Oshawa's apartment inventory. Atria's 100 Bond has 239 units, CAPREIT's Mona Lisa (191 Nonquon Road) and Princess Anne (1221 Simcoe N) apartments each have approximately 150 units. These four account for 15% of Oshawa's entire apartment stock.

Average Selling Price Durham Region Association of Realtors Housing Report – April 2023

Area	Avg. Price	Detached	Semi-Detached	Condo/Town-house	Condo Apt.	Link	Attached Row
Durham	\$956,240	\$1,059,382	\$821,154	\$686,198	\$579,025	\$862,000	\$873,233
Ajax	\$1,002,020	\$1,091,950	\$897,400	\$760,011	\$568,217	-	\$910,945
Brock	\$784,065	\$807,321	-	\$505,000	-	-	-
Clarington	\$890,557	\$972,411	\$708,333	\$832,125	\$592,779	\$827,857	\$778,147
Oshawa	\$833,714	\$926,077	\$705,478	\$635,157	\$490,501	-	\$796,781
Pickering	\$1,056,284	\$1,295,694	\$995,220	\$692,677	\$649,000	-	\$941,000
Scugog	\$1,013,336	\$1,036,461	-	-	-	-	\$859,167
Uxbridge	\$1,099,854	\$1,215,894	-	\$699,000	\$613,500	-	\$942,700
Whitby	\$1,067,813	\$1,182,846	\$919,360	\$715,864	\$600,656	\$941,666	\$902,888

The current cost of entry into home ownership is high. More housing options are needed. Much more rental housing is needed.

It's agreed that there is a new housing supply shortage. Even more challenged is new rental supply.

All housing-related decisions need to consider basic resultant effects:

- Will this encourage the creation more rental housing?
- Will this help with affordability by not increasing operating costs (which are recovered by increased rents)?

If the policy or program discourages new rental housing or increases rent, an alternative should be considered.

I **recommend that you continue with the current process** of auditing selected apartment buildings using your interdepartmental inspection teams.

I **further recommend that you consider ways to encourage new rental supply.** The Residential Rental Housing Licensing program was initiated to control the conversion of single-family homes, in single family neighbourhoods, into rental housing because there was (and continues to be) an acute shortage of purpose-built rental apartment buildings in Oshawa. All your efforts leading up to today's report could have been avoided if there wasn't this acute shortage of purpose-built rental apartment buildings in Oshawa.

Appropriated zoned for Multi-Residential, with mixed uses (grocery stores, pharmacies, restaurants), near transit nodes (arterial roads) with ample parking, and professionally managed apartment buildings would house young people, new families, down-sizing seniors who wish to remain in their community, and assist with population growth.

GTAA and our Members are always available to work on improving rental housing in Oshawa.

Thank-you,



Daryl Chong
President & CEO
Greater Toronto Apartment Association
dchong@gtaaonline.com
416.385.3435
103 – 20 Upjohn Road
Toronto ON M3B 2V9



Safety and Facilities Services Committee
City of Oshawa
50 Centre Street South
Oshawa, ON L1H 3Z7

May 17, 2023

Re: Report SF-23-18

The Durham Region Home Builders' Association is in receipt of Report SF-23-18 – *Proposed Policy Options for the Residential Rental Housing Licensing Program and Other Rental Housing Regulatory Considerations* and has circulated this report to our membership. Our comments on this report are based on their feedback.

The DRHBA's position remains as it was in the correspondence submitted on May 4, 2022.

DRHBA is not in support of a city-wide expansion of the R.R.H.L., and there are numerous reasons for this position.

Our members believe that this program will not achieve its primary goal – which is to root out illegal units and have them brought up to code and the appropriate standards for rental units. The vast majority of landlords are responsible and take great care to ensure their tenants have a safe place to live. Landlords that are already ignoring the regulations and standards that are currently in place will continue to do so and will find ways to avoid participating in this proposed program.

As such, the result of the implementation of this program will be that existing, good landlords will be burdened with more red tape and expenses. These costs will be passed down to the tenants, and if those amounts exceed the currently permitted 2.5% increase, new renters will face that additional financial burden.

Legal rental units, whether they are located in an apartment building or in the basement of a home, already must pass stringent regulations to bring rental units to market. Landlords must acquire building permits, build/renovate to the Ontario Building Code, and pass inspections before they are granted an occupancy permit. As all new and existing legal units have already gone through this process, this program essentially becomes a redundant layer of bureaucracy – adding unnecessary delays and expenses.

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In speaking with our members who are landlords, they have talked about the fact that their expenses, such as utilities, repairs, garbage removal, etc. have gone up substantially and are not being covered by the annual 2.5% increase. As a result, when a unit becomes vacant, the landlord will take that opportunity to increase the rent to a level that will allow them to recover their costs.

As we are currently in an unprecedented housing affordability crisis, it would be counterintuitive to expand a program that will ultimately increase rental rates in legal, safe units, while having little to no impact on the illegal, unsafe units.

The provincial government has also passed two pieces of legislation, the *More Homes, More Choice Act*, and the *More Homes for Everyone Act, 2022*; both of which focus on adding additional housing types to the current supply and cutting red tape to ensure these units can be brought to the market as efficiently as possible. The City of Oshawa's proposed expansion of the rental licensing program goes against the spirit of these pieces of legislation by adding on an additional layer of red tape to housing.

Tenants in the City of Oshawa already have two avenues of redress if they encounter any issues with their rental units: through the City's existing property standards bylaws and through the Landlord and Tenant Board (LTB), which enforces the rules and regulations set out in the *Residential Tenancies Act, 2006*.

While the COVID pandemic has caused a backlog and delays at the LTB, the provincial government has recently released *Bill 97: Helping Homeowners and Protecting Tenants Act*. In addition to providing significantly more funding to the LTB to appoint 40 additional adjudicators (more than doubling the current number), the legislation also aims to make extend the LTB's hearing hours and make the LTB more efficient.

Bill 97 also proposes to increase protections for tenants, specifically addressing issues surrounding evictions. These protections would make it more difficult for landlords to "renovict" tenants or use "personal use for landlord or immediate family" to fraudulently evict tenants. The proposed legislation also clarifies and enhances tenants' rights to install window or portable air conditioning in their units.

The proposed Residential Rental Housing Licensing Program does not provide tenants with any protections that are not already addressed in existing municipal bylaws or provincial legislation.

Instead, expanding the program will only serve to add an additional layer of red tape around housing – which is already in crisis. Added fees and duplication of

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regulations will only serve to increase rents and decrease the number of rental units available on the market, as it may serve to discourage small landlords from entering the rental market. Combined with the fact that there really hasn't been a concerted effort to entice development of more purpose-built rental units, it is really this shortage of available units that will continue to prop up ever-increasing rental rates.

As an Association, we are championing housing affordability and will only support initiatives that will lead to greater supply, less red tape and more housing options for the residents of Oshawa and Durham Region.

We look forward to continuing to work with City staff to ensure that all residents of Oshawa have a safe and affordable place to call home.

Sincerely,

Stacey Hawkins
Executive Officer
Durham Region Home Builders' Association

Cc:
Domenic Chiodo, President, DRHBA
Nick Henley, Chair, GR Committee, DRHBA
DRHBA Membership

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May 17, 2023

Kenneth Man,
Manager, Policy, Licensing and Business Services
City of Oshawa
50 Centre Street South
Oshawa, ON L1H 3Z7

RE: Residential Rental Housing Licensing Program

Durham Community Legal Clinic thanks the City for the opportunity to voice, once again, our objection to the R.R.H.L. Program.

DCLC provides housing-related legal services to low-income residents in both Oshawa and the greater Durham Region. We interact with renters every day and as such, are acutely aware of the current problems facing renters in Oshawa. Many of our clients have no choice but to rent poorly maintained or 'illegal' units. It is quite simply, all they can afford.

The concern with expanding the R.R.H.L. Program is that it will lead to higher rental rates and decrease the amount of existing rental stock. Landlords will pass along the fees or no longer make these units available rather than provide the required unit maintenance.

If this Program is expanded, it is our hope there will be a contingency plan to replace the loss of what little affordable housing there is in the City.

Sincerely,

Patrick Gillespie
Executive Director
Durham Community Legal Clinic