

Date: 2018/05/04

To: Chair and Members of Planning and Development
Committee

From: Andrew Whitemore, Commissioner
Planning and Building Department

Originator's files:
CD.06. AFF

Meeting date:
2018/05/28

Subject

Mississauga Housing Strategy: Rental Housing Protection By-law
File: CD.06.AFF

Recommendation

1. That the approach and criteria proposed for the Rental Housing Protection By-law as outlined in the report titled "Mississauga Housing Strategy: Rental Housing Protection By-law" dated May 4, 2018 from the Commissioner of Planning and Building be endorsed.
2. That the City Solicitor be directed to prepare all necessary by-laws and agreements as outlined in the report titled "Mississauga Housing Strategy: Rental Housing Protection By-law" dated May 4, 2018 from the Commissioner of Planning and Building.

Report Highlights

- In June 2016 City Council endorsed the preparation of a by-law to protect affordable purpose-built rental housing in the city, which was reconfirmed as a priority with the adoption of Mississauga's Housing Strategy on October 25, 2017
- On average 70 units a year have been converted to condominium ownership and, since 2005, 3 projects with a total of 55 units have been demolished. This has contributed to the falling vacancy rate in Mississauga
- This report proposes that a Rental Housing Protection By-law be established under Section 99.1 of the *Municipal Act, 2001* to regulate the demolition and conversion of rental housing, which implements Actions 12 and 13 of Mississauga's Housing Strategy
- The by-law will apply city-wide as a two year pilot. It will require the retention of affordable rental units through condominium conversions and replacement of demolished units in new development or cash-in-lieu of housing contribution where retention or replacement is not feasible
- The by-law will be brought forward to Council for adoption by early July 2018 and is proposed to take effect June 1, 2019 following the development of all related administrative matters, and to allow the impacted stakeholders to adjust to this new

□ requirement

Background

Purpose-built rental housing is an important part of the city's housing supply. The loss of affordable rental housing has become a growing concern in recent years where higher order transit is either funded, e.g., Hurontario LRT Corridor, or planned. As these areas redevelop there is a need to ensure ongoing affordable and rental tenure housing is provided.

In June 2016, Mississauga City Council endorsed the development of a by-law to protect affordable purpose-built rental housing. Subsequently the adoption of the City's Housing Strategy and Action Plan, *Making Room for the Middle* state that the City should develop a by-law to regulate the conversion and demolition of rental housing (Actions 12 and 13). The Rental Housing Protection By-law is one initiative. Other initiatives such as Tower Renewal, the Development Charge Rebate Program and Inclusionary Zoning also support rental housing.

What does the rental market context look like in Mississauga?

Mississauga has an existing rental housing supply of approximately 30,000 units in 350 apartment buildings and townhouse developments. The average apartment building size is 80 units, with one-third of the supply in small buildings of under 30 units. This supply is dispersed throughout the City and well located along major corridors and major roads including the Hurontario Street Corridor.

Most of the existing purpose-built rental stock was built 50 years ago. Very little new rental housing has been developed since then. As well, over the last 20 years, an average of 70 units per-year have been converted from rental to condominium tenure and, since 2005, 3 projects with a total of 55 units have been demolished.

Mississauga's vacancy rate illustrates the need for more rental housing. In 2017, the vacancy rate for rental housing was 0.9%, which is less than one-third of the balanced market rate of 3%. The average market rent is approximately \$1,300/month. Rental housing provides stable housing options for low and middle income households when home ownership is not financially feasible or where rental is preferred.

How can the City protect the supply of affordable rental housing?

Section 99.1 of the Municipal Act, 2001 allows cities to regulate the demolition and conversion of residential rental properties containing six or more units. This by-law is consistent with Mississauga Official Plan Policy 7.2.12, which prohibits demolitions and conversions if the supply of affordable rental housing is adversely affected.

There is no ability to appeal the by-law to the Local Planning Appeal Tribunal (LPAT).¹ However, an application can be made to Superior Court to quash the municipal by-law for illegality or bad faith within a year.²

¹ Formerly the Ontario Municipal Board (OMB).

What consultation was done for the Rental Housing Protection By-law?

Staff consulted with various stakeholders in the preparation of the by-law provisions. Two consultation sessions were held on March 7, 2018 to review the technical elements of the by-law and to understand industry concerns. Stakeholders in attendance represented a range of interests including housing advocates, rental housing owners and developers, market experts and rental housing associations.

Two additional community meetings were held with the general public on April 4, 2018 to provide information on the by-law. These meetings were advertised to all rental building owners, on the City's consultation page, in local newspapers and through signs and media releases.

The consultation sessions raised a number of issues such as:

- the need to simplify the by-law and its applicable tests
- how to address displaced tenants
- the financial challenges associated with developing new rental buildings and upgrading existing rental housing
- the financial burden to replace rental units outside of high growth areas where density increases may not be able to offset replacement costs

The proposed by-law has taken these issues into consideration. The tests in the by-law have been simplified. The *Residential Tenancies Act* will continue to address tenant matters, in particular related to notice, compensation and rights to return to a unit. Where appropriate, the *Residential Tenancies Act* requirements can be augmented through permit conditions. Based on expert market opinion by N. Barry Lyon Consultants, it is anticipated that where redevelopment pressure is greatest and policies support additional density, e.g., the Hurontario Corridor, the burden of replacement requirements may be off-set. Elsewhere, where property values are lower, the replacement requirements are expected to have a dampening effect on redevelopment.

Comments

This report proposes a Rental Housing Protection By-law to protect existing purpose-built rental housing from demolition or conversion to condominium. The aim of the proposed by-law is to balance the need to protect the supply of rental units with the need to upgrade older rental stock and allow redevelopment.

The by-law is proposed as a two year pilot in anticipation of new housing policies being developed by the Region of Peel to which the City must conform and recently approved inclusionary zoning powers. This will also provide an opportunity to evaluate the market impact of the by-law and consider the effect of any potential government housing initiatives.

What types of units are affected?

² A municipal by-law can be quashed if a municipality: exceeds its jurisdiction (i.e. no proper municipal purpose, conflict with Federal/Provincial law); fails to act in accordance with its processes (i.e. inadequate consultation); or if the by-law is too vague.

The by-law will apply to demolition or conversion proposals of residential rental properties containing six or more rental units (also known as *primary rental units*). This includes apartments or townhouses that were built at the outset as rental housing.

Units in the *secondary rental market* (e.g. rented condominiums, second units in homes) are not included. Rental units that would also be exempt include: equity co-operatives, co-ownership properties, lodging homes, designated and non-profit housing projects owned, operated or managed by Peel Region or Peel Living.

How will the by-law work?

Demolition and conversion applications are proposed to be evaluated on a case-by-case basis based on two threshold tests and conditions for approvals that aim to mitigate any adverse effects on the supply of affordable rental housing. Demolition or conversion permit approvals will come to Planning and Development Committee through staff reports.

If there is an application to demolish or convert a residential rental property with six or more units a municipal review will be triggered. The evaluation will apply the following tests:

Test 1: Vacancy Rate – The City’s rental vacancy rate is 3% or more.

Test 2: Rent Level – Existing rents are above the affordable rate at 1.75 times Average Market Rent (AMR) which are in line with households in the 6th income decile. This will be adjusted annually but currently this is approximately \$2,500 per month.

Where either Test 1 or Test 2 are met a permit for demolition or conversion will be issued without conditions for replacement or retention of the rental units.

Where Test 1 and Test 2 are not met a permit for demolition or conversion may be issued subject to appropriate conditions to be secured by an agreement registered on title which may include:

- for conversions, retain the units as rental for a period up to 20 years and at similar rents
- for demolitions replace the units (either on or off-site) at similar rents
- for either demolitions or conversions, a cash-in-lieu contribution to a housing reserve fund may be permitted for all or some of the units in-lieu of replacement or retention where there are significant constraints associated with replacement or retention requirements

The above conditions are intended to provide a range of options for applicants to meet the objectives of no net loss of rental units as a result of their application.

What other initiatives are needed to support the by-law?

Should the by-law be approved there are a number of administrative and processing matters that will need to be developed. Due to the resources that will be involved these will be developed after approval and prior to the by-law taking effect. These include, but are not limited to, the following:

- **Demolition Control By-law** - A separate Demolition Control By-law under section 33 of the *Planning Act* is required so that the City may withhold a demolition permit for the removal of rental units when there is no immediate plan for redevelopment. It would avoid premature demolitions, loss of housing stock and early displacement of tenants.
- **New Application Process and Fees** – An application process for conversion and demolition of rental housing that will be administered through the Planning and Building Department will need to be developed along with related roles, responsibilities and fees. Staff will document costs for the applications that are processed. Where a demolition or conversion permit involves another planning application, the issuance of permits will be coordinated. It is proposed that existing fees remain and no new fee structure be introduced for conversion and demolition applications during the two-year pilot.
- **Cash-in-lieu Contribution** – Cash-in-lieu contribution rates will need to be determined and a corporate report for the use of those funds developed. The cash-in-lieu rates and corporate policy will need to be determined prior to the by-law taking effect.
- **Housing Reserve Fund (Action #24 in Housing Strategy)** – A housing reserve fund will need to be established to receive cash-in-lieu contributions. The City is exploring a partnership with the Region regarding the potential allocation of funds received from a cash-in-lieu contribution.
- **Legal Agreements** – Legal agreements will need to be developed to secure conditions of approvals.
- **E-Plans** – It will need to be determined how demolition and conversion applications could be accommodated within E-Plans.
- **Future Official Plan Amendment** – Mississauga Official Plan housing policies will need to be updated to reflect Provincial and Regional requirements and to align with the by-law.
- **Communication Plan** – A communication plan will inform the public and stakeholders of the by-law.
- **Support for New Rental Housing** – In addition to the actions to develop a Rental Housing Protection By-law, Mississauga's Housing Strategy includes a number of other actions aimed at supporting rental housing.

When will the by-law take effect?

The by-law is proposed to be brought to Council for adoption by early July 2018. It is proposed that the by-law take effect June 1, 2019. This would allow sufficient time to address all related administrative matters and the impacted stakeholders to adjust to this new requirement.

The proposed by-law includes the following transition provisions:

- planning applications made before January 1, 2019 would not require a permit
- planning applications made after January 1, 2019 that receive Council approval before the in-effect date would not require a permit
- planning applications made after January 1, 2019 that do not have a decision prior to the in-effect date will require permit

The transition provisions attempt to mitigate the risk associated with the one-year timeline until the by-law is in-effect. Staff have assessed this risk and it is anticipated to be limited.

Strategic Plan

The need for affordable housing originated from the Strategic Plan 'Belong' Pillar. Strategic Action 1: Attract and keep people in Mississauga through an affordable housing strategy.

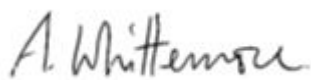
Financial Impact

The review of demolition and conversion applications after the passing of the Rental Housing Protection By-law represent new processes for the City that may impact staff resources.

Staff are proposing that there be no additional fees for a Rental Housing Protection By-law permit during the pilot. The two-year pilot will be used, in part, to determine the appropriate fee structure, should the by-law be carried forward beyond the initial term.

Conclusion

The Rental Housing Protection By-law balances the need to protect the rental supply, to renew the housing stock and revitalize the community. It also considers the impacts the by-law may have on proposed development applications. The by-law will apply city-wide as a two-year pilot after which, its impact will be reviewed.



Andrew Whitemore, Commissioner of Planning and Building

Prepared by: Emily Irvine, Planner, City Planning Strategies