

AFFORDABLE HOUSING EXEMPTIONS

RECOMMENDATION

That the February 16, 2022, Financial and Corporate Services report FCS00721, be received for information.

Report Purpose

Information only.

Council is being informed of affordable housing providers' current tax exemption status as well as the options available to pursue other exemption approaches.

Previous Council/Committee Action

At the June 28, 2021, Executive Committee meeting, the following motion passed:

That Administration provide a report to Executive Committee by Fourth Quarter 2021 with:

- a. an analysis of the impact that exempting some or all forms of affordable housing from municipal taxation would have,
- b. options for implementing such an exemption, and
- c. any other options that may be feasible to assist affordable housing providers, including the possibility of legislative change.

Executive Summary

- Property tax exemptions are governed by Provincial legislation.
- Affordable housing is generally considered taxable under the legislation with a few exceptions.
- Many affordable housing providers have approached Administration over the years to request property tax exemptions in order to allow them to further the achievement of their mandates, including in the past year, the Metis Nation of Alberta, HomeEd and Right At Home Housing.
- Council has the authority to exempt any non-profit organization from municipal property tax, but a grant-based approach is generally recommended if further municipal intervention is desired.

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- Administration plans on continued advocacy to the Government of Alberta with the proposal to have the Province pay grants-in-lieu of property taxes on affordable housing properties, referencing the precedence of a similar approach for seniors housing accommodations.

REPORT

In Alberta, property tax exemptions are governed by the *Municipal Government Act* and the *Community Organization Property Tax Exemption Regulation*. The City must follow this legislation when determining what properties are eligible for property tax exemptions.

The most relevant section of the *Municipal Government Act* is section 362, which specifies many of the property types that may be eligible for property tax exemptions. This section includes properties such as schools, universities, hospitals, nursing homes, religious properties, cemeteries, and certain properties owned or held by non-profit organizations. The section specifically exempts properties held by management bodies established under the *Alberta Housing Act* that are used to provide seniors with lodge accommodations, but it does not include management bodies and affordable housing providers more generally.

Because affordable housing is not specifically defined or referenced as an exempt property type, affordable housing providers have often suggested that they should qualify for an exemption as a non-profit organization. However, when determining which properties qualify as exempt non-profit entities, the Government of Alberta's criteria under the *Community Organization Property Tax Exemption Regulation* includes the requirement that individuals are not restricted from using the property on any basis including:

- (a) race, culture, ethnic origin or religious belief,
- (b) the ownership of property,
- (c) the requirement to pay fees of any kind, other than minor entrance or service fees, or
- (d) the requirement to become a member of an organization.

Affordable housing does not typically meet these exemption criteria in that (1) renting to specific individuals is considered to be a fee, and (2) those who rent become the lessee, making the unit no longer held by the non profit organization or publicly accessible. Each of these factors disqualifies them from receiving an exemption as a non-profit organization as laid out in the legislation. This interpretation has been confirmed in a number of Assessment Review Board hearings, including a recent decision in Edmonton where the Assessment Review Board agreed that an affordable housing provider could not qualify under this section because of their use restrictions in place.

While affordable housing is taxable by default under provincial legislation, some categories of affordable housing property remain exempt for other reasons. These generally include: (1) some seniors housing (specifically exempted under the legislation); (2) property owned by Alberta Social Housing Corporation (i.e. provincially owned affordable housing units, which are exempted by their own Provincial regulation); (3) properties exempted through private member's bills; and (4) properties owned by the City and run by management bodies under the *Alberta Housing Act*.

It should be noted that the City has inconsistently applied exemption legislation in the past. This has meant that a number of properties that should likely be taxable have been exempted. The

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City has recently contacted these affordable housing providers to gather further information on their property's use and provide notification that their taxable status may change in 2023. New applications for tax exemption status are only approved if the organizations can meet the criteria outlined in the *Municipal Government Act* and the *Community Organization Property Tax Exemption Regulation*. This process may also result in up to 64 affordable housing properties that had previously been exempted becoming taxable starting in 2023.

City Council Exemption Powers

A non-profit organization that does not meet the exemption tests under *Community Organization Property Tax Exemption Regulation* can still be exempted from municipal property tax by City Council under section 364 of the *Municipal Government Act*. Such an exemption would be for the municipal portion only (approximately 75 per cent of their total tax bill), keeping the provincial education tax portion taxable. This approach would not remove the municipal tax burden entirely, but rather shift it to the remaining tax base. Historically, increased tax exemptions are reflected as decreased growth revenue. This means that exempting this property type would have the same financial impact as approving a tax increase for the remaining tax base, including on housing options that are currently attainable for lower income residents.

Administration has gathered an inventory of known affordable housing properties in Edmonton and analyzed the tax impact of exempting the taxable inventory. Current estimates suggest the potential cost of implementing such an exemption for affordable housing providers (who are not already exempted) would be around \$5 million. However, these estimates are based off an inventory that may not be complete, and as a result, the overall cost may be higher. Council may also choose to provide a partial tax exemption or an exemption for specific kinds of affordable housing that may affect the total cost outlined.

An exemption approach would be administered by way of an application process. The number of qualifying applicants would be determined by the definition the City puts in place for qualifying affordable housing types and how that definition is subsequently interpreted by the Assessment Review Board.

Alternative Grant-Based Approach

An alternative approach would be for Council to create a grant program that could off-set the municipal taxes currently paid by affordable housing providers. The grant would have a similar cost to the exemption, but has several advantages over an exemption-based approach:

- A grant is not subject to the same review by the Assessment Review Board, meaning the City would be the final arbiter of whether a property qualifies.
- A grant could cap the potential cost the City incurs, thus adding additional financial predictability for the City.
- The City could more effectively advocate to the Provincial government for additional affordable housing funding.
- A grant can be designed to go beyond providing property tax relief if Council wishes to provide additional support. Finally, a grant program would also respond easier to housing needs that may emerge or change over time.

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Similar to the exemption-based approach, a grant would be administered on an application basis. An application approach will allow affordable housing providers to self-identify, which should help to improve the City's tracking of the affordable housing inventory. Either approach would also enable City Council to target specific segments of the affordable housing sector (for example, Indigenous housing, deeper subsidy housing or units owned by the City of Edmonton's Nonprofit Housing Corporation (homeEd), if desired. If Council wishes to pursue supporting affordable housing providers through tax reductions, a grant-based approach is recommended and Administration can return to Council with criteria for qualifying organizations as well as a procedure to administer such a program.

Provincial Advocacy Options and Next Steps

Affordable housing has generally been the responsibility of the Governments of Alberta and Canada, however the effects of insufficient housing in Alberta are more closely experienced by municipalities, particularly cities such as Edmonton. This is partly because vulnerable people in need of housing, healthcare and other supports may move to larger centres to access those supports. The need for housing in major cities is a concentrated reflection of the need that exists across the province. Provincial support and funding towards affordable housing could mitigate further costs being passed on to municipalities, and continued advocacy to that end is recommended.

The Government of Alberta is presently working on implementation of an affordable housing strategy and is engaging stakeholders for input. The provincial government is exploring affordable housing tax exemption options, which were originally raised during its affordable housing review process. Administration is participating in the provincial engagement process and is considering two different high-level approaches to inform the City's feedback:

1. Recommending that the Government of Alberta provide offsetting tax grants for affordable housing properties. This form of Provincial support would effectively remove the property tax burden on affordable housing providers without reducing municipal revenue. Such an approach is not without historic precedent as the Government of Alberta currently provides offsetting grants for the property taxes of some seniors' accommodations. This approach would also ensure a full property tax offset, including provincial education tax, rather than the partial offset available through Council's exemption powers or a grant program. One mechanism to achieve this is the provincial government designating a list of affordable housing properties under the *Alberta Housing Act* and then paying grants to offset the taxes on those properties.
2. Advocating for changes to the regulations to enable all affordable housing (that meet certain criteria) be exempted from property taxes by legislation (with or without offsetting grants). Regulatory changes could also address the specific barriers identified by Indigenous housing providers. This approach would result in further cost downloading to municipalities and bears the additional risk that the Government of Alberta could define affordable housing more broadly and increase the impact on the City's property tax revenues.

The Government of Alberta's new 10-year affordable housing strategy acknowledges the province's role as both a funder and regulator of affordable housing. The Province also has an

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existing program to provide grants in lieu of taxes for a variety of properties, and adding affordable housing to that program would require increased provincial funding.

Supplemental information on affordable housing exemptions in Alberta is provided in Attachment 1.

Legal Implications

Tax exemptions are legislated under sections 361 to 365 of the *Municipal Government Act*. Further details regarding property tax exemptions are primarily covered in the *Community Organization Property Tax Exemption Regulation*, but other regulations and private member bills can affect property tax exemptions.

City Council has the authority under section 364 of the *Municipal Government Act* to exempt property held by a non-profit organization from municipal property tax. Education tax would still be requisitioned by and owed to the Government of Alberta.

COMMUNITY INSIGHT

To understand the potential impact on partner agencies that provide affordable housing, Administration connected with a number of providers to discuss how changes to their property tax exemption status would impact their operations. Providers who do not already receive exemptions were strongly in favour of accessing them, and those already benefiting from exemptions indicated the important role those exemptions play in helping achieve more affordability for their tenants. According to the providers consulted, a switch to non-exempt status for property taxes would create potentially severe impacts and risks to their organizations and properties.

The following concerns were heard from those consulted:

- Providers estimated that property taxes could account for a significant percentage of their annual operating expenses, ranging from 13 to 25 per cent.
- The increase in operating expenses are challenging to offset, since these non-profit organizations have limited sources of revenue from which to draw. Providers cited the following measures that could be explored in order to be able to pay property taxes:
 - reductions in staffing levels, which in some cases means that support services may no longer be in place for those who need them to successfully stay housed;
 - reductions in support service levels could further lead to a reduction in affordable housing units available;
 - increases to rental rates, which also could have the dual effect of reducing overall availability of affordable and affordable units and puts existing tenants at risk of homelessness;
 - sale of properties that are no longer financially viable as non-market housing or as a means to generate revenue, which could have the dual effect of reducing overall availability of affordable units and puts existing tenants at risk of homelessness.

In addition to the direct impacts on their operations, the housing providers also shared concerns about issues of fairness and equity, citing inconsistent application of the tax exemption

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legislation and regulations, both within their respective portfolios but also across the affordable housing sector.

Their concerns were as follows:

- There may be inequities created within their respective portfolios between properties that have the same uses.
- Section 362 of the *Municipal Government Act* exempts some affordable housing properties from taxes, such as those held by management bodies established by the provincial government and used to provide lodge accommodations to seniors. Some housing providers claim that this creates fairness issues because many of those exempt properties have the same uses and operate under similar conditions as their own properties that may be at risk of non-exempt status.
- HomeEd, the City of Edmonton's wholly-owned nonprofit housing corporation, also suggested it could be seen as unfair that the City of Edmonton exempts properties it owns from paying property tax but does not exempt HomeEd, of which the City of Edmonton is the sole owner. HomeEd believes this approach also varies from other Alberta municipalities, who have exempted the affordable housing corporations they own from property taxation.
- Some affordable housing providers pointed out that several large cities across Canada provide property tax exemptions for some types of affordable housing, though provincial regulatory environments differ. Attachment 1 contains more information regarding this jurisdiction scan.
- Some housing providers' properties are focused on serving Indigenous peoples. Indigenous-centered housing, which may include programs that recognize their unique cultural heritage and historical trauma, represents a targeted response to the housing needs of Edmonton's most marginalized. Currently, the legislation disqualifies properties that are restricted to a particular racial, cultural, ethnic, or religious group from tax exemption. The housing providers suggest that this is systemically unjust.

GBA+

Edmontonians in need of safe, adequate and affordable housing are among the most vulnerable. Difficulty accessing housing can often be accompanied by difficulty accessing food, health care, transportation, and other services. In addition, those in need of affordable housing can be excluded from full participation in community life due to the barriers created by mental illness, addictions, trauma, and systemic discrimination.

The provision of affordable housing helps to alleviate pressures on vulnerable populations by providing the security and stability needed to flourish. However, the development of housing can be challenging. Non-market affordable housing providers may be at a disadvantage relative to other housing providers due to their reliance on government subsidies and grants to develop housing projects. Below market rents and lack of ongoing operational funding can also create sustainability challenges for these providers to maintain and expand their supply of housing. For example, nearly twice as many Edmonton households renting social and affordable housing indicated that their dwelling needed major repairs (12.6 per cent) as compared to other renter

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households in the City (6.7 per cent). At the national level in 2018, nearly three times as many households living in social and affordable housing required adaptations to their dwelling because a member of their household had a physical or mental disability compared to renter households in general (18.5 per cent vs. 6.2 per cent).

Indigenous peoples in particular have been overrepresented among those experiencing homelessness in Edmonton. Despite making up approximately five per cent of Edmonton's population, Indigenous peoples comprise over 60 per cent of those known to be experiencing homelessness. The housing needs of urban Indigenous peoples are unique and shaped by Canada's colonial history which continues to impact their economic, health and social well-being. Indigenous peoples need access to more safe and appropriate housing as many move to cities for education, jobs, healthcare, and safe housing.

The City administers a grant funding program to assist non-market affordable housing providers in acquiring and constructing more affordable housing. Further, a focus on dedicating units for Indigenous peoples has been adopted to recognize and address the overrepresentation of Indigenous peoples among those in need. In addition, the City is working on an Indigenous Affordable Housing Strategy at the direction of City Council to enable more Indigenous-led affordable housing projects. The Strategy is scheduled to be presented to Council in Q2 2022.

ATTACHMENT

1. Supplemental Information