



CITY OF KINGSTON
REPORT TO PLANNING COMMITTEE

Report No.: PC-13-081

TO: Chair and Members of Planning Committee

FROM: Cynthia Beach
Commissioner, Sustainability and Growth

RESOURCE STAFF: Grant C. Bain
Director, Planning and Development Department

DATE OF MEETING: June 6, 2013

SUBJECT: Central Accommodation Review: Regulating the Number of Bedrooms per Residential Dwelling Unit – Status Update on Other Ontario Municipalities

EXECUTIVE SUMMARY:

Planning Committee requested that staff investigate and provide an update on how other municipalities in Ontario, specifically those that have post-secondary institutions, are regulating the number of bedrooms in residential units. This report provides the requested update, with information from the following five municipalities: Oshawa, London, Hamilton, Waterloo, and Guelph.

Each municipality has dealt with the issue differently, but many have employed one or both of the following types of controls: (1) limits in the zoning by-law on the number of bedrooms per residential dwelling; and/or, (2) a licensing by-law for residential rental units that includes a limit on the number of bedrooms per unit. In most instances, these by-law changes are preceded by a major land use study and/or the collection and review of a large amount of property data. Most amendments to zoning by-laws regarding this issue have been appealed to the Ontario Municipal Board, while a few of the residential rental licensing by-laws have been challenged in court. The Ontario Human Rights Commission has also become involved in municipalities where limits are proposed that would restrict the number of people living in a dwelling.

The City of Kingston is examining the issue of regulating the number of bedrooms in residential units as part of the Central Accommodation Review that is currently being undertaken by staff.

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RECOMMENDATION:

THAT Council receive and endorse report PC-13-081 as part of the current Central Accommodation Review being undertaken by the City.

AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER Cynthia Beach, P.Eng., Commissioner, Sustainability and Growth
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Lanie Hurdle, <i>Community Services</i>	N/R
Denis Leger, <i>Transportation, Properties & Emergency Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N/R

(N/R indicates consultation not required)

OPTIONS/DISCUSSION:**Background**

Planning Committee requested that staff investigate and provide an update on how other municipalities in Ontario, specifically those that have post-secondary institutions, are regulating the number of bedrooms in residential units. The issues of regulating the number of bedrooms and/or passing a residential rental licensing by-law are key components of the current Central Accommodation Review being undertaken by the City.

The issue of residential intensification and houses containing large numbers of bedrooms has been something that has been a concern in Kingston for decades. The issue of regulating the number of bedrooms per dwelling was examined in 2003 with the creation of the Downtown Residential Review (DRR) Working Committee. The DRR Committee consisted of representatives from Queen's University, St. Lawrence College, the City of Kingston, and the community, and examined a variety of issues surrounding residential intensification. When the DRR Committee issued its report, it was proposed that the City consider regulating the number of bedrooms (or habitable rooms) in a dwelling unit based on the number of units in a building. For example, a single dwelling unit could be permitted six (6) bedrooms, a duplex four (4) bedrooms per unit, and a maximum of three (3) bedrooms per unit for anything with three or more units. The proposed amendment did not go forward at that time, as Council had concerns that much of the zoning in the central area of the City only permitted one and two unit dwellings, and to also limit the number of bedrooms, would discourage intensification efforts. It was suggested that it would be preferable to allow more units with fewer bedrooms per unit, as this would be a form of development that was viable to a wider market. There were also concerns about how to regulate other habitable rooms, such as dens, which could be used as bedrooms, and concerns about how limiting the number of bedrooms in residential units could affect large families.

The DRR had also raised the question of licensing residential rental units, but it wasn't clear whether this was something the municipality had the authority to do. At the time, the City of Waterloo had been in the middle of a court case regarding their attempt to license lodging houses. However, on January 1, 2007, changes to the *Municipal Act, 2001* took effect, which now allow a municipality to license any business or activity that is considered appropriate in pursuing the public good. Under the new regulations, the City of Oshawa was the first municipality in Ontario to license residential rental units, and many people have been watching to see what happens with that particular situation. Since then, some other Ontario municipalities have also passed residential rental licensing by-laws.

Review of Other Ontario Municipalities

Oshawa

Since 2006, the City of Oshawa has been dealing with student accommodation issues related to the expansion of the Durham College/University of Ontario Institute of Technology (UOIT) Campus in the north end of the City. More recently, Trent University has opened an Oshawa Campus at King Street West and Thornton Road, and Durham College/UOIT is planning a satellite campus in downtown Oshawa in the near future.

In 2007, the City of Oshawa began work on the North Oshawa Residential Land Use Study. The purpose of the study was to review Official Plan and Secondary Plan policies and zoning regulations related to appropriate levels of residential use in the study area, and to review other appropriate opportunities for further residential intensification. At the same time as the study was being conducted, the City also passed Interim Control By-Law No. 58-2007. The purpose of the Interim Control By-Law was to limit development in the study area, while the study was being conducted. Specifically, the Interim Control By-Law prohibited the creation of new dwelling units, the creation of additional bedrooms in dwelling units, and the renovation of basements to create living space.

The North Oshawa Residential Land Use Study was completed in 2008, and one of the key recommendations of the study was a proposed change to the Zoning By-Law (No. 60-94) restricting the number of bedrooms permitted in any dwelling unit to four (4) in the entire City. The rationale was that this would be consistent with the zoning regulation already imposed by the City in the Simcoe Street North corridor, which restricted the number of bedrooms in units in that area to four. However, the City-wide restriction on the number of bedrooms was not approved, due to opposition from the community. It was felt that while it might help to regulate housing near the post-secondary institutions, it would be punitive to other residents that wished to have more than four bedrooms for personal/lifestyle reasons (e.g. blended families, multi-generational families, etc.). Instead, the limit on the number of bedrooms in the Zoning By-Law was restricted to the study area defined in the North Oshawa Residential Land Use Study.

Also in 2008, the Licensing By-Law (No. 120-2005) of the City of Oshawa was amended to include licensing for residential rental units, which was now permitted because of the changes made in 2007 to the *Municipal Act, 2001*. The By-Law restricts the number of bedrooms in a residential unit to four (4), with the exception of three streets that permit up to six (6) bedrooms per unit, until a specified time period has lapsed. The licensing of residential rental units applies to a certain geographical area of the City near the post-secondary institutions in the north end, and corresponds to the study area that was defined in the North Oshawa Residential Land Use Study.

In June 2009, City of Oshawa staff were directed to prepare a Student Accommodation Strategy. The purpose of the strategy was to plan for and facilitate a sufficient mix of quality student accommodations that would integrate with the community and advance sound planning

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and City building principles. The Student Accommodation Strategy was presented in March 2010 and contained 37 recommendations organized into five themes. While the recommendations covered a broad range of topics, a number of the development related recommendations focused on permitting higher densities in the Simcoe Street North corridor. The City has been actively encouraging purpose-built student housing with 4-5 bedrooms per unit in specific areas of the municipality.

The most recent changes related to student accommodations that have been proposed do not involve the number of bedrooms, but include amendments to the Official Plan, Zoning By-Law, Brownfields Community Improvement Plan, and Development Charges By-Law for two areas:

1. Lands on the north side of King Street West and on the east side of Thornton Road South near the Trent University Oshawa Campus (to permit block townhouses and apartments up to four (4) storeys); and
2. At 2015-2043 Simcoe Street North, part of the main arterial road leading out to the Durham College/UOIT Campus (to change the land use from low density residential to mixed use).

Oshawa has both a Lodging House By-Law and a Licensing By-Law for residential rental units. The Lodging House By-Law applies to a building that contains 3-10 lodging units, and is only permitted within certain zones. A lodging unit is one or more rooms designed for sleeping accommodations, and may include cooking or washroom facilities, but not both. The residents would share some common spaces. There does not appear to be a requirement for an on-site manager, but the owner/landlord rents individual rooms (lodging units) through separate leases and the residents have no say in who else lives in the building.

The Licensing By-Law for residential rental units applies to individual housekeeping units where more than two bedrooms are rented out. This is for a specific area of the City, defined in the by-law by a map and list of streets (north end of the City near the Durham College/UOIT Campus). The maximum number of bedrooms permitted is four (4), and the house must be rented as one unit (i.e. all renters sign the same lease). The license also requires the submission of such information as a maintenance plan and parking plan for the property.

To date, a total of 350 properties are licensed and some license applications are being denied. The number of by-law infractions related to noise or out of control parties has significantly decreased. Properties are also being maintained much more diligently because of proactive lot maintenance enforcement. This year, the City of Oshawa introduced a demerit point system to work in partnership with the Licensing By-Law. This process is intended to deal with the chronic/repeat offenders who could end up losing their license if they do not comply with the by-law and the conditions of their license.

In November 2009, the Supreme Court of Canada dismissed an appeal of lower court decisions upholding Oshawa's Licensing By-Law for residential rental units. It also rejected an application from the Ontario Human Rights Commission (OHRC) seeking intervener status at the proceedings. To date, although the OHRC has been involved with the changes the City of

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Oshawa has made to its zoning and licensing by-laws, no charges have been laid under the *Ontario Human Rights Code*. The City of Oshawa is considering expanding the residential rental portion of its Licensing By-Law to include two other areas of the City where the newer post-secondary campuses have been established.

London

In January 2004, London City Council enacted an interim control by-law for a portion of Richmond Street. The purpose of the by-law was to limit land use to existing uses and restrict the creation of bedrooms or sleeping areas until the completion of a land use study within one year from the date of passing of the by-law. The result was the North London Residential Zoning Study, which reviewed existing Official Plan policies and Zoning By-Law regulations relating to existing floor area ratio and parking regulations in the Broughdale neighbourhood to determine if revisions were necessary, and if there was any merit in extending these controls to other North London neighbourhoods. The North London Residential Zoning Study was presented in June 2004, and it recommended restricting the number of bedrooms in a dwelling unit.

In October 2004, amendments to the Official Plan and Zoning By-Law were proposed in order to implement the recommendations of the North London Residential Zoning Study. One of the City-wide amendments to the Zoning By-Law recommended changing the definition of "dwelling unit" to limit the number of bedrooms to no more than five (5). At its meeting on November 1, 2004, City Council passed the amending by-law to change the definition of "dwelling unit" to limit the number of bedrooms to no more than five. The amendments were appealed to the Ontario Municipal Board (OMB), but the appeal was dismissed by the Board in its decision dated March 15, 2006. The Board found that the interim control by-law was properly considered and passed by the City, that the Official Plan Amendment represented good planning and was consistent with the *Provincial Policy Statement* and the City's Official Plan, and that the Zoning By-Law Amendments were within the jurisdiction of the City to enact.

In a presentation to the municipal Town and Gown Committee in February 2008, staff indicated that additional changes were being considered, such as regulating the number of bedrooms by the type of structure (e.g. five (5) bedrooms for a single detached dwelling; four (4) bedrooms for a duplex; and, three (3) bedrooms for a triplex or other multi-unit dwelling). The reason for this was that they were beginning to see proposals for multi-unit dwellings with each unit containing five (5) bedrooms.

While some previous policy and zoning amendments were successful in alleviating some local negative impacts related to intensification, they also resulted in the migration of land use conflicts to neighbourhoods where specific policies and zoning regulations were not applied. There was also limited success in providing for appropriate intensification in all of the near-campus neighbourhoods, as there continued to be the creation of dwellings with disproportionately high numbers of bedrooms. Due to these on-going concerns, it was

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recognized that there was a need to establish a comprehensive strategy within the near-campus neighbourhood areas.

In 2007, the City of London began a major policy initiative to develop a holistic approach towards resolving land use conflicts when planning for residential intensification in the near-campus neighbourhoods. The Great Near-Campus Neighbourhoods Strategy included extensive consultation in the community, including focus groups with all of the major stakeholders. Based on the consultation and research, staff prepared a report outlining a consolidated vision for the near-campus neighbourhoods and identified obstacles to achieving the vision. The report also identified 10 strategies for overcoming the obstacles, and following the release of the report, there were public information sessions held to solicit feedback on the 10 strategies.

The final report of the Great Near-Campus Neighbourhoods Strategy was presented in November 2008. Following its adoption by Council, staff began preparing the draft Official Plan and Zoning By-Law Amendments that were part of implementing the strategy. One of the proposed changes was to modify the Zoning By-Law to regulate the number of bedrooms by dwelling type. For a number of types of development with multiple units, the number of bedrooms permitted was reduced from five (5) to three (3).

There was also a new definition of "Residential Intensity" created. While the term "Residential Intensification" and associated policies in the Official Plan regulated the creation of new dwelling units, there was no corresponding definition pertaining to the increase in the occupancy of units by way of adding additional bedroom space.

The proposed Official Plan and Zoning By-Law Amendments for the Great Near-Campus Neighbourhoods Strategy were approved in 2012. The amendments have been appealed to the Ontario Municipal Board and remain outstanding at the time of this report.

In addition to Official Plan policies and zoning regulations, the City of London also passed the Residential Rental Units Licensing By-Law on September 21, 2009, which came into force on March 1, 2010. The by-law requires that a license be obtained for any building containing four (4) or fewer rental units (including single detached dwellings, semi-detached dwellings, duplexes, triplexes, and fourplexes) and converted dwellings. Apartment buildings and townhouses are exempt. Research conducted by staff for the Residential Rental Units Licensing By-Law determined that the majority of property related by-law complaints involved buildings with four or fewer units. The larger developments with more than four units not only had fewer opportunities to increase the residential intensity through additions or conversions, but they also had local property maintenance staff should issues arise, as well as adequate facilities for parking and garbage.

The Residential Rental Units Licensing By-Law was challenged at the Ontario Court of Appeal and upheld in October 2011. An appeal of the decision was lodged, but subsequently withdrawn. The Residential Rental Units Licensing By-Law is currently in full effect.

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To date, approximately 3000 rental properties have been licensed and 800 additional applications are pending zoning review and/or fire inspections. The by-law has initiated 1750 fire prevention inspections, of which 350 properties have failed the inspections. Over 60 license applications have been refused due to zoning and fire code violations.

Hamilton

In 2008, Hamilton reviewed the tools available for regulating residential rental housing. Part of this review included examining regulations to limit the number of bedrooms in residential units, as well as licensing rental housing. The issue of regulating the number of bedrooms or habitable rooms in a dwelling was referred to the Zoning By-Law Reform team for further review and consideration in the development of regulations for the residential zones in the City of Hamilton Comprehensive Zoning By-Law 05-200. The issue of licensing rental housing was to be discussed as part of a public consultation process through a Community Liaison Committee. The Neighbourhood Residential Rental Housing Community Liaison Committee (NRRHCLC) presented its report in September 2009. Consultation by the Committee indicated a strong preference in the community for proactively enforcing existing by-laws (e.g. property standards, noise, etc.). The NRRHCLC also referred the issue of regulating bedrooms/habitable rooms to the Zoning By-Law Reform, and they recommended having a City-wide Residential Rental Housing Review Community Liaison Committee review the issue of licensing rental housing.

In November 2009, the City-wide CLC was deferred until staff was able to report back on all the NRRHCLC's original recommendations. One of the key recommendations was to proactively enforce existing by-laws before considering the creation of new regulations for rental housing. As a result, in March 2010, Council approved an 18-month enforcement pilot project for eight city wards (subsequently named "Project Compliance"), which commenced in July 2010.

On September 14, 2011, Council extended Project Compliance until the end of March 2012, and further directed staff to report back on licensing options based on the experience of other municipalities, including but not limited to, a hybrid of a rental housing license/proactive by-law enforcement. On February 14, 2012, Council extended Project Compliance again until December 31, 2012 to allow additional time for staff to investigate, analyze and consult on the potential licensing models.

On September 18, 2012, staff presented a report outlining their findings from Project Compliance, their research on other municipalities, and recommendations on next steps for a rental housing licensing by-law. On December 11, 2012, staff presented another report that proposed a model to regulate rental housing, which included two components:

1. Pass a rental housing licensing by-law that would apply to any rental building in the City containing one to six dwelling units, including single detached dwellings; and,
2. Utilize a proactive by-law enforcement team to conduct audits of multi-residential buildings (i.e. more than six units) to address safety/quality issues (such as continuing the ones undertaken as part of Project Compliance).

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The December 11, 2012 report examined the issues and challenges associated with licensing rental housing, including the financial and staffing resources that would be needed to implement the by-law. The report also recommended that the by-law come into effect one year after it is passed in order to allow staff time to undertake the significant planning and development of the licensing program and related educational initiatives. The draft of the by-law presented with the December 11, 2012 report was to form the basis for public consultation and Planning Committee input, and staff were directed to prepare a final report, including a final version of the by-law, and bring it back to Planning Committee. Currently, staff are preparing an information report in response to the numerous issues that resulted from the December 11, 2012 Planning Committee. The intent is to report back in June 2013.

With respect to regulating the number of bedrooms from a planning perspective, the City's Urban Official Plan was approved by the Province in March 2011, but it has been appealed to the Ontario Municipal Board. The City had begun to develop its new Comprehensive Zoning By-Law, but further development on that document is on hold until the Official Plan approval is finalized. To date, the new Zoning By-Law for the City of Hamilton does not yet include residential zones.

One of Hamilton's existing Zoning By-Laws (No. 6593) currently allows for eight (8) habitable rooms in a dwelling, such as a living room, dining room, kitchen and bedrooms. Any additional habitable rooms require an increase in parking (0.5 parking spaces for each additional room) and are subject to minimum lot size requirements. The City is considering incorporating these regulations into the new City-wide Comprehensive Zoning By-Law to ensure consistent application across the City. These regulations would work with the rental housing licensing by-law.

Waterloo

Waterloo does not currently regulate the number of bedrooms through their zoning by-laws. However, the zoning by-laws do have provisions surrounding number of people when a property owner wants to rent. If a person wants to rent to more than three (3) people they are generally considered a Lodging House. For example, Class 1 Lodging Houses (i.e. 6 or more people/lodgers renting) are considered a specific use under the by-law and are only permitted in certain zones (i.e. higher density zones). In comparison, Class 2 Lodging Houses (i.e. 4-5 people/lodgers renting) are permitted in any residential zone throughout the city. However, there are minimum distance separation provisions when the property is located in a low density zone. Waterloo has lost court cases in the past when attempting to regulate rental units based on the number and relationship of the people in the unit. Also, recent court decisions in Ontario have determined that municipalities cannot apply a minimum distance separation provision to any type of residential dwelling.

In addition to the lodging house provisions in the City's zoning by-laws, the rates in the City's Development Charges By-Law increase when there is an increase in the number of bedrooms in a unit.

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Recently, Waterloo passed a new licensing by-law for residential rental units. It was passed on May 9, 2011 and came into effect on April 1, 2012. It is a separate by-law, strictly for the licensing of residential rental units, and contains provisions with respect to five classes of rental units. The number of bedrooms is regulated through the licensing by-law. Class 'A' and 'B' licenses permit a maximum of four bedrooms in a rental unit, a Class 'C' license is for rental units with more than five bedrooms, and a Class 'D' license is for existing lodging houses.

The Rental Housing Licensing By-Law applies city-wide to all low density residential buildings that contain one to three units, and it replaces the City's Lodging House Licensing By-Law. Current lodging homes that hold a valid Lodging House License are recognized; however, they must conform to additional regulations, but will not be required to meet the new bedroom limits. Regulations concerning bedroom limits would only apply if the lodging home is sold.

Since the by-law came into effect in 2012, over 2500 properties have been licensed. By-law infractions and responses to licensed properties have decreased significantly. There has been improved contact with landlords/emergency contacts, which has been especially useful in diffusing large parties. There has also be safety enhancements to licensed properties (e.g. electrical upgrades; bringing illegal units/uses into compliance; etc.).

In June 2012, Waterloo City Council approved the Northdale Land Use and Community Improvement Plan Study. The purpose of the study was to examine land uses and community improvement opportunities for a neighbourhood close to the university. The study resulted in the following: a land use plan that recommended amendments to the Official Plan, District Plan, and Zoning By-Law; urban design/built form guidelines; and, a Community Improvement Plan (CIP). The CIP was recommended to provide financial incentives and/or City-led programs to support the realization of the vision for the Northdale neighbourhood, and encourage new investment that would achieve the vision and principles for Northdale. The proposed zoning by-law amendment did not include any restrictions on the number of bedrooms, but the City's Rental Housing Licensing By-Law, which does include limits on the number of bedrooms, still applies to properties in the study area. Although approved by Council, the zoning by-law amendment and CIP have both been appealed to the OMB.

Guelph

Guelph uses its Zoning By-Law to regulate lodging houses and accessory apartments (e.g. secondary suites). Accessory apartments are limited to a maximum of two bedrooms. Lodging houses are divided into two types: Type 1 – dwelling unit; Type 2 – townhouse development or apartment building. As part of the definition of a lodging house, there needs to be five (5) or more lodging units, where a "lodging unit" is defined as "a room used to provide sleeping accommodation which does not have the exclusive use of either a kitchen or a bathroom." The regulations do not apply where there are less than five bedrooms.

In June 2010, the City of Guelph passed an Interim Control By-Law that prohibited the development of new lodging houses, lodging units, or accessory apartments in specific zones in

Ward 6 of the municipality. The by-law was passed in order to provide the City with the time to examine shared rental housing issues comprehensively and recommend changes to the Zoning By-Law.

The interim measure was to be in place for up to one year to allow the City to investigate and potentially approve new zoning regulations for shared rental housing. This was accomplished in September 2010, with the passing of a Zoning By-Law Amendment. The purpose of the amendment was to limit the number of lodging units in a lodging house to a maximum of eight (8), and to introduce a 100 metre minimum separation distance between lodging houses and accessory apartments containing six (6) or more bedrooms. The Zoning By-Law Amendment was appealed to the OMB, so the Interim Control By-Law was kept in place during that time.

On January 30, 2012, Council repealed the Zoning By-Law Amendment, and on March 5, 2012 they repealed the Interim Control By-Law. The reasons for repealing both by-laws included the following:

- Costs to date of staff work on appeals (over 700 hours/\$50,000);
- Additional costs to proceeding to a full hearing (\$265,000); and,
- Input from the Ontario Human Rights Commission (OHRC).

The March 2012 staff report pointed out that the OHRC has become increasingly proactive in planning matters, and the OHRC had been added as a party to the OMB appeal. The OHRC raised the question of whether the Zoning By-Law Amendment complied with the procedural and substantive requirements of the *Ontario Human Rights Code*. These concerns were framed broadly as discrimination.

Instead of proceeding with the Zoning By-Law Amendment and the OMB hearing, the City intends to redirect staff resources to preparing a licensing by-law for residential rental units, and will engage the OHRC as a stakeholder in the process. On May 22, 2012, the Rental Housing Licensing Work Plan 2012-2013 was presented to the Planning, Building, Engineering and Environment Committee. The purpose of the work plan is to guide the exploration of and possible development of a rental housing licensing program.

On February 19, 2013, staff presented their Rental Housing Licensing Directions report to the Planning, Building, Engineering and Environment Committee. This report provided an outline of proposed rental housing licensing directions to guide the development of a rental housing licensing program. The Committee requested a cost-benefit analysis on the proposed program prior to proceeding with public consultation on the proposed licensing program. The intent is to report back to the Committee later this year.

Challenges Regulating Bedrooms in Residential Units

In Kingston, one of the challenges for regulating the number of bedrooms in residential units that has been identified is the concern of preventing intensification when limiting the number of

bedrooms without also examining the corresponding number of permitted units. It is also difficult to regulate the number of bedrooms through the Zoning By-Law unless there is a development application or building permit involved. The Zoning By-Law will not be able to control or regulate whether internal conversions take place, such as converting a dining room into a bedroom, especially if a building permit is not required or applied for.

However, a recent practice of the City has included limiting the number of bedrooms on a site-specific basis as part of zoning amendments, as negotiated with the applicant. The site-specific zoning amendments also include a definition of “bedroom” that prevents additional rooms, such as dens, from being excluded in the bedroom count.

Another broader challenge is one that has been experienced by some of the municipalities noted above; namely whether limiting the number of bedrooms in a home will contravene the *Ontario Human Rights Code*. Changes to a zoning by-law to limit the number of bedrooms have been challenged at the OMB, and the amendments upheld (e.g. London). However, the Ontario Human Rights Commission (OHRC) has actively been engaging municipalities in discussions about the *Ontario Human Rights Code* where there is a proposal to limit the number of bedrooms in a dwelling, either through a zoning by-law or a licensing by-law. The OHRC reviews legislation and by-laws to see if they contravene the *Ontario Human Rights Code*, either directly or indirectly. For example, some of the best practices OHRC advocates for with respect to licensing by-laws are as follows:

- Considering the *Ontario Human Rights Code* and integrating language about complying with the *Code* into the by-law;
- Focusing on types of buildings, in accordance with the *Planning Act*, instead of targeting particular groups of people, which is illegal;
- Applying the by-law across the whole City, so that no group of people living in a specific area is subjected to differential treatment;
- Not limiting the number of bedrooms in units, which can have a negative impact on some groups, such as large families;
- Not relying on medians and averages when considering demographic data, which has the potential to penalize any family that is not “average”; and,
- Not adding “per occupant” to minimum bedroom size requirements, which far exceeds the requirements set out in the *Building Code*.

Additional Research Required

All of the municipalities discussed in this report have invested a great deal of time and resources in background research prior to implementing any limits on the number of bedrooms or the creation of licensing by-laws. This research has included major land use studies that resulted in amendments to official plans, secondary plans and/or zoning by-laws, as well as the creation of design guidelines and community improvement plans in some instances. There has also been research from a licensing and property standards perspective, including tracking and mapping the location of property standards complaints, and conducting inspections of numerous rental

units and buildings of different sizes and types to get a better idea of the issues faced by different forms of development.

The research conducted by the municipalities was used to facilitate the land use planning changes and develop the new or amended by-laws, and provided the necessary rationale and justification for the changes and by-laws. This has been an important factor for the municipalities, as most have faced legal challenges, including appeals to the OMB for limiting the number of bedrooms in zoning by-laws, and appeals to the Ontario Court of Appeal for the residential rental licensing by-laws.

Limiting the number of bedrooms through a zoning by-law and through a licensing by-law accomplish two different things. The limit to the number of bedrooms in the zoning by-law is only applicable when a property needs to apply for a planning application or building permit. It offers control over the development and construction process, but does not control the use within a unit once construction is complete. A licensing by-law allows regular inspections to ensure that a unit is in compliance with all requirements, which can include a limit on the number of bedrooms.

Before proceeding with regulating bedrooms, there are a number of things the City of Kingston should research and consider. From a zoning perspective, work still needs to be done on reviewing the zoning for the core area of the City where there have been a number of problems with units with large numbers of bedrooms. The City will need to rationalize the number of units permitted in a zone before it tackles the issue of limiting the number of bedrooms in a unit.

From a licensing perspective, if the City wishes to pursue a residential rental licensing by-law, there are a number of issues and questions that need to be researched and addressed:

- Would the by-law apply to the whole City, or only to specific geographic areas?
- Would the by-law be phased in by area over time?
- What type of development would the by-law apply to (e.g. single detached homes, apartment buildings, etc.)?
- How often would permits/licenses be renewed and units inspected?
- How many staff would be needed to implement and enforce the by-law?
- What would be the cost to the municipality to create and maintain this licensing by-law?
- How would the municipality recover the costs of the program?
- Would costs for obtaining a license affect compliance and/or housing affordability?

Summary

The two main ways in which municipalities have been dealing with the issue of regulating the number of bedrooms per dwelling unit have been through either a zoning by-law or a licensing by-law, or both. Each municipality has tailored their particular response to their individual situation, and outcomes have been equally diverse. The issue, regardless of how it is

addressed, has been controversial for all of the municipalities noted above, and challenges to the OMB and Ontario Court of Appeal are common.

The issue of regulating bedrooms is only one small part of the larger issue that the City has been facing with residential intensification in the core area of the City. The City of Kingston is examining the issue of regulating the number of bedrooms in residential units as part of the Central Accommodation Review that is currently being undertaken by staff.

There will be another staff report presented at an up-coming Planning Committee meeting that will provide a status update on the Central Accommodation Review, which will outline the work completed to date, the research and work currently underway, and the other initiatives that staff will be focusing on in the months to come.

EXISTING POLICY/BY LAW:

Currently, the City does not have a residential rental licensing by-law that regulates the number of bedrooms in a residential rental unit, and with the exception of a few site-specific zones, the City does not regulate the number of bedrooms in a residential unit through any of its zoning by-laws. The City does have a Lodging House By-Law, which includes any premises where four or more persons reside, with or without meals, for a fee, but does not include premises with self-contained residential units.

NOTICE PROVISIONS:

N/A

ACCESSIBILITY CONSIDERATIONS:

This report is available in alternate formats upon request.

FINANCIAL CONSIDERATIONS:

N/A

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Terry Willing, Director, Building and Licensing

EXHIBITS ATTACHED:

N/A