



## City of Kitchener kills Cedar Hill bylaw

By Terry Pender, Record staff

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KITCHENER — A city bylaw that banned some types of housing from a downtown neighbourhood was repealed in the face of continuing challenges based on the Charter of Rights and the Ontario Human Rights Code.

Instead of trying to bring the bylaw into conformity with the charter and human rights code, the city struck it from the books. The bylaw applied to Cedar Hill, a densely populated residential neighborhood adjacent to the downtown.

The case breaks new legal ground where human rights law intersects with urban planning, said Ken Hale, a human rights lawyer with the Advocacy Centre for Tenants Ontario.

"It solidifies the idea that the Charter of Rights and human rights code apply to municipal planning decisions," Hale said. "We are pretty happy."

Hale argued against the bylaw during a lengthy hearing in 2009 before a provincial tribunal that rules on land use disputes — the Ontario Municipal Board.

After weeks of testimony, the municipal board handed down an interim decision in January 2010. The board gave the City of Kitchener 15 months to bring the bylaw into compliance with the Charter of Rights and Freedoms and the Ontario Human Rights Code.

"The major issues had been decided at that point," Hale said.

Specifically, the city needed to put in place policies and programs to support the dispersal of social and supportive housing to other neighbourhood. Instead, the city repealed the bylaw and official plan amendment.

"We didn't think the city was that keen on going out to the public to make these kinds of developments more accessible in other neighbourhoods, which is kind of unfortunate," Hale said.

Group homes, social service establishments and social housing can be established in any neighbourhood, so the restrictions on Cedar Hill were not discriminatory, said the city. But the municipal board disagreed and said the city must take positive steps to promote that type of housing in other areas if it is being restricted in Cedar Hill.

"It was not enough to counteract the restrictive measures that they imposed on Cedar Hill," Hale said.

Cedar Hill is a 10-block area adjacent to the downtown that is one of the most densely populated neighbourhoods in Waterloo Region. The narrow, tree-shaded streets are lined with diverse housing—a 19-floor condominium, heritage houses, duplexes, a large apartment building, triplexes, a seniors residence, public housing, affordable housing and a group home.

A study of the area concluded that Cedar Hill was in danger of becoming the region's first low-income ghetto

unless something was done. The city responded with the 2005 bylaw and changes to the city's official plan.

That bylaw and official plan amendment banned lodging houses, social service establishments that provide crisis care or on-site counseling, residential care facilities, small houses and single detached houses with more than two bedrooms. The bylaw required the owners of duplexes and triplexes to live in one of the units.

Tenants Ontario said this was a crackdown on absentee landlords renting units to poor people and others who needed supports or assistants with daily living.

The bylaw was put in place following years of complaints from Cedar Hill residents about absentee landlords who did not maintain their properties. Other complaints were about street prostitution, drug dealers and concentrations of social housing.

"Some of the stresses the neighbourhood was experiencing have gone, it is looking pretty healthy," said Sally Gunz, who has lived on Peter Street since 1981.

Gunz said while she does not like seeing the bylaw struck from the books, she understands why the city had to do it.

"In some ways it is a positive thing because the need is not as serious as it has been," Gunz said.

With the pulling of the bylaw, the Cedar Hill Neighbourhood Association has called on the city to ensure property standards and other bylaws are enforced, Gunz said.

Property speculators may try to assemble land in their neighbourhood now because the light rail line will run along Charles Street, the northern boundary for Cedar Hill, Gunz said.

"There is a sense the area remains vulnerable, particularly if there is speculation," Gunz said.

The neighbourhood has become attractive again to families with young children and others who like living in a walkable district close to the downtown.

Since the farmers' market opened two blocks north of the area six years ago, the abandoned and dilapidated houses on Cedar and Eby streets have been renovated and reoccupied. New businesses have opened.

Drug dealers were chased from Cedar Hill years ago by an organized network of residents who immediately alert the police to any illegal activity. Many of the houses on Cedar Hill were extensively renovated in recent years.

The municipal board case means land use bylaws need to be evaluated, in part, through a human rights lens, Hale said.

"Any time councils are considering land use issues that affect vulnerable people, spend some time thinking about the human rights implications," Hale said.

"And think of ways that any kind of negative impact can be dealt with. What can we do to counteract any negative impact?" Hale said.

[tpender@therecord.com](mailto:tpender@therecord.com)

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