



June 24, 2022

Mayor Nelson Santos
Members of Council
Town of Kingsville
2021 Division Road North
Kingsville, ON N9Y 2Y9

Dear Mayor Santos and Members of Council:

Re: Housing for migrant workers

The Ontario Human Rights Commission (OHRC) understands that on August 16, 2021 the Town of Kingsville passed interim control By-Law 68-2021 prohibiting any person from using any lands, buildings, or structures for the purpose of housing “agricultural workers” anywhere other than on the agricultural lands where they are employed until a housing study has been completed.

The OHRC understands that the resulting study, *Kingsville Temporary Farm Worker Housing Study - Final Report*, has now been completed and will be discussed by Council on Monday June 27, 2022. Upon reviewing the study and the proposed recommendations, the OHRC is very concerned that the recommendations would, if implemented, continue to create discriminatory barriers to migrant workers living as full members of the Kingsville community.

Designating a housing type based on the characteristics of the people who live there, as with the proposed classification of “Temporary Farm Worker Dwelling Unit” (TFWDU), creates a serious risk of “people zoning” that is inconsistent with the OHRC’s guidance. Here in particular, restricting the creation of TFWDUs in urban residential areas to those housing “4 or less temporary farm workers,” would create a significant barrier to migrant workers being able to live in town and likely violates the Ontario *Human Rights Code* (*Code*).

Migrant workers are already subject to extensive discrimination in their lives and work. Under the *Code*, Kingsville has an obligation to make sure that the existing vulnerable position of migrant workers is not further exacerbated by town policies or by-laws.

Based on the human rights obligations outlined below, the OHRC calls on Council to remove any barriers that have a discriminatory effect on migrant workers as soon as

possible, to permit the establishment of off-farm housing for migrant workers within its boundaries in a manner consistent with other forms of housing, and to actively work to improve the living and working conditions of all migrant workers who live and work in Kingsville.

The Ontario *Human Rights Code*

The *Code* is quasi-constitutional legislation that has primacy over all other laws in Ontario, including the *Municipal Act* and the *Planning Act*. The *Code* prohibits actions that discriminate based on certain grounds (e.g. race and place of origin) in providing housing and services.

Kingsville must ensure that its planning decisions and by-laws do not have a discriminatory impact on *Code*-protected groups, including migrant workers – who typically identify with one, or more, *Code*-protected grounds, such as race, citizenship or place of origin. The town has a legal obligation under the *Code* to make sure it does not impose unnecessary restrictions on the location of migrant worker housing.

While a violation of the *Code* does not require proof of discriminatory intent, the OHRC is further concerned that attempts to limit housing for migrant workers may be driven in part by stereotypes and assumptions about migrant workers.

Migrant workers in Ontario have a long history of being subject to discrimination. This includes being subjected, in many instances, to substandard housing and working conditions. In addition, because the employment rules imposed upon them leave them dependent on their employers for their legal right to work, migrant workers find themselves in a particularly vulnerable situation and rarely seek to assert their rights for fear of being sent home.

Indeed, the rules governing migrant workers create a social structure that often separates migrant workers from the communities in which they live and work – excluding them from fully participating in their Canadian communities and heightening the risk of discrimination.

In this context, Kingsville should be taking steps to support migrant workers who live and work in Kingsville, not creating barriers to their ability to live in the town. The OHRC urges the town to not only remove barriers to housing that adversely impact migrant workers, but to also use its powers to protect the living and working conditions of all migrant workers who live and work in Kingsville.

People zoning

For over a decade, the OHRC has engaged various municipalities on human rights and municipal planning issues through policy development, advocacy and litigation.

The OHRC works with individuals and communities across Ontario to end discrimination and break down barriers that vulnerable groups face. One such barrier is “people zoning.”

“People zoning,” or the attempt to regulate based on who will live in the housing, often results from opposition to housing projects based on stereotypes or prejudice. This can be a violation of people’s rights to be free from discrimination in housing – which means it can be against the law.

Kingsville must make sure its by-laws and regulations do not people zone. Planning tools should not target or have a discriminatory impact on *Code*-protected groups. Kingsville must ensure that the needs of *Code*-protected groups are accommodated in any planning decisions it makes. This is clearly outlined in the OHRC’s guide, [*In the zone: Housing, human rights and municipal planning.*](#)

In particular, the *In the zone* guide sets out several recommended practices for municipalities to avoid discrimination in planning processes, including:

- Municipal regulation must not directly or indirectly keep certain groups of people out of neighbourhoods
- Municipalities should focus on legitimate land use planning – looking at things like parking, built form, and infrastructure like sewers and roads – instead of “people zoning.”

In addition, the OHRC’s [*Room for everyone: Human rights and rental housing licensing*](#) guide, which focused mainly on small-scale rentals, provides several recommendations that are useful in this context, including the need for local governments to:

- Consider the Ontario *Human Rights Code* when crafting licensing requirements, refer to the *Code* in the licensing by-law, and refer to the *Code* in materials issued to people applying for licenses
- Roll out the by-law in a consistent, non-discriminatory way

Conclusion

As Council moves forward in its review of designated housing for migrant workers, the OHRC urges Council to make decisions that are consistent with the *Code* and to support the dignity and well-being of all community members.

The OHRC welcomes the opportunity to work with the Town of Kingsville on this important matter and is available if you or your team wishes to contact us.

Sincerely,



Patricia DeGuire
Chief Commissioner

cc: John Norton, CAO, Town of Kingsville