

Planning & Housing Committee
10th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

City of Toronto - Inclusionary Zoning:
Impacts on Affordable Housing Development

Dear Councilors,

October 27th, 2021

The Real Property Association of Canada ("REALPAC") is Canada's senior industry association for owners and managers of investment real estate. Our members include publicly traded real estate companies, real estate investment trusts ("REIT"s), private companies, pension funds, fund managers, banks, and life insurance companies, with cumulative real estate assets under management between \$600 Billion and \$1 Trillion CAD. The association is further supported by large owner/occupiers and pension fund advisors as well as individually selected investment dealers and real estate brokerages.

We are contacting you today, on behalf of these members, with regards to the City of Toronto's proposed Inclusionary Zoning ("IZ") Official Plan Amendment and Zoning Bylaw Amendment. REALPAC has been advocating for quite some time regarding the implementation of a balanced, fair, and transparent Inclusionary Zoning regime in the City of Toronto.

REALPAC has had the opportunity to review the most recently released draft Zoning Bylaw and Official Plan Amendment documents. We are appreciative of the changes made based on the results of the latest round of industry and public consultations. Feedback from industry participants is that the lengthened phase-in periods and the more thoughtful approach to set-aside rates for both ownership-oriented buildings and purpose-built rental buildings will help to increase development feasibility in key market areas, thus improving IZ program efficacy.

Given the most recently released draft Zoning Bylaw and Official Plan Amendment documents REALPAC believes that there are currently key outstanding issues that currently remain unaddressed that will create further difficulties for the industry when attempting to deliver affordable housing to market:

- 1. Lack of development and operating incentives;**
- 2. Lack of clarity around policy implementation and timing; and**
- 3. Significant title restrictions and resale fees will restrict program efficacy.**

1. Lack of development and operating incentives

The N. Barry Lyons Consulting ("NBLC") report upon which the set-aside rates are based studied development feasibility in Market Areas 1, 2, and 3 across Toronto. The report specifically states that feasibility is based on prototypical developments and works "on average". Toronto's development environment does not have prototypical development projects as all projects progress through substantial entitlements processes which grant site-specific zoning and development permissions. Many projects will face significant feasibility challenges moving forward. Lack of consideration for any development or operating incentives for IZ units only further constrains the ability for the industry to deliver substantial new housing supply to market.

It is incumbent upon the City of Toronto to consider development incentives like increased density, faster approvals timelines, or meaningful and realistic as-of-right development permissions as well as operating supports such as property tax reductions, operating subsidies, and capital expenditure supports to ensure that development in Toronto continues to be as attractive as possible and IZ buildings can be maintained to a high quality for as long as possible.

2. Lack of clarity around policy implementation and timing

The newly proposed 2022-2025-2030 set-aside rate timing structure creates a substantially longer phase-in period to help the development industry adjust to this new program. However, there is a significant lack of

clarity regarding ongoing development application timing. Currently proposed policy does not detail how applications are to be handled between 2025 and 2030 and at what point set-aside rates will and will not apply.

The development industry requires clarity and certainty around how and when specific rates will be applied in order to maintain development feasibility and to ensure that IZ units will be delivered to market. As the proposed policies currently stand it is unclear at what dates and development application stages new rate escalations will be applied.

REALPAC's recommendation would be to define key transition matters and dates from now until the final 2030 phase-in period such that the development community can begin planning for development in Toronto over the next decade. As of right now, it would be incredibly difficult for the development community to have confidence in this program to begin laying plans for development beyond the September 2022 phase-in date.

3. Significant title restrictions and resale fees will restrict program efficacy

REALPAC had previously raised concerns regarding the feasibility of an affordable buyer securing a mortgage when such restrictions are in place. In the draft Inclusionary Zoning Official Plan Amendment, the City of Toronto details eight agreements that will be registered to title. REALPAC has flagged significant issues with the following (Page 4-5 of the OPA),

"g) that the City would receive no more than 20% of the net proceeds of the sale of an affordable ownership unit sold during the 99 year affordability period, equivalent to no more than 2% of the sale price, for administration fees, with net proceeds determined based on the difference between the purchase price and the resale price of the affordable ownership unit; and

h) that the City would receive 50% of the net proceeds of the first sale of an affordable ownership unit at market price after the 99-year affordability period, to be reinvested in affordable housing, with net proceeds determined based on the difference between the purchase price and the resale price of the affordable ownership unit, less any legal, administration or real estate commission fees."

Such restrictions impact the feasibility of development due to IZ program recipients being unable to secure financing for IZ units. One has to ask how exactly a program centered around affordability will benefit unit owners in the long-term, if the City of Toronto is entitled to an ongoing royalty upon every resale of the unit for 100 years and if price escalations are capped to the consumer price index. This is a matter of significant importance given the currently proposed title restrictions would make all ownership units unfinanceable and thus difficult to transfer to program participants.

One of our previous submissions to staff detailed that there are significant governance and administrative costs based on the proposed mechanisms for distributing IZ units to Toronto residents. Based on the Official Plan Amendment it appears as though the City of Toronto is attempting to cover or recoup program administration costs by levying substantial fees on IZ program beneficiaries through title restrictions that direct 20% of net proceeds back to the city's coffers. Such households can and should be entitled to 100% of the net proceeds of a unit that they have paid for.

REALPAC believes that this is the wrong approach and will only serve to lockdown existing IZ unit supply. The IZ waiting list will quickly grow to exceed new units becoming available through the development pipeline. As such, a better approach would be to do everything possible to help existing IZ unit occupants to "graduate" from IZ units to market units, thus freeing up existing supply for new occupants. To be sure, we as a city do not want to be replicating issues of stagnant supply, mismatched supply, and immobile households in the affordable ownership markets that are currently being witnessed in Toronto's rental housing market.

Notwithstanding the above issues, REALPAC is incredibly pleased to see meaningful changes being made to improve development feasibility under the new Inclusionary Zoning regime. Our members have consistently

told us that Inclusionary Zoning can work, it can be feasible, it can create meaningful change in Toronto *if* it is viewed by everyone at the table as a collaborative venture between the public and private sectors. REALPAC looks forward to continuing to work with staff on this incredibly important file as we both seek to improve the future of housing opportunities in Toronto.

We invite you to contact us with any questions or concerns with this submission at the coordinates below. We encourage the committee and Council to continue to collaborate with the development community on this project and share potential policy amendments as far in advance of a Council consideration of this initiative as possible.

Respectfully submitted,



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