



August 9, 2016

Provincial Planning Policy Branch  
Ministry of Municipal Affairs and Housing  
777 Bay Street, 13<sup>th</sup> Floor  
Toronto ON M5G 2E5

**Re: City of Toronto Submission on Ontario's Proposed Inclusionary Zoning Legislation**

Dear Sir/Madam:

On behalf of City Council, I am pleased to present the City of Toronto's submission on Ontario's proposed inclusionary zoning legislation. The City welcomes this legislation and the province's willingness to consult on such an important issue.

Toronto has a long and successful track record delivering affordable housing in partnership with the provincial and federal governments.

Our submission makes a number of recommendations, with an over-riding theme being the need for flexibility in applying the legislation so that it meets local needs. A one-size-fits-all approach would hinder, not enhance, the ability of municipalities to create affordable housing.

The City looks forward to participating in ongoing consultations as the Bill moves through the Legislative committee hearings and on key issues such as regulations, timing and implementation.

Sincerely,

Ana Bailão  
City Councillor  
Ward 18, Davenport  
Chair, Affordable Housing Committee

CITY OF TORONTO

# **Response to the Provincial Inclusionary Zoning Consultation**

# INTRODUCTION

The introduction of the Promoting Affordable Housing Act, 2016 is a welcome step in providing the planning and program tools to create more affordable housing. The City is pleased that the draft legislation provides the opportunity for Toronto to broaden its affordable housing efforts. At the same time, the City recognizes that the implementation of inclusionary zoning must be done with care and consideration for maintaining a vibrant housing market.

The supply and availability of affordable housing is a top priority and a key strategic action for the City of Toronto. Ensuring that our neighbourhoods are accessible to households from a range of socio-economic backgrounds and sizes is an important objective in achieving inclusive, complete communities.

The City has a long and successful track record of delivering affordable housing in partnership with the federal and provincial governments. Inclusionary zoning will strengthen these efforts but does not replace the need for continued government funding and other affordable housing initiatives.

Toronto has experienced a significant rate of development over the past 10 years, with close to 160,000 residential homes completed and over 118,600 homes currently approved in the development pipeline. The vast majority of these homes have been in mid-rise and tall buildings in the downtown, centres and Avenues, reflecting the strong economic activity of the residential building industry and consistency with the Official Plan's growth objectives. A successful inclusionary zoning policy will be one that leverages the growth in Toronto's housing market to create more affordable housing.

It will assist in addressing the needs of moderate income households, while also creating opportunities to build on existing affordable housing programs and/or measures and incentives to deepen affordability. Central to any approach is ensuring that the housing created addresses the needs of Torontonians, provides for long term affordability, and is included within a full range of new developments.

Inclusionary zoning regulations should ensure that municipalities are able to develop an approach that reflects and responds to local needs and housing markets. Providing for local flexibility will ensure that implementation of inclusionary zoning is adaptable and responsive to changing local conditions. Upon approval of inclusionary zoning legislation, the City will continue consulting with housing stakeholders to ensure our approach to implementation responds to Toronto's unique market conditions and affordable housing needs.

In addition to this submission, the City also looks forward to participating in ongoing consultations through the Legislative committee hearings and on important matters such as regulations, timing and implementation.

Legislation and regulations should enshrine key inclusionary zoning principles to demonstrate the Province's commitment to affordable housing. These include recognizing the role that all stakeholders have in developing and implementing local inclusionary zoning policies and programs.

We recommend that inclusionary zoning be guided by the following three key principles:

## KEY PRINCIPLES

### **Predictable, clear and consistently applied**

An inclusionary zoning framework should provide the public, development community and City Council with clear and predictable policy direction and requirements to achieve measurable outcomes.

### **Flexible, equitable and needs based**

The framework should provide municipalities with flexibility to implement inclusionary zoning to meet local circumstances and be equitable and needs based. Inclusionary zoning will provide opportunities for additional affordable housing beyond what the market is already producing and what current affordable housing programs create.

### **Partnership based**

The framework should provide for a partnership model and a contribution of all orders of government, the development community, non-profit housing sector, housing advocates and the public. This partnership model must also recognize that providing market housing at affordable rates is everyone's responsibility.

## COMMENTS AND RECOMMENDATIONS

The following comments and recommendations respond to the issues and questions raised in the provincial Inclusionary Zoning Consultation Discussion Guide.

### **1. An Inclusionary Housing Framework**

The City agrees with the key points in the Framework such as allowing municipalities to determine where and how inclusionary zoning applies through official plan policies and zoning by-laws as well as prohibiting appeals to the Ontario Municipal Board.

However, we strongly recommend the Province enable cash-in-lieu and provision of off-site homes in limited and defined circumstances such as circumstances where high-end, luxury buildings, with high operating costs, or small buildings, with financial challenges, make providing and operating affordable housing unsustainable.

One of the City's main objectives is to see affordable homes included seamlessly in new developments, ensuring inclusionary zoning units are built commensurate with the pace of the market units. Allowing cash-in-lieu or off-site homes, in limited circumstances, ensures that an affordable housing contribution will be provided to the City.

### **2. Program Targets**

The Province should enable municipalities to identify target groups for rental and ownership homes as determined by municipal policies and programs such as 10-year housing and homelessness plans, and municipal Official Plan.

Inclusionary zoning should also provide a clear and transparent access system for the residents eligible for homes created through inclusionary zoning during the affordability period.

### 3. Price and Rent

In the event the Province sets price and rent thresholds, it is recommended that the legislation and regulations enable the City to have flexibility to adjust and enforce the price (including the resale price) and rent thresholds to levels that can assist both moderate- and low-income households. This could provide for a range of price and rent levels to address local priorities.

For rental housing, the Province should provide municipalities the ability to limit rent increases for the affordability period to the Rent Increase Guideline, and to also establish the affordable rent upon first and future rental of the homes.

### 4. Unit Set-Aside Rate

The Province should set a minimum percentage of 10% of new units or equivalent of GFA as the set-aside rate. This recommended rate is consistent with minimum unit set-aside rates adopted by other jurisdiction which have implemented inclusionary zoning. The unit set-aside rate should be able to be applied to the entire proposed development and not only to the density increase.

The Province should allow municipalities to identify specific conditions, such as housing type (multi-family/apartments or low-rise/grade related), deeper affordability, and longer affordability period, which would need to be met in order to vary the set-aside rate.

### 5. Affordability Period

The Province should set a minimum affordability period of 20 years (with a five-year phase-out) for rental housing and a minimum period of 20 years for affordable homeownership. This recommended minimum affordability period is consistent with City of Toronto's Open Door Program and federal/provincial affordable housing initiatives. An affordability period of 20 years also provides security of tenure for tenants and ensures a longer-term investment in affordable housing.

In order for affordability to be maintained on resale, no matter the length of the affordability period, the Province should enable municipalities to impose positive covenants.

### 6. Threshold Size

The Province should set a minimum threshold size of 20 units for applicable developments to trigger an affordable housing requirement. This recommended threshold size would ensure a maximum affordable housing benefit from the adoption of inclusionary zoning. At the same time, the Province should provide municipal flexibility on the geographic area/zones for which inclusionary zoning may apply. Providing such flexibility for Ontario municipalities is consistent with what has been done in other jurisdictions.

### 7. Measures and Incentives

Municipalities should determine appropriate measures and incentives, as municipalities are in the best position to take changing housing market conditions into consideration and provide a range of incentives as needed. The City of Toronto has recently adopted the *Open Door Program* to support the creation of affordable housing by providing a range of financial, planning and land incentives. Inclusionary zoning

legislation and regulation should ensure that municipalities have the flexibility to provide the full range of affordable housing incentives and support.

At the same time, the Province should recognize the limited capacity of municipalities to fully contribute the necessary financial incentives associated with creating and supporting affordable housing. As the result, the Province should also reduce and/or eliminate the provincial tax on construction of new affordable homes provided through inclusionary zoning. The Province should also revise the property tax assessment system to reduce the provincial property tax burden on affordable housing generated through inclusionary zoning. The federal and provincial governments should also continue to boost their own affordable housing programs and policy initiatives.

## **8. Requirements and Standards**

The Province should enable municipalities to set requirements and standards that respond to local needs, such as including accessible homes or homes suitable for families, determining standards on unit size, and location within buildings and within developments.

## **9. Agreements**

Municipalities should determine the implementation details and mechanisms when securing affordable homes through legal agreements. Regulations should provide the authority to bind future owners to inclusionary zoning obligations and secure the long-term affordability of homes. The Province should provide guidance to municipalities on mechanisms, particularly positive covenants, to secure ownership homes during the affordability period.

The Province should recognize the need for the City to establish a mechanism to provide uniform legal documents and, in the case of ownership homes, oversee the closing of sales and implement consistent resale controls for ensuring fairness and consistency.

## **10. Administration, Monitoring and Reporting**

Municipalities should determine annual reporting practices and clear performance measurements and targets. The administration and monitoring of inclusionary zoning should be accessible, fair, transparent and accountable.

The Province should also recognize the cost of municipalities implementing inclusionary zoning as it will require them to create and fund administrative structures for monitoring and ensuring compliance to the long-term affordability of the homes generated by inclusionary zoning.

## **11. Section 37**

The proposed legislation prohibits municipalities from using Section 37 if the same development is also subject to providing affordable housing through inclusionary zoning. The City of Toronto strongly opposes this prohibition and recommends that it be removed from the legislation.

The City views Section 37 as an important and effective policy tool to achieve community benefits such as child care, parks, and other infrastructure improvements, where extra height and density is requested through the planning approval process.

Inclusionary zoning for affordable housing should not be forced to compete with other community benefits. Implementing mandatory inclusionary zoning must provide municipal flexibility to continue existing Section 37 community benefit practices.

This restriction effectively maintains the existing framework for securing new affordable housing as part of development applications – positioning needed social infrastructure such as affordable housing against other equally important investments like child care and so on. Affordable housing should be recognized as an infrastructure investment that is vitally needed in and of itself and is the result of many factors beyond just growth.

## **12. Transitional Matters**

The Province should enable municipalities to determine appropriate phase-in provisions for current planning applications. Upon provincial approval of inclusionary zoning legislation and regulations, the City in consultation with stakeholders, will develop fair and transparent transitional policies as it applies to current and future planning applications.

