



Revisiting Legacy Rental Replacement Policies to Align them with the City's Affordable Rental Housing Expectations

An Audit of Affordable Rental Replacement Units

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Executive Summary

Chapter 667 of the Municipal Code contains provisions to help the City preserve and protect current rental stock

A policy objective of the City’s Official Plan is to preserve and protect the stock of affordable rental housing¹.

Section 111 (1) of the *City of Toronto Act, 2006*, allows the City to “... *prohibit and regulate the demolition of residential rental properties and may prohibit and regulate the conversion of residential rental properties to a purpose other than the purpose of a residential rental property.*”

Chapter 667 of the Toronto Municipal Code, “Residential Rental Property Demolition and Conversion Control” sets out the City’s requirements under Section 111 and implementation of its Official Plan policy which requires that where six or more rental units² will be lost due to redevelopment, the same number of rental units must be replaced in the new development. These rental replacement requirements first came into effect in 2007.

Rental replacement policies preserve housing stock by requiring demolished rental units be replaced by same number of units at similar rents

Simply speaking, the City’s rental replacement policies and ensuing agreements³ were designed to preserve rental stock by requiring that:

1. demolished rental units are replaced with the **same number, size, and type** of rental units.
2. existing tenants have the **right to return** to the same size and type of unit, should they choose to do so.
3. replacement units are charged at **similar rents**⁴ and annual rent increases meet the provincial rent guidelines.

¹ The Official Plan states “As long as there is insufficient new supply to meet the demand for rental housing, our existing stock of affordable rental housing is an asset that must be preserved.”

² Affordable units are required to be rented at no more than the average market rent for the City of Toronto (Canada Mortgage and Housing Corporation rent) by bedroom type, inclusive of utilities. City Council recently approved a new definition of “Affordable Rents”, which sets rents at the lower of what is affordable to low- and moderate- income households and average market rent. New definitions of “Mid-range Rents” were also approved by City Council at the same time. Management advised that these definitions have been appealed to the Ontario Land Tribunal and will not come into effect until the appeals are resolved.

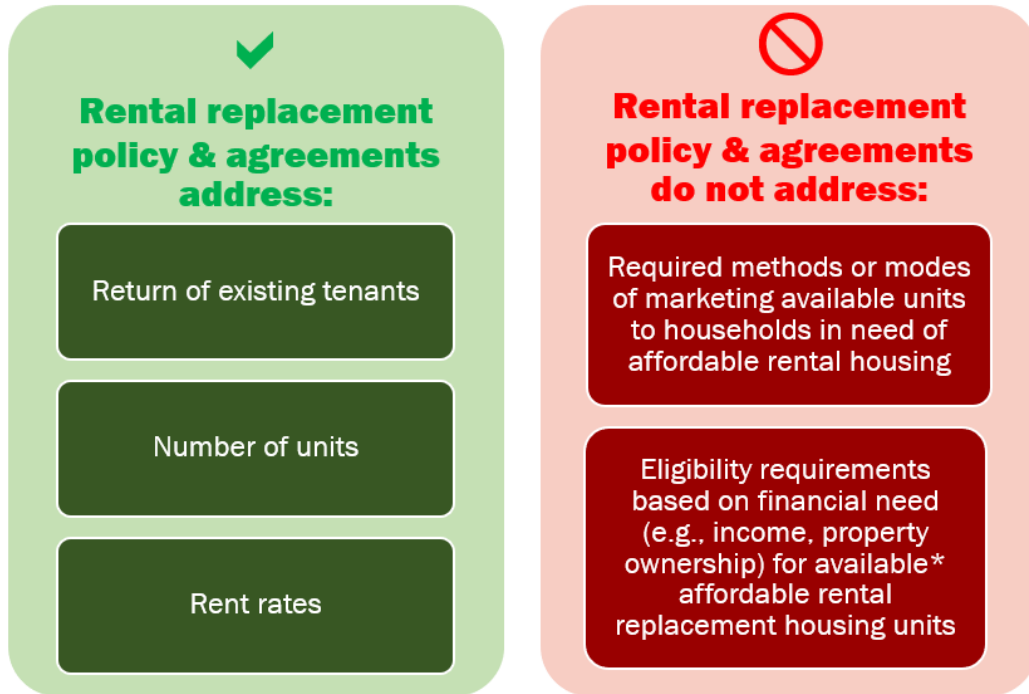
³ Agreements under Section 37 of the *Planning Act* and Section 111 of the *City of Toronto Act* (Toronto Municipal Code Chapter 667 Residential Rental Property Demolition and Conversion Control).

⁴ Rent rates in the replacement unit are required to be similar to those in effect at the time of redevelopment application for a 10-year period.

Legacy policies not designed to address access to available affordable replacement units based on financial need

Making available affordable rental replacement units for any new tenants based on financial need was not stated as an objective or requirement of the legacy rental replacement policies and was not reflected in the requirements of most Section 111 agreements.

Figure 1: Legacy Rental Replacement Policy Objectives and Section 111 Agreement Requirements



**available units after existing tenants at time of demolition have exercised their right to return*

Legacy rental replacement policy has not caught up to City's affordable rental housing priorities

In our view, a gap exists between what the rental replacement policy was originally designed to accomplish, relative to the City's evolving and ongoing priorities for affordable rental housing. The City's policy requirements for affordable rental replacement units and ensuing agreements have not yet caught up with the City's direction for affordable rental housing going forward.

The legacy rental replacement policy went into effect in 2006 and the implementing municipal by-law (Chapter 667) went into effect in 2007. At that time, one of the City's priorities for affordable rental housing focused on protecting the City's rental housing stock. The 2007 staff report⁵ recommending the by-law noted the "rental housing supply and availability in the City of Toronto have not returned to a healthy state." Further, "the rental housing needs of current and future residents depend on protecting existing rental housing and increasing the supply of rental housing to meet future growth."

⁵ <https://www.toronto.ca/legdocs/mmis/2007/pg/bgrd/backgroundfile-4968.pdf>

Since that time, while the City’s affordable rental housing priorities and policy directions have evolved, and the rental replacement policy remains essential, it has not kept pace and largely remained the same.

The rental replacement policy framework should be revisited to take into consideration the [HousingTO 2020 -2030 Action Plan](#).

City priorities for affordable rental housing in HousingTO 2020 -2030 Action Plan

The HousingTO Action Plan, the City’s blueprint for action across the full housing spectrum, includes the following priorities [emphasis added]:

“Increasing the range of supports to renters who face affordability issues through housing benefits, improving access and more efficient use of existing benefits, and protecting the current supply of affordable rental housing are among the key actions required to address this challenge.”

Plans for transparent access to affordable rental housing opportunities

In the [HousingTO 2020 -2030 Action Plan](#), the City set out planned actions, including Action 22(b) to:

“Modernize and simplify access to social and affordable housing by developing and implementing a transparent access system for new affordable rental and supportive housing opportunities and housing benefits which strategically aligns new housing opportunities with population specific needs and targets.”

In 2021, the City Planning, Housing Secretariat, and Shelter, Support, and Housing Administration (SSHA) Divisions, reported on plans for an integrated access system which would enable individuals who require affordable housing to be made aware of potential opportunities⁶.

Rental Replacement Units vs New Affordable Rental Housing

Replacement units have historically made up a smaller proportion of affordable rental housing opportunities

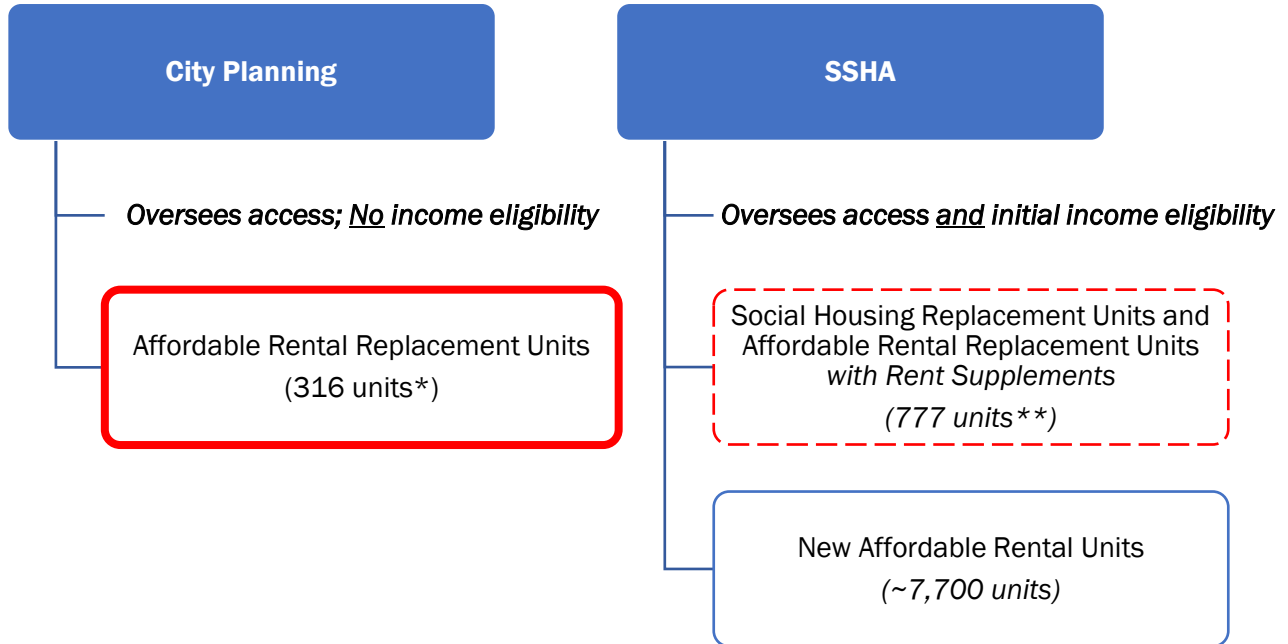
Rental replacement housing units administered by City Planning, the focus of this audit (as outlined in solid red in Figure 2), have historically made up a small proportion of affordable rental housing opportunities. These are the rental replacement units (affordable or otherwise) where there are no rent supplements or housing allowances funded through the City. In our audit, we reviewed over 80 per cent of affordable rental replacement units in developments that have been fully or partially occupied⁷.

⁶ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH22.10>

⁷ This includes all affordable rental replacement units within phased developments where some units have been completed and fully or partially occupied as well as units that have not yet been completed

As shown in Figure 2, access and eligibility for the majority of the City's affordable rental housing opportunities and some rental replacement units are currently overseen by SSHA. For these units, SSHA is responsible for the oversight of rent supplements and housing allowances. Access and eligibility for the units overseen by SSHA are administered through different processes than replacement rental housing administered by City Planning and were not within the scope of this audit⁸.

Figure 2: Divisions Responsible for Administering Access to Affordable Rental Housing



Notes:

* This includes all affordable rental replacement units within multi-phased developments where some units have been completed and are fully or partially occupied and some units have not yet been completed and occupied.

** This includes 770 social housing units on TCHC revitalization sites and 7 affordable rental replacement units with rent supplements.

*** Projects where replacement units have been approved in principle by City Council or have been secured under Section 111 agreements but where construction is not yet completed (and initial occupancy has not started) are not included in this table (and were not included within the scope of our audit).

⁸ The Auditor General previously audited SSHA's processes to administer access to and eligibility for deeply affordable rental housing in 2019

Auditor General previously reported on affordable rental replacement units in July 2021

The Auditor General previously reported to Audit Committee and City Council on the subject of affordable rental replacement units in July 2021. In responding to City Council's request for an amendment to her 2021 Audit Work Plan, the Auditor General's report summarized her preliminary assessment of potential risks and understanding of how affordable rental replacement units are allocated⁹.

2021 recommendations on access, eligibility, and monitoring compliance

The Auditor General's July 2021 report highlighted the need for:

1. agreements to include clear terms and conditions to ensure **access** to affordable rental replacement units through **fair, open, and transparent** processes
2. agreements to include requirements to check for **tenant eligibility**
3. strengthened monitoring to verify that housing providers **comply with agreements**.

On consideration of the Auditor General's Report, at its meeting on July 14, 2021, City Council requested the Auditor General "to consider conducting an audit, in consultation with the Chief Planner and Executive Director, City Planning, to determine the extent to which developers have complied with the City of Toronto's Rental Replacement Policy."¹⁰

Why this report is important – supporting the City's priorities to ensure affordable rental housing goes to people who need assistance

The purpose of this report is to present the results of the Auditor General's limited scope¹¹ audit of rental replacement agreements. The objective of the audit was to evaluate whether City Planning had sufficient processes in place to make sure that owners complied with the City's requirements for replacing affordable rental units, as secured under Section 37 of the *Planning Act* and Section 111 of the *City of Toronto Act*.

The Auditor General conducted this audit through the lens of evaluating whether City Planning's processes and agreements supported the City's priorities for fair and transparent access to affordable rental replacement housing opportunities by those who need financial assistance to afford housing.

Audit findings are consistent with risks identified in 2021 report

The findings from this audit are consistent with potential risks identified in the Auditor General's July 2021 report.

⁹ <https://www.toronto.ca/legdocs/mmis/2021/au/bgrd/backgroundfile-168023.pdf>

¹⁰ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.AU9.16>

¹¹ This audit did not assess compliance with all aspects of the City's Rental Replacement Policy as set out in Toronto Municipal Code Chapter 667 Residential Rental Property Demolition and Conversion Control and Section 37 of the *Planning Act* and Section 111 of the *City of Toronto Act*

Audit Results in Brief

Historically, rental replacement policies have focused on preserving residential rental housing

It is important to recognize that our reading of the Official Plan policy for rental replacements and Chapter 667 of the Municipal Code, as well as discussions with City Planning and Legal Services, indicates that the primary purpose of Section 111 agreements was to preserve residential rental housing. From what has been written into the Section 111 agreements, it appears that the City's rental replacement policies and processes were not designed for a supplementary purpose – to provide access to affordable rental replacement units based on financial need.

As summarized below, through our review of ten Section 111 agreements covering over 80 per cent of developments where affordable rental replacement housing was built and fully or partially occupied, we have identified that:

- A. Section 111 agreements generally require that affordable rental replacement units be offered to the public on a “fair and open basis”. But, agreements do not clearly specify what is meant by “fair and open basis”.
- B. Section 111 agreements generally do not include eligibility requirements for new tenants of available affordable rental replacement units, such as income limits, asset limits, or other limitations on ownership interests in residential property.
- C. City divisions responsible for administering affordable rental housing are harmonizing their processes and requirements for tenant access and eligibility going forward.

Going forward, align rental replacement policies and processes with City priorities for affordable housing

Our audit findings and recommendations focus on what City Planning can do going forward to continue to enhance its agreements and processes to better align with the City's priorities for making affordable rental replacement housing accessible to all households based on financial need.

A. Strengthening Requirements for Offering Affordable Rental Replacement Units Through Fair, Open and Transparent Processes

Affordable rental replacement units were to be offered to the public on a fair and open basis

Given the City's current affordable housing priorities and targets, agreements with owners should be strengthened to clearly define the City's expectations for how eligible households obtain access to affordable rental replacement units on a “fair and open basis”.

We found that in most cases, Section 111 agreements we reviewed required that "*The owner shall offer all replacement rental units to the public on a **fair and open basis consistent with general provisions in the rental market**, subject to the provisions of this Agreement ...*"¹²

Acceptable methods for marketing and filling affordable rental replacement units are open to interpretation

However, we found that the agreements did not make clear the City's expectations for **how** affordable rental replacement units would be offered to the general public. In particular, the agreements don't explain what constitutes a "fair and open basis" and "general provisions in the rental market". There were no further City Planning guidelines included in the agreements, in the City's Official Plan, or Municipal Code Chapter 667 to clarify the City's expectations.

Essentially, this allowed owners to market rental units as they would normally market them, with the discretion to offer affordable rental replacement units how they saw fit based on their own interpretation of "fair and open" processes.

No clear requirements to provide records to the City on how units were offered to general public

Also, the agreements we reviewed did not clearly specify that the owner was obligated to retain and make available to the City records which demonstrate **how** units were offered on a "fair and open basis."

Limited information retained in City Planning files

City Planning files provided for our review did not include sufficient documentation regarding **how** units were offered to the public. City Planning management informed us that they did not consistently request such information from the owners.

Past agreements limit what the City can do

The City may find it difficult to obtain records and take any further action regarding the way units were offered because:

- City agreements did not require owners to retain and provide records demonstrating how tenants gained access to affordable rental units
- City Planning did not review **how** units were offered at the time they were being offered
- Some rental replacement units were occupied up to nine years ago and some owners may not have retained the records for so long

¹² With respect to the initial occupancy of a rental replacement unit, Section 111 agreements required that "*the Owner shall first offer the rental replacement units to returning tenants, including ineligible tenants, before offering the units to new tenants from the general public.*"

Confidential Attachment 1 outlines one example showing how enforcement of the Section 111 agreement is subject to these limitations. While this has been a concerning case for the City, it has highlighted a policy gap at a critical time when the City is making sure it has the tools needed to increase affordable housing for eligible households in Toronto.

Making sure units are marketed and advertised to people who need affordable housing

Where City Council expects that affordable rental replacement housing opportunities be transparently marketed and advertised to individuals and families who need affordable housing, similar access requirements and processes as used by SSHA for new affordable housing should be followed. These requirements and processes need to be clarified in Section 111 agreements going forward.

Recent requirements for owners to provide the City with access plans

More recently, City Planning and Legal Services have taken steps to ensure that new standard Section 111 agreements now incorporate requirements for owners to provide the City with access plans. The intent is that access plans will identify how households can access affordable units to support a fair and transparent process. The agreements should also be updated to incorporate clear requirements for owners to retain and provide the City supporting documentation to demonstrate compliance with their plan.

B. Standardizing Affordable Rental Housing Eligibility Requirements

Income eligibility requirements for affordable rental housing exist only for new affordable units secured under certain housing programs

The aim of the City's affordable housing programs is to ensure that affordable units are allocated for the benefit of lower-income households. In support of this objective, City Council enacted the [Municipal Housing Facility By-law](#) (By-law No. 1756-2019) which includes requirements for eligibility for housing units to be provided as part of a municipal housing project facility. These eligibility requirements, including initial income limits for household income to be at or below four times the annualized monthly occupancy costs for the housing unit, are summarized in Exhibit 1.

Agreements implementing the City's legacy rental replacement policy don't include income eligibility for affordable units

As noted previously, there appears to be an expectation gap between City Council's ongoing and evolving priorities and policies to provide access to more affordable housing opportunities to lower-income households and the legacy rental replacement policy in the Official Plan and implemented through Section 111 and Municipal Code Chapter 667 requirements.

Affordable rental replacement units administered by City Planning are not considered municipal housing projects and are not subject to the eligibility requirements prescribed under By-law No. 1756-2019. Where affordable rental replacement units are not subject to the Municipal Housing Facility By-law, there would be no initial income limit requirement to be eligible for available units.

Past agreements limit what the City can require of owners

This also means that the City has little ability under the existing Section 111 framework to require that owners offer available affordable rental replacement units only to new tenant households who need affordable housing (i.e. lower-income households). Moreover, owners have no obligation to collect, retain or provide the City with information regarding income, assets, or other residential ownership interests of tenants.

Majority of Section 111 agreements we reviewed had no income limit requirements

Consequently, the majority of Section 111 agreements we reviewed during our audit did not contain tenant eligibility requirements, such as income limits, asset limits, or other limitations on ownership interests in residential property¹³. In the files we reviewed, City Planning did not request or obtain information to check if new tenants of affordable rental replacement units were households who needed affordable housing (i.e. lower-income households), since they did not have the authority to do so under the existing agreements.

Social housing and affordable rental replacement units where access and eligibility are administered by SSHA are subject to a different framework

The exception is Section 111 agreements with affordable rental replacement units where access and eligibility is administered by SSHA, and is subject to a different statutory framework. These are typically for sites which include the replacement of low-rent or deeply affordable units where the City provides funding for rent supplements, housing allowances, or rent-geared-to-income subsidies. Assessments of tenant eligibility are a part of program funding requirements for these units. For example, TCHC revitalization sites.

These agreements were not included within the scope of our audit because the Auditor General previously audited SSHA processes to administer access to and eligibility for deeply affordable rental housing. The results of those audits were presented in the Auditor General's reports:

- [Opening Doors to Stable Housing: An Effective Waiting List and Reduced Vacancy Rates Will Help More People Access Housing](#), June 21, 2019
- [Safeguarding Rent-Geared-to-Income Assistance: Ensuring Only Eligible People Benefit](#) , October 9, 2019

Evaluate opportunities for how Section 111 agreements can be made more consistent with the Municipal Housing By-law

Where City Council expects access and eligibility requirements of affordable rental replacement housing under Section 111 agreements be consistent with requirements of the [Municipal Housing Facility By-law](#) (By-law No. 1756-2019), the Chief Planner and City Solicitor should be requested to provide information on how such requirements may be addressed.

¹³ Eligibility requirements in Section 111 agreements relate to making sure that existing tenants prior to demolition are given the opportunity to elect to return to the replacement rental unit.

Our recommendations align with the HousingTO Action Plan policy

The recommendations in this report are in line with Action 36(b) in the HousingTO 2020-2030 Action Plan for the City to:

*“protect tenants in private rental buildings by undertaking a **review of the City’s rental demolition and replacement Official Plan policy**, including implementation approaches and practices including a review of affordability periods **and eligibility criteria for new tenants.**”*

Our findings support the importance of the City undertaking such a review so that future affordable rental replacement units are made accessible to eligible households.

C. Harmonizing Processes and Requirements for Administering Affordable Rental Housing

City to implement new centralized system to streamline process of filling affordable units

In a joint staff report issued on April 8, 2021 from the General Manager, SSHA, Chief Planner and Executive Director, City Planning, and Executive Director, Housing Secretariat to the Planning and Housing Committee entitled *Creation of a Fair and Streamlined Access System for Affordable Housing*¹⁴, a plan was proposed for a “new affordable housing access system that integrates a client portal for the public to search and apply for available units, and a vacancy management system for housing providers to post vacancies and review applications.”

Divisions should consider recommendations from Auditor General’s previous audits

SSHA, Housing Secretariat, and City Planning have advised that they are working towards harmonizing the management and administration of affordable housing across the City. In her July 2021 report, the Auditor General recommended that in working towards harmonizing processes, that the Divisions also consider relevant recommendations raised in previous audit reports regarding the centralized social housing waiting list, rent-geared-to-income eligibility, and the affordable home ownership program.

Conclusion

Ensuring units are filled by eligible households

In our view, the implementation of the recommendations contained in this report will help improve how eligible individuals and families in need of assistance are made aware of and can access available affordable rental replacement opportunities. Clear and specific terms in agreements will also allow the City to better enforce those requirements.

¹⁴ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH22.10>

With growth expected in the supply of affordable housing, the City needs to act now so that the City's objective to ensure that affordable units are allocated for the benefit of lower-income households is preserved in filling future affordable rental replacement units. This will require the City to review whether changes are needed to Official Plan policies and Chapter 667 of the Toronto Municipal Code.

**Future audits of
affordable housing may
be broader in scope**

Although the scope of this audit was limited to affordable rental replacement units, worth noting is that the project horizon for 2022-2023 in the Auditor General's 2022 Work Plan already included a potential project for an Audit of Affordable Rental Housing.

We express our appreciation for the co-operation and assistance we received from management and staff of the City Planning Division and the City's Legal Services Division.

Background

City's rental replacement policy

The City's Official Plan rental replacement policy requires that where six or more rental units¹⁵ are lost to new development, the same number of rental units must be replaced in the new development. Pursuant to Section 111 of the *City of Toronto Act*, Chapter 667 of the Toronto Municipal Code¹⁶, "Residential Rental Property Demolition and Conversion Control", was enacted to help to implement this policy.

The Official Plan policy requires that:

- existing tenants have the first right to return to the replacement rental unit,
- existing tenants prior to demolition be provided tenant relocation and other assistance, and
- replacement rental units be replaced at similar rents for 10 years with rent increases in accordance with provincial rent guidelines.

Section 111 agreements designed to maintain the rental housing stock across the City

City staff advised that Section 111 of the *City of Toronto Act* (and Toronto Municipal Code Chapter 667) was a legislative response to lengthy and contentious litigation about the City's ability to include, in its Official Plan, policies to ensure the adequate supply of rental housing by limiting the demolition and/or conversion of residential rental properties. At that time, the introduction of this provision was a significant and meaningful tool for the City to address the adequate provision of a full range of housing and to maintain the rental housing stock across the City.

Nearly 2,500 affordable rental replacement units approved by City Council

Not all rental replacement agreements include affordable rental units. City Planning advised that there are about 2,500 affordable rental replacement units that have been approved by Council between 2007 and 2021. This includes approximately 1,200 private affordable rental replacement units and nearly 1,300 social housing replacement units.

¹⁵ Affordable units are required to be rented at no more than the average market rent for the City of Toronto (Canada Mortgage and Housing Corporation rent) by bedroom type, inclusive of utilities.

¹⁶ https://www.toronto.ca/legdocs/municode/1184_667.pdf

A number of years may pass between:

- when Council approves the development in principle,
- when an agreement is executed to secure rental replacement housing, and
- when the building is constructed and first occupied.

Social housing and affordable rental replacement units to be secured, completed, or occupied

Of these Council-approved social housing and affordable rental replacement units, City Planning advised that, as of December 1, 2021, approximately:

- 400 units have yet to be secured through Section 111 and/or Section 37 agreements
- 1,000 units have been secured by agreements but have not yet been completed (and initial occupancy has not started)
- 316 units in developments that have been fully or partially occupied where access and eligibility are administered by City Planning
- 777 units in developments that have been fully or partially occupied where tenant access and eligibility are administered by the Shelter, Support & Housing Administration (SSHA) Division

Our audit covered 80% of affordable rental replacement units administered by City Planning

In our audit, we reviewed 10 out of 19 agreements covering over 80 per cent of affordable rental replacement units in developments that have been fully or partially occupied between 2012 and January 2021, where access and eligibility is administered by City Planning¹⁷.

Rental units administered by SSHA were not included in our audit scope

There are also affordable or social housing rental replacement units in four developments that have been fully or partially occupied between 2012 and January 2021¹⁸, where tenant access and eligibility were administered by SSHA through different processes than replacement rental housing administered by City Planning. These were not included within the scope of this audit¹⁹. For these units, SSHA is also responsible for oversight of rent supplements and housing allowances.

¹⁷ Includes units in multi-phased developments where not all units were completed and occupied at the time of our audit.

¹⁸ Includes units in multi-phased developments where not all units were completed and occupied at the time of our audit.

¹⁹ The Auditor General previously audited SSHA's processes to administer access to and eligibility for deeply affordable rental housing in 2019.

Table 1: Affordable Rental Replacement Projects Fully or Partially Occupied from 2012 and 2021

	# of developments	# of affordable rental replacement units secured under Section 111 / Section 37 agreements
Affordable rental replacements housing administered by City Planning	19	316*
Affordable rental replacements housing administered by SSHA including rent-geared-to-income housing in TCHC redevelopment projects (out-of-scope for this audit)	4	777
Total	23	1,093

Source: City Planning Division

*Note: This includes all affordable rental replacement units within multi-phased developments where some units have been completed and are fully or partially occupied and some units have not yet been completed and occupied.

Audit Results

Ensuring those who need affordable housing most have access to those opportunities

Ensuring fair access and appropriate eligibility for affordable housing is critical for making sure the City's limited supply of affordable units are allocated to those who need it most. As stated in the City's [Affordable Rental Housing Eligibility and Income Verification Guide](#) (2020),

"The key aim of the City's affordable housing programs is to ensure that affordable units are allocated for the benefit of lower-income households."

Audit reviewed access to units and tenant eligibility

In this audit, we reviewed a sample of developments that required the replacement of affordable rental housing units.

More specifically, we conducted our audit through the lens of evaluating whether City Planning's processes and agreements supported the City's efforts for fair access to affordable rental replacement housing opportunities by those who are most in need of assistance.

Audit findings

We found:

- A. The City has to **strengthen its requirements for how owners offer affordable rental replacement units** through fair, open and transparent processes, as well as how the City monitors compliance with agreements.
- B. The City should **consider incorporating tenant eligibility requirements consistent with the Municipal Housing Facility By-law** into all agreements for affordable rental replacement units (e.g. income and asset limits, residential ownership interest). To do so, amendments may be needed to Chapter 667 of the Toronto Municipal Code and ensuing Section 111 agreements.
- C. The City should **continue harmonizing the processes and requirements for administering affordable rental housing** across different City divisions to ensure that affordable housing goes to those who need it most.

We reviewed agreements for over 80% of affordable rental replacement units that have been fully or partially occupied

Our observations, based on 10 developments with agreements securing 263 affordable rental replacement units, are further described in the sections that follow. The agreements we reviewed represented about 83 per cent of the affordable rental replacement units in developments that have been fully or partially occupied where access is administered by City Planning.

A. Strengthening Requirements for Offering Affordable Units Through Fair, Open, and Transparent Processes

Main objective of rental replacement policy is for demolished rental units to be replaced

It is important to note that the main objective of the Official Plan rental replacement policies and ensuing Section 111 agreements, is the need to preserve and maintain the stock of rental housing in the City.

Legacy policies do not address access to available affordable replacement units based on financial need

When Municipal Code Chapter 667 was first implemented in 2007, making available affordable rental replacement units for any new tenants based on financial need was not stated as an objective or requirement of the legacy rental replacement policies and therefore was not reflected in the requirements of most Section 111 agreements.

Still, given the City's affordable housing priorities and targets, we conducted our audit through the lens that the City's rental replacement framework should support the aim of its affordable housing programs to ensure that new affordable rental replacement units are allocated for the benefit of lower-income households, where possible.

Affordable rental replacement units should be offered to the public on a fair and open basis

We found that almost all the Section 111 agreements we reviewed contained requirements that:

*"The owner shall offer all replacement rental units to the public on a **fair and open basis consistent with general provisions in the rental market**, subject to the provisions of this Agreement ... the Owner shall first offer the replacement rental units to returning tenants before offering the units to the general public."²⁰*

We expected that Section 111 agreements would also clearly define the City's expectations for **how** owners were to market affordable rental replacement units on a "fair and open basis" to eligible households. We also expected that City Planning would monitor how units were marketed to and accessed by the general public, and in particular lower-income households.

²⁰ All but one of the agreements we reviewed contained the exact requirement as noted, or a similarly worded clause. The agreement we reviewed that did not contain this clause was an older agreement (2009). City Planning advised that this requirement may not have been a standard term in agreements at that time.

Findings from our review of ten Section 111 agreements

From our review of the 10 agreements between the City and the owners, we found that:

1. Agreements were not clear on the City’s expectations of how to offer affordable rental replacement units in a fair and open manner.
2. Agreements didn’t require owners to retain or provide records to support how they offered units to the public.
3. City Planning doesn’t proactively monitor owners’ compliance with specific requirements on a timely basis.

1. Agreements are not clear on City’s expectations

No clear definition of “fair and open basis”

The agreements we reviewed did not make clear the City’s expectations for *how* affordable rental replacement units would be offered to the general public. In particular, the agreements don’t explain what constitutes a “fair and open basis” and “general provisions in the rental market”. We also did not find any further documents or appendices attached to the agreements to define this concept.

City policies for rental replacement units don’t describe how to market units in a fair and open manner

Furthermore, the *Planning Act*, Section 111 of the *City of Toronto Act, 2006*, Chapter 667 of the Municipal Code (adopted pursuant to Section 111), and Council-adopted Section 37 implementation guidelines²¹ also do not speak to how affordable rental replacement units are to be tenanted or made available. City Planning advised that there is no further guidance to describe or define requirements for how these affordable rental replacement units are to be offered on a “fair and open basis”.

²¹ The Section 37 framework will be replaced by the Community Benefits Charges tool by September 18, 2022. [Municipal development and community benefits charges, and parklands | Ontario.ca](https://www.ontario.ca/gov/municipal-development-and-community-benefits-charges-and-parklands)

Acceptable methods for marketing and filling affordable rental replacement units are open to interpretation

This broad language is not clearly defined and could mean different things to different people, leaving the Section 111 requirement open to interpretation. For example,

- Some may think offering affordable rental replacements units to the general public on a “fair and open basis consistent with general provisions in the rental market” means marketing the units as the owner normally markets all other units.
- Others may interpret this to mean announcing unit availability through signage at the location and/or on a website and/or through word of mouth and offering units on a first come, first serve basis for any potential tenants walking in or who reach out to express interest in units.
- Still others may understand this to mean having a website or waiting list to register interested parties and offering units to households on the list through a lottery

Other City affordable housing programs have additional requirements

This expectation of ensuring affordable housing is offered in a fair and open manner is not new to the City. Other City Divisions administering affordable housing ask for access plans that describe how households can access affordable housing. According to the City's [Affordable Rental Housing Eligibility and Income Verification Guide](#) (2020), an access plan *"specifies how tenants are to be selected and how information about such process is disseminated to the public"*. SSHA management advised that the requirement for owners to provide an access plan was first implemented by the Division in 2017.

Section 111 agreements can be better aligned with City priorities by requiring affordable rental housing opportunities be advertised to lower-income households

To better align with the City's priorities to ensure that affordable units are allocated for the benefit of lower-income households, going forward, City Planning should consider enhancing its Section 111 agreements to require owners to describe how the units are to be marketed and adopt methods that include, for example, advertising:

- on the City's Centralized Housing Access System
- through local human services agencies
- through widely distributed brochures that include relevant information (i.e. rental prices, indicate which units are protected by the provincial guideline increases, etc.)

Management advised that newer agreements contain tenant access guidelines

City Planning advised us that from 2020 onwards, the Division started incorporating clauses in Section 111 agreements for owners to provide the City with an access plan describing how they will offer the units in a fair and open manner.

2. Agreements don't require owners to provide records to support how units are offered to the public

No requirements to retain and provide supporting evidence to the City

We also found that current agreements for affordable rental replacement units do not require owners to retain or provide records to the City to demonstrate *how* units were offered in a “fair and open basis” to the public or how each new tenant gained access to an affordable rental replacement unit.

City Planning did not consistently obtain or retain information about how replacement units were offered to public

City Planning management informed us that they did not consistently request information from the owners on how they marketed affordable rental replacement units. For the 10 agreements we reviewed, there were minimal documents retained in City Planning's files to demonstrate *how* units were offered to the public. More specifically,

- For one property, City Planning provided us with a link to a website which advertised rental units. However, there was no documentation to indicate how widely this website was communicated and whether it reached lower-income households who would benefit from access to affordable rental housing opportunities. Furthermore, there is no documentation to show how actual tenants accessed the affordable rental units, whether through the website or by other means.
- For another property, City Planning requested further information after available units had already been advertised and many had been leased. Again, there was no documentation to indicate whether their marketing of units reached lower-income households who would benefit from access to affordable rental housing opportunities. Furthermore, there is no documentation to show how actual tenants became aware of the affordable rental opportunity, whether through the website or by other means.
- City Planning could not locate or provide records to show they reviewed the marketing of units for the remaining eight files in our sample.

Given that some of the agreements date back to as early as 2009, it may be difficult for the City to now obtain records unless they are provided voluntarily by the owner.

3. City Planning doesn't proactively monitor for compliance with affordable rental replacement requirements of agreements

No formal policies or processes to monitor compliance

City Planning advised us that the Division's focus has always been on maintaining and preserving the rental housing stock (i.e. that the requisite number of units of similar size/type/rent are replaced), as opposed to focusing on monitoring specific clauses within the rental replacement agreements. City Planning does not have formal policies, procedures or processes in place for monitoring compliance with affordable rental replacement unit requirements.

City Planning files are missing records to evidence that affordable rental replacement units were leased out at "affordable rents"

In order to respond to the Planning and Housing Committee's request that the Division perform a compliance review²², City Planning staff had to go back and identify all the applicable rental replacement agreements and assemble a list of developments to be reviewed. They also had to request additional documents from the owners that were not obtained previously or could not be located by the Division.

For example, half of the Section 111 agreements and related files that we reviewed were missing complete information such as initial rent rolls or anniversary rent rolls. This is information the Division would have needed to monitor compliance with the agreements and verify that affordable rental replacement units were offered at "affordable rents" – meaning the initial rent charged on the affordable rental unit was equal to or below the average city-wide market rents.

In late 2021, City Planning had to ask for missing records for units occupied as far back as 2016

As a result of the compliance review requested by Planning and Housing Committee, in late 2021 City Planning asked the owners to provide the missing documents to demonstrate compliance with agreements for developments which were occupied as early as 2016.

Going forward, Section 111 agreements and City Planning processes should be aligned with City expectations

Where City Council expects that individuals and families who need affordable housing be made aware of affordable rental housing opportunities and be able to access affordable rental replacement units through a process similar to those used to access rent supplements and housing allowances administered by SSHA, these requirements and processes need to be clarified in Section 111 agreements going forward.

²²In the April 2021 staff report, <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH22.10> City Planning management reported that they would fulfill this request in Q3 2021 through a historical review of previous replacement rental agreements to ensure compliance. City Planning management advised us that their compliance review is still ongoing and will be reported to City Council in Q1 2022.

Limited recourse available

Management advised that the new standard Section 111 agreements incorporate access plan requirements, where owners must describe how households can access affordable housing. Where agreements previously did not contain this requirement, the City has limited ability to now retroactively obtain records or take any further action regarding the way units were offered. Confidential Attachment 1 outlines one example showing how enforcement of the Section 111 agreement is subject to these limitations.

With the City's focus on increasing the number of affordable rental units across the City, City Planning should revisit its rental replacement policy and consider how it can strengthen rental replacement agreements and proactive compliance review processes to help make sure that owners adhere to the City's objectives for affordable rental replacement programs, at initial occupancy as well as when units are leased to new tenants.

Recommendation

- 1. City Council request the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor and other City divisions that oversee affordable housing, to:**
 - a. report back to City Council, through the Planning and Housing Committee, on the merits of amending rental replacement policies, including City of Toronto Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control, to include clear expectations of how future affordable rental replacement units are made available in a fair and open manner to the general public;**
 - b. ensure that future affordable rental replacement agreements between the City and owners include clear, specific requirements for owners to provide formal access plans; such plans to describe, to the satisfaction of the Chief Planner and Executive Director, City Planning, how information about affordable rental replacement opportunities are to be advertised to the general public, including lower-income households, and how new tenants of affordable rental replacement units are to be selected; and**
 - c. implement proactive monitoring processes that ensure sufficient evidence, to the satisfaction of the Chief Planner and Executive Director, City Planning, is obtained from owners to demonstrate compliance with required access plans and all other contractual requirements.**

B. Standardizing Affordable Rental Housing Eligibility Requirements

City has standard eligibility requirements for affordable rental housing

The aim of the City’s affordable housing programs is to ensure that affordable units are allocated for the benefit of lower-income households. In support of this objective, City Council enacted the [Municipal Housing Facility By-law](#) (By-law No. 1756-2019) which includes requirements for affordable housing including eligibility for housing units to be provided as part of a municipal housing project facility. These eligibility requirements are summarized in Exhibit 1.

By-law No. 1756-2019 defines “Affordable Housing” and includes income limits for households accessing affordable housing

“Affordable Housing” for the purpose of the By-law is defined as follows:

“For rental housing, affordable housing includes housing in which monthly occupancy costs are equal to or below the average city-wide market rents.”

Under this By-law, the initial income limit for affordable housing requires an applicant’s household income to be at or below four times the annualized monthly occupancy cost for the housing unit.

Agreements implementing the City’s legacy rental replacement policy don’t include income eligibility for affordable units

As noted previously, there may be an expectation gap between City Council’s ongoing and evolving priorities and policies to provide access to more affordable housing opportunities to lower-income households, and the legacy rental replacement policy in the Official Plan and implemented through Section 111 and Municipal Code Chapter 667 requirements.

Bylaw is not applicable to affordable rental replacement housing under Section 111

Affordable rental replacement units secured under Section 111 agreements and administered by City Planning are not considered municipal housing facility projects and are not subject to the eligibility requirements prescribed under By-law No. 1756-2019.

Tenant eligibility focuses on making sure existing tenants before demolition have the right to return to a similar replacement unit

Chapter 667 does not include initial household income limits for new tenants of available affordable rental replacement housing units, nor does it outline any other eligibility requirements typically expected for affordable housing applicants.

Eligibility requirements in Section 111 agreements focus on making sure that existing tenants prior to demolition are given the opportunity to elect to return to the replacement rental unit.

Most Section 111 agreements do not require owners to verify income or asset ownership eligibility

Consequently, the majority of Section 111 agreements we reviewed during our audit did not contain tenant eligibility requirements, such as income limits, asset limits, or other limitations on ownership interests in residential property. This means that there were no ensuing requirements for the owner to check if new tenants of available affordable rental replacement units were households who needed affordable housing (i.e. lower-income households).

One unique agreement required below average market rent units be offered through the City's centralized waiting list because the City was providing rent supplement funding for those units

In our sample, we observed one exception where a Section 111 agreement contained an additional negotiated clause requiring the owner to offer affordable rental replacement units through the City's centralized waiting list²³. This occurred because the City negotiated below average market rent (80% AMR) units and provided funding for rent supplements for those units. SSHA management confirmed that this obligation was met and that the units under the rent supplement agreement were filled through the centralized waiting list.

The exception is illustrative of Section 111 agreements with affordable rental replacement units where SSHA administers access and eligibility. These are typically for sites which include the replacement of low-rent or deeply affordable units where the City provides funding for rent supplements, housing allowances, or rent-geared-to-income subsidies where assessments of tenant eligibility are a part of program funding requirements. For example, TCHC revitalization sites.

Access to units administered by SSHA were generally not included within the scope of our audit because the Auditor General previously audited SSHA processes to administer access to and eligibility for deeply affordable rental housing. The results of those audits were presented in the Auditor General's reports:

- [Opening Doors to Stable Housing: An Effective Waiting List and Reduced Vacancy Rates Will Help More People Access Housing](#), June 21, 2019
- [Safeguarding Rent-Geared-to-Income Assistance: Ensuring Only Eligible People Benefit](#), October 9, 2019

In the absence of income limits, the City cannot force owners to lease affordable rental replacement units to lower-income households

Given that the Section 111 agreements City Planning administers don't generally include the typical tenant eligibility requirements of affordable housing agreements administered by the Housing Secretariat / SSHA, the City has little ability to require that owners offer affordable rental replacement units only to households who need affordable housing (i.e. lower-income households).

Where City Council expects access and eligibility requirements of affordable rental replacement housing under Section 111 agreements be consistent with requirements of the [Municipal Housing Facility By-law](#) (By-law No. 1756-2019), the Chief Planner and City Solicitor should be requested to provide information on how such requirements can be enacted.

²³ Households on the centralized waiting list are normally reviewed for income eligibility.

**HousingTO 2020-2030
Action Plan acknowledges
the income-based
approach**

According to the HousingTO 2020-2030 Action Plan

"The City will also review options to revise its Official Plan definitions of "affordable rental" and "affordable ownership" housing to better reflect residents' ability to pay for housing in Toronto's housing market. Through implementation of an income-based approach, it will be made clear who will benefit from new affordable and supportive housing developments created through affordable housing programs. Revising the definition of affordable housing to better reflect people's ability to pay for housing will also allow the City to support projects that provide homes affordable to households with diverse income levels while prioritizing lower income households"

Action 52 of the HousingTO Action Plan reflects that the City will:

"Review options for a revised definition of affordable housing based on 30% of household gross income, consistent with the federal definition of affordable housing, in the delivery of new affordable housing."

**Amended Official Plan
definition of Affordable
Rental Housing and
Affordable Rent**

In November 2021, City Council adopted recommendations to amend Toronto's Official Plan definitions for affordable rental and ownership housing, including changes to the definition of affordable rental housing and affordable rents²⁴. The revised definitions are intended to better respond to the needs of low- and moderate-income households by establishing definitions of affordable housing that are aligned with incomes instead of solely on market rents. Management advised that these definitions have been appealed to the Ontario Land Tribunal and will not come into effect until the appeals are resolved.

²⁴ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH28.4>

Recommendation:

2. **City Council request the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor and other City divisions that oversee affordable housing, to:**
 - a. **review City of Toronto Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control and determine whether affordable housing principles and definitions consistent with amended Official Plan definitions of affordable rent and/or By-law 1756-2019, Municipal Housing Facility can be incorporated into City of Toronto Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control and all Section 111 agreements containing affordable rental replacement units going forward;**
 - b. **ensure future Section 111 agreements include terms that support the City's ability to require tenant eligibility criteria and verification practices consistent with City of Toronto Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control, should affordable housing principles and definitions be adopted; and**
 - c. **implement processes to verify compliance with any eligibility requirements incorporated into executed agreements.**

C. Harmonizing Processes and Requirements for Administering Affordable Rental Housing

SSHA, Housing Secretariat, and City Planning have advised that they are working towards harmonizing the management and administration of affordable housing across the City.

City to implement new centralized system for filling affordable units

In a joint staff report issued on April 8, 2021 from the General Manager, SSHA and Chief Planner and Executive Director, City Planning, and Executive Director, Housing Secretariat to the Planning and Housing Committee entitled *Creation of a Fair and Streamlined Access System for Affordable Housing*²⁵, a plan was proposed for a new affordable housing access system that integrates a client portal for the public to search and apply for available units, and a management system for housing providers to post vacancies and review applications.

²⁵ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH22.10>

City divisions working on concept design

The Divisions advised that this would create a centralized system of advertising and would help to fill future affordable units in a fair and transparent way. The Divisions advised that they are currently working on a concept design for the new centralized access system and an approach to consolidate and streamline the future administration of new affordable housing units, including ensuring effective program compliance and monitoring.

Divisions should consider recommendations from Auditor General's previous audits

In her July 2021 report, the Auditor General recommended that as the Divisions move forward with harmonizing their processes, that they consider relevant recommendations raised in previous audit reports regarding the centralized social housing waiting list, rent-geared-to-income eligibility, and the affordable home ownership program.

Conclusion

Going forward, align rental replacement policies and processes with City priorities for affordable housing

Our audit findings and recommendations focus on what City Planning can do going forward to continue to enhance its agreements and processes to better align with the City’s priorities for making available affordable rental replacement housing²⁶ accessible to all interested households based on financial need.

More specifically, we have summarized our observations and made recommendations in the following areas:

- A. Strengthening requirements for offering affordable rental replacement units through fair, open and transparent processes
- B. Standardizing affordable rental housing eligibility requirements and considering how this can be addressed in rental replacement agreements
- C. Harmonizing processes and requirements for administering affordable rental housing across the city

City should act now to meet intended objectives

With growth expected in the supply of affordable housing, the City needs to act now so that the City's objective to ensure that affordable units are allocated for the benefit of lower-income households is preserved in filling future affordable rental replacement units. This will require the City to review whether changes are needed to Official Plan policies and Chapter 667 of the Toronto Municipal Code.

Recommendations help improve access to eligible families in need of housing assistance

In our view, the implementation of the recommendations contained in this report will help improve how eligible individuals and families in need of assistance are made aware of and can access available affordable rental replacement opportunities.

²⁶ Subject to requirements for existing tenants who were displaced at the time of demolition to be able to return to a similar replacement unit without being subject to any new income eligibility requirements in the case of Section 111 Agreements.

Audit Objectives, Scope and Methodology

Audit conducted in response to Council request

The Auditor General's 2021 Audit Work Plan did not originally include an audit of affordable rental replacement units administered by the City Planning Division. In response to City Council's request to amend her 2021 Work Plan, the Auditor General carried out a preliminary risk assessment of the area and reported to Council in July 2021.

On consideration of the Auditor General's Report, at its meeting on July 14, 2021, City Council requested the Auditor General "to consider conducting an audit, in consultation with the Chief Planner and Executive Director, City Planning, to determine the extent to which developers have complied with the City of Toronto's Rental Replacement Policy."²⁷

Audit objective

The objective of this limited-scope audit was to evaluate whether City Planning had sufficient processes in place to ensure that owners complied with the City's requirements for replacement of affordable rental units, as secured under Section 37 of the *Planning Act* and Section 111 of the *City of Toronto Act*. This audit did not assess compliance with other aspects of the City's Rental Replacement Policy as set out in Toronto Municipal Code Chapter 667 Residential Rental Property Demolition and Conversion Control and Section 37 of the *Planning Act* and Section 111 of the *City of Toronto Act*.

Further, the audit included an evaluation of whether Section 111 agreements in and of themselves were sufficient to ensure:

- access to affordable rental replacement units were through fair, open and transparent processes
- tenant eligibility and selection was consistent with the objective of the City's affordable housing programs.

²⁷ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.AU9.16>

Audit limited to agreements administered by City Planning

The scope of this audit was limited to existing agreements, as identified by the City Planning Division, where owners were contractually required to provide affordable rental replacement units, and where the agreements are still active (terms and conditions are still in effect). We have not verified the completeness of this listing, as City Planning does not have a master inventory of all agreements executed over time. City Planning is separately conducting its own compliance review on this list of active agreements.

Access and tenant eligibility for affordable rental replacement housing units overseen by the Shelter, Support & Housing Administration Division (SSHA), including replacement of deeply affordable and rent-gear-to-income housing in TCHC redevelopment or revitalization projects, were not within the scope of this audit. The Auditor General's 2022 Work Plan²⁸ includes a review of the City's affordable rental housing program.

Audit methodology

Our audit methodology included the following:

- Review of Chapter 667 of the Toronto Municipal Code, Residential Rental Property Demolition and Conversion Control
- Review of Section 111 of the *City of Toronto Act*, Demolition and Conversion of Residential Rental Properties
- Review portions of Section 37 of the *Planning Act* relevant to rental replacement
- Interviews with staff of the City Planning and Legal Services Divisions
- Review of Section 111 agreements and Section 37 agreements for 10 out of 19 developments administered by City Planning that contained provisions for the supply of 263 affordable rental replacement units.
 - The agreements we reviewed covered 83 per cent of the total number of affordable rental replacement units in developments that have been fully or partially occupied, where access is administered by City Planning.
 - We purposefully selected developments with the largest number of affordable rental replacement units and with coverage spanning across the entire audit scope period. Developments not selected contained fewer than 11 affordable replacement rental units each, with a total of 53 affordable units not selected.

²⁸ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.AU10.3>

Compliance with generally accepted government auditing standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Exhibit 1: Excerpts from Section 4(1) of City of Toronto By-law 1756-2019, Municipal Housing Facility By-law

... eligibility for housing units to be provided as part of a municipal housing project facility will be determined as follows:

(a) **for rent-geared-to-income units**, tenants will be selected in accordance with the Housing Services Act, 2011, regulations under the Housing Services Act, 2011 and any policies adopted by the City in accordance with the Housing Services Act, 2011;

(b) **for low-rent units**, tenants will be selected either in the same manner as for rent-geared-to-income units or from the City's centralized waiting list or from the waiting lists of community agencies, non-profit agencies or other groups satisfactory to the Executive Director, or the General Manager in the case of Former Federal Projects;

(c) **for moderate-rent units**, tenants will be selected by the landlord provided that, when entering into the tenancy for the housing unit, the tenant has an household income at or below the Initial Income Limit and provided that tenant selection is carried out through a non-discriminatory process to the satisfaction of the Executive Director, or the General Manager in the case of Former Federal Projects

...

<https://www.toronto.ca/legdocs/bylaws/2019/law1756.pdf>

Appendix 1: Management's Response to the Auditor General's Report Entitled: “Revisiting Legacy Rental Replacement Policies to Align them with the City’s Affordable Rental Housing Expectations: An Audit of Affordable Rental Replacement Units”

Recommendation 1: City Council request the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor and other City divisions that oversee affordable housing, to:

- a. report back to City Council, through the Planning and Housing Committee, on the merits of amending rental replacement policies, including City of Toronto Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control, to include clear expectations of how future affordable rental replacement rental units are made available in a fair and open manner to the general public;
- b. ensure that future affordable rental replacement rental agreements between the City and owners include clear, specific requirements for owners to provide formal access plans; such plans to describe, to the satisfaction of the Chief Planner and Executive Director, City Planning, how information about affordable rental replacement opportunities are to be advertised to the general public, including lower-income households, and how new tenants of affordable rental replacement units are to be selected; and
- c. implement proactive monitoring processes that ensure sufficient evidence, to the satisfaction of the Chief Planner and Executive Director, City Planning, is obtained from owners to demonstrate compliance with required access plans and all other contractual requirements.

Management Response: <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Comments/Action Plan/Time Frame: <p>The Housing Secretariat and Shelter, Support & Housing Administration and City Planning are working on the development of a Centralized Housing Access System that will allow for all affordable rental units administered by the City to be accessed through a one-window system. As part of this work, City Planning will be reviewing what changes to the Official Plan policies, implementation guidelines and/or Chapter 667 of the Municipal Code may be necessary to ensure developers of affordable replacement rental units are required to use this system as well and units are made available to households in need of affordable housing.</p> <p>Since approximately 2020, all Section 111 Agreements have included access plan requirements. City Planning is working on aligning access plan requirements in agreements with those for other affordable rental units secured through a planning process and as part of an affordable housing program.</p> <p>Implementation of a Centralized Housing Access System will also help to implement consistent and proactive monitoring processes for affordable replacement rental units. Additional staff resources will be required to implement proactive monitoring of existing agreements and will be included in future budget requests.</p> <p>Timing for report back to City Council: initial report back in Q2 2022; if changes are needed to be made to policies or Chapter 667, a further report would be brought forward in late 2023.</p>

Recommendation 2: City Council request the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor and other City divisions that oversee affordable housing, to:

- a. review City of Toronto Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control and determine whether affordable housing principles and definitions consistent with amended Official Plan definitions of affordable rent and/or By-law 1756-2019, Municipal Housing Facility

can be incorporated into City of Toronto Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control and all Section 111 agreements containing affordable rental replacement units going forward;

- b. ensure future Section 111 agreements include terms that support the City's ability to require tenant eligibility criteria and verification practices consistent with City of Toronto Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control, should affordable housing principles and definitions be adopted; and
- c. implement processes to verify compliance with any eligibility requirements incorporated into executed agreements.

Management Response: <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Comments/Action Plan/Time Frame: Staff are reviewing how tenant eligibility criteria for affordable replacement rental units not occupied by a returning tenant can be required through the use of the new Centralized Housing Access System. Any changes required to be incorporated into City Council approved policies or Chapter 667 will be brought forward to City Council for consideration. Should changes be required, a report would be brought forward in Q4 2023. Staff are also working on development of guidelines that will outline expected processes for ensuring units are advertised and rented on a fair and open basis and/or in accordance with any eligibility requirements. This work is currently underway. Expected timeline is Q2 2022 with draft guidelines with finalization in 2023.

**AUDITOR
GENERAL**

TORONTO

