

# A missed opportunity: Ontario's proposed inclusionary zoning regulations

Maytree submission to the Ontario Ministry of Municipal Affairs regarding the proposed regulations under the *Planning Act* related to inclusionary zoning

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## To the Ontario Ministry of Municipal Affairs regarding EBR Registry posting number 013-1977

Maytree has been dedicated to creating solutions to poverty since 1982. We work with governments, researchers, the non-profit sector, and community organizations to build strong and vital communities. We welcome the opportunity to comment on the proposed regulations under the *Planning Act* related to inclusionary zoning, posted on the Environmental Registry.

In our view, the provincial government showed ambition and leadership in passing the *Promoting Affordable Housing Act* at the end of 2016. This Act paved the way for municipalities to implement inclusionary zoning policies that could, as part of a comprehensive approach, begin to address the severe shortfall of affordable housing in Ontario. While inclusionary zoning alone cannot address the scope and scale of housing affordability pressures facing Ontarians, we were pleased to see the province expand the range of policy tools available to municipalities, further empowering local communities to craft their own responses to fulfill their housing and homelessness plans.

In light of this opportunity we are deeply concerned by the proposed regulations, which are inconsistent with evidence and best practice. As currently constructed, the regulations are likely to undermine the ability to create the affordable housing communities need, and could even direct public funds away from affordable housing priorities. To that end we are submitting advice to the government aimed at improving the proposed regulations. Our proposed adjustments are modest in nature but could significantly improve the opportunity to create affordable housing in the province through inclusionary zoning and strengthen local decision-making on housing and planning issues.

## The scope to build affordable rental housing

While consulting on inclusionary zoning, the Ministry of Housing highlighted that “Our communities and neighbourhoods are stronger and more vital when they include a mix of people who are able to choose from

a range of available housing that meets their needs.”<sup>1</sup> The current public policy framework around housing development — and those preceding it — have failed to produce this outcome. The introduction of inclusionary zoning to the policy landscape in Ontario offers municipalities an additional tool to ensure complete communities that provide appropriate housing options for residents. But the potential for inclusionary zoning to meet this need will be severely limited under the draft regulations because:

- it is skewed toward producing affordable ownership housing, including an exemption for purpose-built rental developments, and
- it does not make provision for non-profits to acquire and manage affordable units as affordable rentals.

As a result the draft inclusionary zoning regulations will primarily result in the delivery of affordable ownership properties and not the *range* of affordable housing options that Ontario needs.

The affordable properties delivered through inclusionary zoning will be enabled by a substantial public investment (with municipal funds or in-kind contributions covering 40 per cent of the gap between the market and affordable sale price). This level of public spending can be justified by the acute need for below-market-cost housing in Ontario, but affordable ownership alone will not meet that need.

Without further substantial subsidies, affordable ownership properties only serve a small number of families in need, most of whom are reasonably well-served by the private rental market. By its very nature, affordable ownership typically serves middle-income families with enough savings to secure a down payment and financing. Meanwhile lower-income households lacking capital cannot access market or affordable ownership nor are they adequately served by the rental market. With the draft inclusionary zoning regulations unlikely to deliver affordable rental properties, the needs of low-income families facing the deepest housing need will continue to go unmet.

We urge the province in their adjustments to these regulations, and

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<sup>1</sup> Ministry of Municipal Affairs and Housing, “Long-term Affordable Housing Strategy Update, inclusionary zoning Consultation Discussion Guide,” May 2016 <http://www.mah.gov.on.ca/AssetFactory.aspx?did=14977>

municipalities in their application of them, to seek ways of ensuring that inclusionary zoning results in at least as many affordable rental properties as affordable ownership ones. Given that new development for rental markets remains quite limited compared to condominium development, this can be best achieved by ensuring that both funding and a policy framework are in place for the affordable housing created under inclusionary zoning bylaws to be owned and/or managed on a long-term basis by non-profits as affordable rental.

## Removing maximum set-asides

Housing is devolved to the municipal level because each locality in Ontario has a distinct housing market and housing needs. Inclusionary zoning gives municipalities a tool to meet those distinct needs. Regulations should be designed to allow municipalities to tailor their approach towards the communities they serve. These should avoid restrictions that make municipalities accountable to the province for the housing that is built, rather than local residents.

With the principle of local accountability in mind we are calling on the province to remove the maximum set-aside of 5 per cent of the total units (or 10 per cent of units in high density transit-station areas) from the draft regulations and allow municipalities to set their own maximums.

In some areas the need is much greater than others, and in those areas with the greatest need the proposed maximum of 5 or 10 per cent would not be sufficient to meet local demand, or even to stop housing need from growing. For example, in Toronto 175,000 housing units were completed between 2011 and 2016 (167,000 of which were intended for ownership).<sup>2</sup> Even if 10 per cent of these (or approximately 17,000 units) had been set-aside as affordable it would still not have kept pace with the rise in the number of families facing affordability pressures and spending more than a third of their income on rent (which rose by 50,000 over the same period).<sup>3</sup> It is also not in keeping with common inclusionary zoning practice; cities in

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2 CMHC. Starts and Completions Survey

3 Statistics Canada. 2011 National Household Survey, Catalogue Number 99-014-X2011031 and 2016 Census, Catalogue Number 98-400-X2016228.

the US where inclusionary zoning is more established commonly work to set aside levels of 15-20 per cent.<sup>4</sup>

Removing the maximum set-aside also makes municipalities free to set ambitious targets that spur innovation in developments and act as trailblazers for the rest of the province. When municipalities have the freedom to design a policy for their area, they have the opportunity to develop different bylaws and approaches. This scope for variation allows municipalities to learn from each other as they work towards finding new ways to generate affordable housing and complete communities.

Rather than specify a maximum set-aside, we recommend that the government remove Section 3a from the proposed regulations. This would allow municipalities to identify maximum set-asides entirely informed by local expert assessments of what will most effectively meet the need in their area.

## Realizing policy potential

For a generation we have failed to provide the range of market and affordable housing needed and this is adversely affecting Ontarians' opportunities, life choices, income, and wellbeing. The Long-Term Affordable Housing Strategy and the *Promoting Affordable Housing Act* have emphasized the need for new approaches, and new partnerships to achieve a vision where "every person has an affordable, suitable and adequate home to provide the foundation to secure employment, raise a family and build strong communities."<sup>5</sup>

To achieve this vision the government needs to allow municipalities the opportunity to experiment with their own policy innovations, including the use of inclusionary zoning. While inclusionary zoning can (as the government noted in passing the legislative framework) "help to serve more people in need of housing, increase the supply of affordable units, and meet

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<sup>4</sup> Robert Hickey, Lisa Sturtevant, and Emily Thaden. "Achieving Lasting Affordability through Inclusionary Housing," Lincoln Institute of Land Policy Working Paper, 2014 <http://www.lincolnist.edu/sites/default/files/pubfiles/achieving-lasting-affordability-through-inclusionary-housing-full.pdf>

<sup>5</sup> Ontario Municipal Affairs and Housing. "Ontario's Long-Term Affordable Housing Strategy Update," 2016 <http://www.mah.gov.on.ca/AssetFactory.aspx?did=13683>

local needs,”<sup>6</sup> the proposed regulations effectively eliminate the chance of success before municipalities even have an opportunity to start drafting their own policies.

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<sup>6</sup> Ontario Newsroom. “Promoting Affordable Housing Act,” Backgrounder, 2016 <https://news.ontario.ca/mho/en/2016/12/promoting-affordable-housing-act.html>

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