



August 16, 2016

Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay St., 13th floor
Toronto, Ontario M5G 2E5
Email: inclusionaryzoning@ontario.ca

Dear Sirs/Mesdames,

Re: Inclusionary Zoning – Consultation Discussion Guide (Bill 204 and update to the Ontario Long-Term Affordable Strategy)

I am writing on behalf of the Advocacy Centre for Tenants Ontario (ACTO) with respect to the above-mentioned consultation on inclusionary zoning. ACTO is a community legal clinic, funded by Legal Aid Ontario, with a province-wide mandate. We work for the advancement of human rights and social justice in housing for low-income Ontarians through legal advice and representation, law reform, community organizing, and education and training.

ACTO is very pleased that the Ontario government is moving forward in Bill 204 (***Promoting Affordable Housing Act, 2016***) with amendments to the ***Planning Act*** that would permit municipalities to adopt mandatory inclusionary housing policies in their Official Plans which will be enacted through the adoption of inclusionary zoning by-laws. Our clinic has long-supported the introduction of such provincial enabling legislation. ACTO's sees the inclusionary zoning framework as having two main purposes – increasing the income mix in neighbourhoods to help create healthy, diverse communities and increasing the supply of much-needed affordable housing in Ontario.

These dual purposes are consistent the provincial interest in providing for “an appropriate range and mix of housing types”, including the setting of “minimum targets for the provision of housing which is affordable to low and moderate income households” in new residential developments.¹ Inclusionary housing policies and related zoning by-laws could also help combat the “not in my backyard” syndrome as affordable housing becomes a normal part of new residential development.

ACTO speaks on behalf of the 479,405 low-income tenants in Ontario which comprise 35% of all renter households in the province. Of these low-income tenant households:

- 200,000 live in social housing, paying rent-geared-to-income (RGI)

¹ 2014 Provincial Policy statement, under the ***Planning Act***. Section 1.4.3. Page 14.

- Between 15,000 to 20,000 receive rent subsidies (supplements or allowances) to help them pay their monthly rent in the private rental market, and
- 259,405 do not receive any rent subsidy – the majority living in the private rental market, with the balance as social housing tenants paying market rent.

Our focus is on homelessness prevention and bettering the housing conditions for the above-mentioned low-income tenants.

ACTO is particularly interested in the adoption of inclusionary housing policies that will benefit low-income tenant households who are financially disadvantaged in the private rental market where they are paying more than 30% of their total household income on shelter costs. We make the following recommendations through that lens with a view to increasing the affordable purpose-built rental housing stock in Ontario.

ACTO recognizes that, unless required to do so by regulation, it will be a voluntary option for municipalities to include inclusionary housing policies in their Official Plans and to adopt inclusionary zoning by-laws. We wish this to be an attractive, viable and effective option and understand that there is a delicate balance between the setting of provincial guidelines or standards to achieve certain broader goals through inclusionary zoning and allowing municipalities the discretion to set inclusionary housing policies that respond to the local affordable housing needs. However, we do believe that the province should set some minimum requirements for the inclusionary housing by-laws – with municipalities having the choice to go further based on their local housing markets and the targets in their 10-year housing and homelessness plans.

Program targets/Rent

ACTO acknowledges that inclusionary zoning is a planning tool which is expected to only modestly add to the supply of affordable housing in the province. To make any significant progress in addressing the affordable housing need, we must establish a well-funded National Housing Strategy in partnership with the provinces, territories and municipalities that includes a robust social housing new-build program with annual targets and additional funding for rent subsidies for those who have very low incomes.

However, Ontario can make inclusionary zoning more effective in addressing the affordable housing need by setting a provincial requirement that **all housing** produced through inclusionary zoning by-laws must be **below-market**. At a minimum, ACTO believes this means that the province should prescribe that below-market rents in inclusionary housing units provided as purpose-built rental must be at or below 80% of the current average CMHC market rents by unit-type in the municipality. Municipalities can choose to deepen the affordability of the rental housing provided through inclusionary zoning by, for example, providing separately funded rent subsidies. This would allow municipalities to set rents for low-income tenants so that they are not paying more than 30% of their household income. It would be helpful if the provincial legislation clearly authorizes municipalities to include requirements in the by-laws that developments enter into such rent-subsidy agreements for a portion of the affordable rental units if the municipality chooses to exercise that option.

Affordability measures

To the extent that affordable ownership is a component of a municipality's inclusionary zoning by-law, the legislation should require that the establishment by a municipality of affordable prices must be related to a robust affordability analysis that emphasizes household incomes over real estate market prices. In particular, there should be some relationship between the incomes of the households served by affordable rents and by affordable ownership.

Threshold size and Unit set-aside

ACTO recommends that the province should set the minimum threshold size at 20 units for the triggering of inclusionary housing requirements in new housing developments.

The province should also require that, at an absolute minimum, 10% of the housing units in a new development should be aside for inclusionary **purpose-built affordable rental housing**. Municipalities should be allowed to set a higher percentage for unit set-asides if they wish to obtain below-market homeownership units or increase the number of below-market affordable rental housing units. ACTO is very concerned that without such a requirement, municipalities will be under significant pressure to maximize ownership opportunities in preference to rental. Yet the most significant housing needs are for affordable rental housing.

Affordability periods and ownership of purpose-built rental housing

ACTO would like to ensure the ongoing affordability of all the inclusionary housing units. The length of the affordability period is particularly important in cases where the private sector may own and operate the inclusionary housing units.

We believe the best way to achieve lengthy affordability periods for the **purpose-built rental housing** is for the province to require that priority be given to ownership by municipal non-profit, private non-profit or co-op housing providers that have a public interest in maintaining the tenure and affordability permanently.

Measures and incentives

Inclusionary zoning is a stand-alone program under which developers should be obligated to provide below-market housing without any financial incentives.

Municipalities across Ontario have adopted a variety of measures and incentives to encourage the development of affordable housing, but they should not be used to offset costs for developers subject to inclusionary housing requirements. Such incentives could be used to extend or increase the public benefits, such as providing lower rents than required or extended periods of rent affordability. While increased density should not be a requirement for applying inclusionary zoning requirements, it should be recognized that in most situations where 20 or more units are being developed, there have likely been recent or new zoning permissions provided, and/or new municipal infrastructure investments that make such new development possible.

Cash in-lieu and building off-site

In general, ACTO believes that the below-market housing provided through inclusionary zoning should be on the same site as the new housing development to further the goal of mixed income communities. However, we believe that municipalities should have some discretion to waive this requirement if it would better serve the affordable housing needs in their community. The current proposed prohibition on cash-in-lieu and building off site would limit the municipalities' flexibility to maximize the number of below-market affordable housing units achieved under inclusionary zoning. We recommend that these current proposed prohibitions should be removed.

Administration, monitoring and reporting

ACTO believes there should be transparency and publicly available annual reports on the number of below-market housing units – both purpose-built rental and homeownership - that are obtained in municipalities which have inclusionary zoning policies and by-laws. In particular, ACTO recommends that the municipality should report on the below-market rents that are being charged to tenants in the purpose-built rental housing and the below-market sale prices being charged for the ownership housing.

Use with section 37 (height and density bonusing)

Section 37 voluntary agreements for additional height and density should be allowed in inclusionary housing buildings and sites. This will allow the municipalities to maximize both these planning tools to increase the supply of affordable housing. Prohibiting the use of Section 37 when inclusionary zoning is applied may pit community needs against affordable housing needs, with possible negative impacts on public support for new affordable housing.

Thank for considering the above recommendations and comments.

Yours truly,

Advocacy Centre for Tenants Ontario

Per:



Mary Todorow
Research/Policy Analyst