

November 17, 2022
Email: schicp@ola.org

Standing Committee on Heritage, Infrastructure and Cultural Policy
Whitney Block, Room 1405
99 Wellesley Street W
Toronto, ON
M7A 1A2

Dear Chair Scott,

Re: Bill 23, More Homes Built Faster Act, 2022

I am writing on behalf of the Advocacy Centre for Tenants Ontario (ACTO), a non-profit organization working to advance and protect the interests of low-income and moderate income tenants. At ACTO, we strive for the advancement of human rights and justice in housing through legal advice & representation, law reform, community organizing, training and education. This includes managing and providing tenant duty counsel services for Ontarians at the Landlord and Tenant Board.

ACTO welcomes the government's attention to the growing housing crisis in Ontario. Bill 23 includes some beneficial measures to facilitate more "missing middle" types of housing by allowing "as of right" additions of up to 3 residential across residential neighbourhoods. These measures can decrease costs and prevent "Not In My Back Yard" (NIMBY) opposition of new housing in residential neighbourhoods. Bill 23 also includes measures to ensure minimum density around transit hubs, requiring municipalities to pre-zone these sites. This could constitute an important step in using public infrastructure towards the development of complete communities. Finally, the cuts to taxes on non-profit development could lower the costs of affordable housing and make projects more viable.

However, ACTO is highly concerned with the ability of Bill 23 to promote the development of affordable housing that is desperately needed by Ontarians. As many experts have pointed out, the exclusive focus on supply, without measures to secure affordable housing or preserve our existing affordable housing, will not improve affordability for low and moderate income Ontarians. Instead, we need tools that will promote and protect affordable rental housing in Ontario. We strongly urge the government to reconsider the following three measures that undermine efforts to address the affordable housing crisis.

Removal or Weakening of Rental Replacement Rules will Undermine Affordable Housing

We are deeply troubled by the proposal to limit or restrict rental replacement regulations. Rental replacement rules are municipal by-laws that help protect the existing supply of rental housing. These rules ensure that when a developer or landlord wants to demolish or convert an existing rental property with 6 or more units, they must, at minimum, maintain the same number of units as rentals in the newly updated building.

Any weakening or elimination of rental replacement policies would be a devastating blow to renters. There are over 1.7 million households in Ontario that rent their homes and every single one of them would be negatively impacted by the province eliminating or weakening the rental replacement rules.

We are currently losing affordable rental units at a much higher rate than we are creating them. Between 2006 and 2016, Ontario experienced a 26% decline in units that rent for less than \$1000, while units renting by over \$1,500 increased a shocking 360%. This trend has further accelerated. Between 2016 and 2021, units renting for under \$1,000 have decreased by another 36%. The highest increase has been in luxury rentals, renting for over \$3000, which have increased by 87%.

Rental conversion and demolition bylaws are one of the very few ways in which municipalities can protect their existing rental housing. For example, since 2007, the City of Toronto has ensured the replacement of over 4,000 rental units through its rental replacement bylaw. Mississauga, prior to the implementation of a rental replacement bylaw, was losing 70 purpose built rentals each year to condominium conversions and between 2005 and 2018, three projects totaling 55 units were demolished. Units at risk of conversion and demolition tend to be older buildings that are often some of the few remaining affordable rentals left in the municipality.

Rental replacement policies are a proactive approach to preserving one's home compared to the complaints-driven approach offered through the Residential Tenancies Act ("RTA"). The RTA expects parties to assert their rights. However many tenants, due to cultural, language and other barriers, end up not exercising those rights and lose their homes. Furthermore, the monetary penalties within the RTA are insufficient as a deterrent to keep landlords from engaging in demovictions and renovictions. Furthermore, the right to purchase a converted apartment for the renter is inadequate, as most renters could not afford to purchase a condominium in today's market.

There is no basis or evidence to suggest rental replacement policies prevent renewal. The RTA holds owners responsible for maintaining their properties, and the legislation also permits them to pass along the costs of any significant capital

expenditures incurred for renewal or for energy conservation. Therefore the RTA offers landlords with the necessary tools and responsibility to maintain their investment.

Lastly, these policies were created after extensive consultation with stakeholders and residents to craft a policy that works well for their city. Creating a one-size-fits-all regulation would be inefficient and potentially weaken rental replacement protections because it is not informed by the unique needs of local residents.

The housing crisis is too critical to enact this part of the legislation. Any weakening or reduction of rental housing protections will result in the continued loss of affordable rental units and place tenants at even greater risk of losing their housing. Given escalating rents and low vacancy rates, renters who lose their homes because of conversion of existing rental units are unlikely to find other homes at an affordable price. These tenants will then be at greater risk of displacement and homelessness. . In order to preserve our existing affordable housing rental regulations should be expanded, instead of restricted.

Inclusionary Zoning is an Effective Tool for Affordability

We are concerned about the impacts of the proposed limitations to Inclusionary Zoning (IZ) policies. Inclusionary Zoning requires that any new developments must provide a certain percentage of affordable units for a specified period of time. IZ can be an effective tool to generate affordable housing by leveraging private sector investments.

Bill 23 places a limit of 5% on the set aside rate of affordable units and a 25 year affordability period. The set-aside and affordability time limits are well below the numbers that municipalities have found to be financially viable based on independent financial assessments. These limits are also below the best practices used in other jurisdictions, such as Montreal and New York City, and recommended by housing experts. The proposed new limits will hamper the inclusion of affordable housing in new developments. A 5% set aside rate is entirely too low to generate substantial numbers of affordable units. And even more troubling, a 25 year affordability period merely passes the crisis on to the next generation of tenants and decision-makers. Once the 25 year affordability period is over, policymakers will be faced with the need to provide funding to retain these affordable units or risk tenants being evicted.

The proposed regulatory changes suggests again a one-size-fits-all approach to a program which should reflect local realities. Different municipalities have very different housing markets, the needs of its residents, and financial contexts. A province-wide regulation on IZ is unnecessary and inefficient. Municipalities established IZ policies that they know will work for them to achieve the goal of creating more affordable housing for their residents.

Under current regulations, municipalities are required to conduct an independent feasibility study of proposed IZ bylaws to ensure they are financially viable. This results in IZ requirements that are responsive to the local housing market and economic context, instead of the one-size-fits-all approach. The City of Toronto's independent financial assessment resulted in a bylaw with set aside rates of 5-15% and an affordability period of 99 years. The City of Mississauga's IZ bylaw established set-aside rates as high as 10%. Instead, Bill 23 is capping IZ to a volume of 5% with the affordability period reduced to 25 years – regardless of what independent assessments have shown to be feasible. This will result in a much lower number of new affordable units created.

Finally, the proposed regulation would establish a province-wide definition of affordability at 80 per cent of average market rent. The reality is that in markets such as Toronto, Mississauga, or Ottawa, the resulting rents for supposedly affordable units would be too high for low and moderate income tenants.

When every data point shows a worsening housing affordability crisis, there is no rationale for constraining the development of new affordable units that have been demonstrated to be financially viable. Bill 23 is limiting the ability to use an effective tool to address the urgent housing affordability crisis in Ontario.

Changes to Development Charges are good for Investors, not for Taxpayers

Bill 23 proposes several changes to the *Development Charges Act* and *Planning Act* that, if passed, will be detrimental to municipalities and taxpayers. While eliminating development charges (DC) for non-profit housing and affordable rental units is helpful, we are concerned about the financial impact on municipalities of proposed reductions to the market housing development charges, community benefits charges, and parkland dedication levies.

Municipalities already face heavy financial burdens and have limited sources for generating revenue. The loss of DC funding will have a serious impact on their ability to pay for critical infrastructure and services that are needed to support existing residents' needs and future growth, and will shift the burden from developers to taxpayers.

Of even greater concern to renters, Bill 23 will also eliminate the ability of municipalities to implement development charges to fund affordable housing development and services. These funds are a critical component in municipalities' plans to create new affordable homes and support existing housing programs. Eliminating development charges for housing services will further reduce municipalities' ability to create new affordable rental housing. Funding from development charges is part of the planning for affordable housing

development in municipalities across the province. In Toronto alone, it has been estimated that Bill 23 will result in a reduction of \$200 million in annual revenue.

Bill 23 offers no assurances or requirements that savings from reduced development charges will be passed on to Ontarians. What is likely to occur is that municipalities will be forced to significantly increase property taxes to pay for growth, and place the burden on existing residents. The proposed changes to DCs will counter existing efforts to build more affordable housing, and shift the financial responsibility of growth-related infrastructure onto taxpayers.

Conclusion

To conclude, while Bill 23 has some promising measures, the provisions outlined above work to the detriment of low and moderate income tenants. This Bill would undo promising, well-researched municipal policies that were developed after extensive consultations. These proposed changes will further undermine low and moderate-income tenants who are in desperate need of support. We urge the Committee to reconsider the measures outlined above. We strongly recommend the following measures:

1. Repeal provisions that will weaken rental replacement regulations
2. Revise the proposed limitations to IZ to allow municipalities to enact bylaws suited to the local context
3. Retain the ability to use development charges for housing services.

Therefore, we urge the government to reconsider these measures in order to produce a bill that will more effectively address our escalating housing affordability crisis.

Sincerely,

ADVOCACY CENTRE FOR TENANTS ONTARIO



Douglas Kwan
Director of Advocacy and Legal Services