

## Comprehensive ‘made-in-Ontario’ housing plan with real targets, timelines and funding required to meet diverse, complex housing needs

Notes for a submission to the Standing Committee on Justice Policy

March 24, 2011

My name is Michael Shapcott. I am Director, Affordable Housing and Social Innovation at the Wellesley Institute and co-chair of the Housing Network of Ontario. Thank you for the opportunity to make these submissions. The Wellesley Institute is a research and policy institute dedicated to advancing population health. We know from our own research, and that of others, that a good home is fundamental to personal health and the health of communities. We also know from our own policy work, and that of others, that there are practical housing solutions that Ontario can take to address deep and persistent housing insecurity across the province. The Housing Network of Ontario was formed in 2008 and includes more than 450 provincial and local organizations and individuals in more than 30 communities across the province. Our network includes people with lived experience of poverty, homelessness and precarious housing, along with anti-poverty activists, homelessness and social housing advocates, equity and human rights groups and non-profit organizations.

The Ontario government has taken important steps in affordable housing programs and funding in recent years, including:

- Infrastructure Ontario’s \$500 million affordable housing loan fund in 2008;
- Provincial Policy Statement 2005 requirements for affordable housing plans;
- \$100 million in social housing repair funding in 2008;
- Bill 140 plan to amend the *Planning Act* to legalize secondary suites;
- Bill 140 to replace punitive *Social Housing Reform Act* with modern legislation;
- Eviction prevention strategies, including rent bank and energy poverty initiatives.

***However, none of these individual initiatives is sufficient to meet the housing needs of Ontarians, and all of them together do not add up to a comprehensive long-term affordable housing plan for the province.*** Canada Mortgage and Housing Corporation reports that core housing need in Ontario has grown from 408,305 households in 1991 (11.9% of population) to 627,530 households in 2006 (14.5%) – a 54% increase in 15 years. The Ontario Non-Profit Housing Association’s reported in 2010 that provincial housing waiting lists stood at a staggering 141,635 households – up 9.6% in one year. The housing needs of Ontarians are complex and diverse, as noted in ongoing research series such as the *Where’s Home?* reports issued regularly by ONPHA and the Co-operative Housing Federation of Canada.

**Highest housing costs:** Ontario has the highest housing costs of any province (median household shelter costs of \$10,878, according to Statistics Canada). One in every three Toronto households spends 30% or more of their income on housing – the worst record among metropolitan areas across Canada. High housing costs for low, moderate and middle-income households means less money for other necessities such as food, medicine, energy, childcare, transportation, clothing, education... High housing costs are the single biggest reason why more than one million people were forced to line-up at Toronto's food banks last year (Source: Daily Bread Food Bank).

**Lowest provincial investment:** Ontario has the worst record among all the provinces in terms of affordable housing investments. In the fiscal year ending March 31, 2009, Ontario spent \$64 per capita on affordable housing, about half the provincial average of \$115 per person (source: Wellesley Institute calculation based on Statistics Canada Government Revenue and Expenditures database). At the head of the provincial pack are Saskatchewan (\$214 per capita – almost three and one-half times greater than Ontario), Nova Scotia (\$175) and Alberta (\$154). On March 12, 2009, the Alberta government announced a \$3.2 billion, 10-year housing plan. Ontario's housing plan is not expected until late 2010 or 2011.

**Biggest municipal downloading:** Ontario, more than any other province, has downloaded the cost of affordable housing to local government. In the 2009 fiscal year, the provincial government invested \$829 million in affordable housing – just two-thirds of the \$1.3 billion invested by municipalities (source: Statistics Canada Government Revenue and Expenditures database). Cash-strapped Ontario municipalities have limited revenues sources (mostly property taxes, grants from senior governments and fees), which leaves little ability to grow housing investments to meet the growing housing needs across the province.

The Wellesley Institute joined with hundreds of partners in the Housing Network of Ontario in a province-wide initiative to identify local housing needs and local housing solutions. We set out “five tests” for a comprehensive long-term affordable housing strategy for Ontario. Four of the five tests (bold targets and sustained funding, a solid measuring stick, accountability, make housing truly affordable and accessible) are mostly or completely absent from the housing strategy released by the provincial government in 2010 and in the legislative measures in Bill 140. Based on this assessment, we concluded:

***“The Ontario government has put up the scaffolding for a long-term affordable housing strategy, but there’s plenty of unfinished business for Queen’s Park as it seeks to build a truly comprehensive plan to ensure everyone has access to a healthy, affordable home. There are no targets, timelines and no new housing investments.”***

## **Recommendation one: Amend Bill 140 to amend the *Planning Act* to ensure municipalities have the power to enact locally appropriate inclusionary housing policies**

The rise in housing insecurity in Ontario was not caused by a drop housing supply. The province's private housing markets continue to generate new supply – even after the recession hit in 2008. But private markets aim for the middle to upper end of the income scale, and housing

need is most acute at the middle to lower end of the income scale. Hundreds of municipalities in the United States, and several states, use mandatory inclusionary housing policies to ensure a healthy and inclusive mix of housing types in all new development.

Under Canadian planning and constitutional law, municipalities are prohibited from taking initiative without specific provincial authority. An Ontario Municipal Board ruling that struck down an inclusionary housing bylaw in Burlington in the early 1990s due to a lack of proper legislative authority is cited as the reason why municipalities in Ontario do not enact locally-appropriate inclusionary housing policies. However, a growing number of municipalities have expressed interest in adapting these robust planning tools, including the Regional Planning Commissioners of Ontario – representing senior planners in all the upper-tier municipalities.

The Wellesley Institute, and our partners, including ACORN Canada, has devoted extensive research and policy attention to inclusionary housing. We commissioned a leading Canadian expert on planning issues – Richard Drdla – to prepare case studies on inclusionary planning practices in US cities. Other background material and resources is available at the Inclusionary Housing Canada web site at <http://www.inclusionaryhousing.ca/>. Among the many practical resources that are available is a detailed guide to inclusionary housing policy that is attached as an appendix to this submission.

Bill 140 proposes to open s16 of the *Planning Act* (“Contents of an Official Plan”) to authorize secondary suites as a matter of right, and it proposes other amendments to the *Planning Act* to operationalize this amendment. We fully support this section of the legislation. ***We recommend an amendment to Bill 140 to further amend s16 of the Planning Act to authorize municipalities to enact locally-appropriate inclusionary housing plans.*** While we are not trained in legislative drafting, we would submit this language for your consideration:

#### **Inclusionary housing by-law**

**(1) The council of a local municipality may require that a specified percentage of housing units in all new housing developments in the municipality be affordable to low and moderate income households.**

#### **By-law applies to all developments**

**(2) A by-law described in subsection (1) applies regardless of whether a new housing development requires amendments to an existing by-law or not.**

#### **Incentives**

**(3) Where a municipality has passed a by-law described in subsection (1), the municipality is not required to provide any financial assistance or other incentives to developers.**

#### **Condition**

**(4) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to inclusionary housing requirements.**

#### **Agreements**

**(5) Where a municipality has passed a by-law described in subsection (1), the municipality may require a developer to enter into one or more agreements with the municipality dealing with the affordable housing requirements.**

**Agreement re: affordability**

**(6) Without restricting the generality of subsection (5), an agreement entered into under that subsection may require that the affordability of units be maintained and may restrict the purchase and sale of units to eligible persons as determined in accordance with the regulations.**

**Registration of agreement**

**(7) Any agreement entered into under subsection (5) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the developer and, subject to the provisions of the Registry Act and the Land Titles Act, any and all subsequent owners of the land.**

**Regulations**

**(8) The Lieutenant Governor in Council may make regulations governing municipalities that pass by-laws described in subsection (1) and dealing with the following matters:**

- 1. The number of bedrooms in the affordable units in new housing developments.**
- 2. The size of affordable units in new housing developments.**
- 3. The timing of the construction of the affordable units in new housing developments.**
- 4. The location and distribution of the affordable units within new housing developments.**
- 5. The design and construction standards required for the affordable units in new housing developments.**
- 6. The eligibility requirements for ownership and occupancy of affordable units in new housing developments.**
- 7. Alternative methods for satisfying inclusionary housing requirements, including but not limited to payment of fees in lieu and the provision of land.**
- 8. Such other matters as the Lieutenant Governor in Council considers necessary or advisable for the provision of inclusionary housing.**

We have also recommended to the Ontario government – as part of its review of the *Provincial Policy Statement 2005* (the policy document that sets a planning framework on affordable housing and other issues of provincial interest) – that certain changes be made to the revised version of the *Provincial Policy Statement* that would serve as a companion policy document to the *Planning Act*. Our submission on this matter is also attached as an appendix.

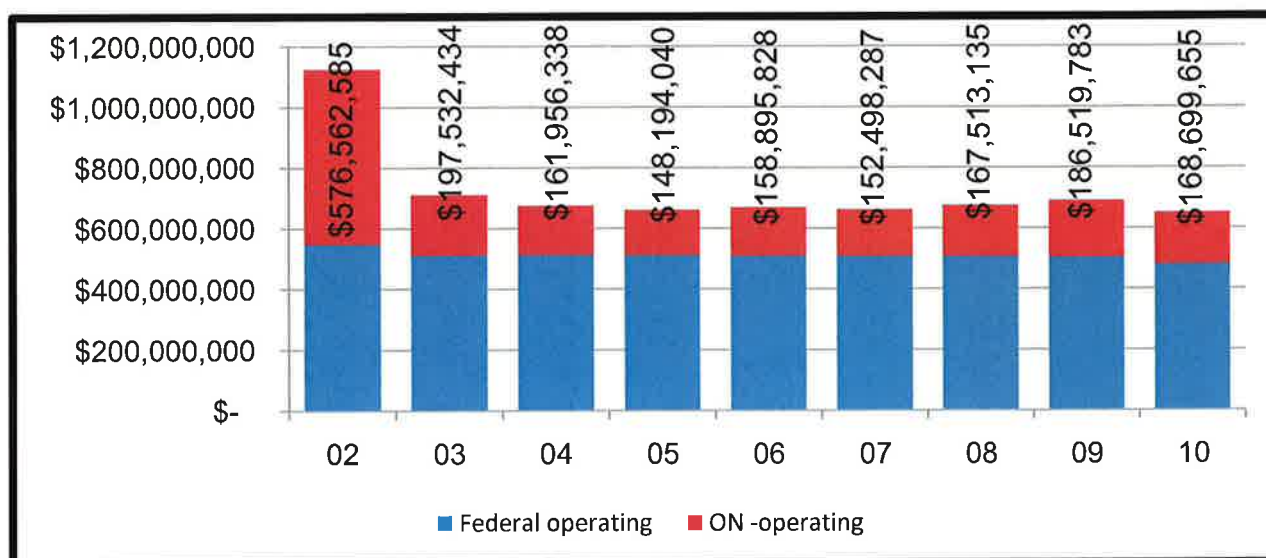
## Recommendation two: Amend Bill 140 to require the provincial government create a comprehensive ‘made-in-Ontario’ affordable housing plan to meet the housing needs and respect the housing rights of Ontarians

**Over the past two decades, housing policy in Ontario has largely been led by the federal government.** In 1993, the federal government cancelled funding for new affordable / social housing. In 1995, the Ontario government cancelled new funding. In 1996, the federal government announced plans to transfer administration of most national housing programs to the provinces and territories. In 1998, the Ontario government started to work on its own plan to download housing programs to municipal service managers.

In 2000, the federal government announced a new cost-shared affordable housing program, and Ontario signed on in 2001 (although significant provincial funding under the Affordable Housing Framework Agreement didn’t start flowing until after Ontario re-signed a bilateral housing agreement with the federal government in 2005). In 2006, the federal government allocated \$1.4 billion in affordable housing funding – and two years later, Ontario signed on. In the 2009 stimulus budget, the federal government allocated \$2 billion in affordable housing funding – and the Ontario government quickly signed onto this plan. The federal government has taken the lead, from time to time, in short-term housing initiatives – and the Ontario government has followed – sometimes with a long delay before finally allocating its share.

### Shrinking operating funding

The Public Accounts of Ontario records operating and capital spending on affordable housing at the Ministry of Municipal Affairs and Housing. The Public Accounts show that, on the operating side, most provincial housing dollars come from the federal government from transferred housing programs. **The unilateral provincial share is only 25 cents of every provincial housing dollar.** Unilateral provincial operating spending of \$169 million in the latest complete fiscal year is down 15% from 2003.



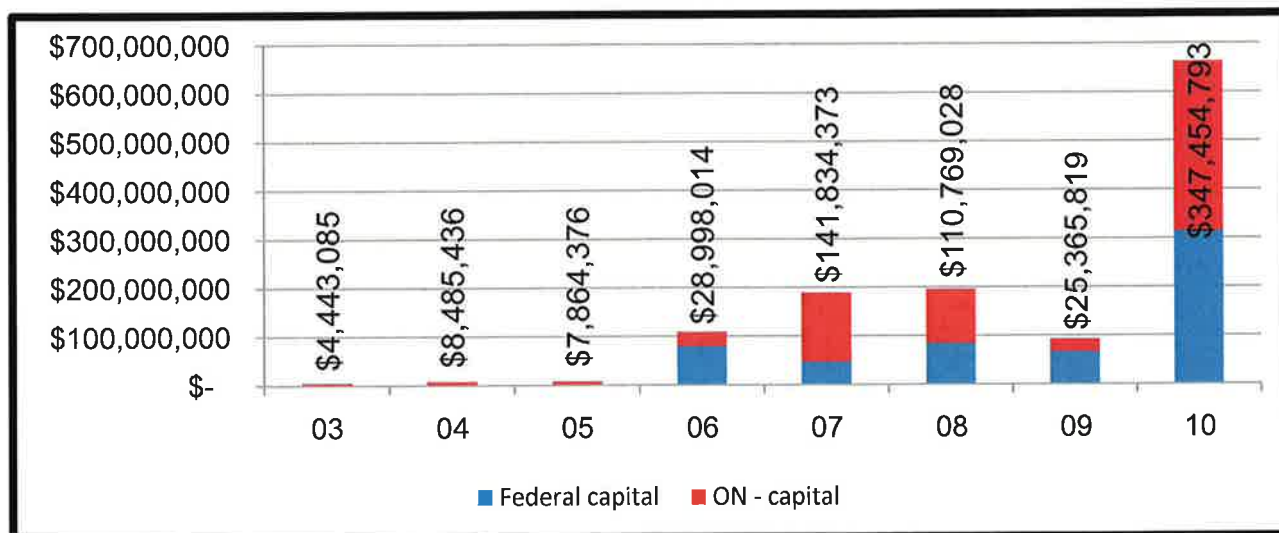
Public Accounts of Ontario, affordable housing operating funding

The federal investment in ongoing operations of affordable housing are being cut in the coming years – and the gradual reduction is evident in the Ontario Public Accounts. The pace of federal withdrawal will increase, as the Ontario Auditor General noted in his 2009 review of provincial social housing programs. This creates a significant policy and funding challenge for Ontario, which relies on the federal government for 75 cents out of every operating dollar that it spends.

The Auditor General also noted in 2009 that operational cuts at the Ontario Ministry of Municipal Affairs and Housing affects the ability of the provincial government to effectively design and implement affordable housing initiatives, and to ensure that there are effective accountability mechanisms in place to monitor and evaluate these programs.

### Uncertain capital funding

On the capital side, the Ontario Public Accounts report that affordable housing investments have grown considerably – both with new federal dollars and with provincial dollars (timed, as noted above, following the re-signing of the federal-provincial affordable housing agreement in 2005 and the federal stimulus budget of 2009). However, these dollars will drop off sharply over the next six months as the federal government winds down the housing components of the 2009 stimulus budget. Development of affordable housing requires reliable capital funding with long-term certainty. The federal budget released on March 22, 2011, contains no commitment to renewed federal investment in affordable housing capital financing. With a federal election looming on the horizon, there is ongoing uncertainty at the national level. If Ontario continues to adopt its past practice of waiting for the federal government to take a lead on housing funding, before deciding whether to join, then the short-term horizon looks bleak.



Public Accounts of Ontario, affordable housing capital investments

### Infrastructure Ontario: Promising innovation, but mostly untapped

In its 2008 budget, the Ontario government announced a \$500 million affordable housing loan fund through Infrastructure Ontario. This is perhaps the most promising and innovative housing finance mechanism at a governmental level anywhere in Canada in the past generation: The government uses its excellent credit rating to borrow money in the private markets at very low rates, then offers low-cost loans to affordable housing providers. But only about one-third of the

dollars in the loan fund had been allocated to approved loans in almost three years. The provincial government's role as a financial intermediary can be critical in unlocking the pent-up demand for capital dollars – but the current arrangement does not appear to be delivering good results. The province needs to unlock the potential of Infrastructure Ontario.

### **Ontario housing plan lacks key elements of real plan: Targets, timelines, funding**

The Alberta government, with its 10-year housing and homelessness plans, includes specific targets, timelines and funding to meet the overall goals. The United States' Department of Housing and Urban Development's 10-year plan to end homelessness in that country includes specific targets, timelines and funding. The commonwealth-state affordable housing agreements between the national and state governments in Australia include specific targets, timelines and funding. The Finnish government's strategy to end homelessness in that country includes specific targets, timelines and funding. Ontario's long-term affordable housing plan sets out a sensible observation: "Safe and affordable housing is fundamental for Ontarians striving to build a strong future for their families and their communities." But it fails to include the practical mechanisms to achieve that vision.

### **Reasonable 10-year goal: 750,000 new and renovated homes**

In the Wellesley Institute's submission to the Ontario housing minister as part of the consultations for a long-term affordable housing plan, we offered an initial calculation of the scale of housing initiatives that are required to meet the housing needs of Ontarians. We noted:

*"While more review is needed to set specific targets and timelines, and develop a more realistic cost estimate, the current evidence suggests that a reasonable goal would be 750,000 new and renovated affordable homes over the next ten years. Some key elements of this Vision 2020 plan:*

- 250,000 renovated homes;
- 500,000 new affordable homes; including 110,000 from an inclusionary housing policy;
- dedicated portion for urban and rural Aboriginal housing under Aboriginal control;
- specific targets for supportive and alternative housing;
- \$310 million annually for repairs and renovation (provincial share);
- \$1 billion annually for new housing (provincial share);
- federal government to match provincial contributions;
- new credit facility for affordable housing (revolving fund of \$2 billion annually) to allow affordable housing developers to access capital;
- sector support funding of \$40 million annually;
- housing-related services funding for physical and mental health supports;
- pre-development and development assistance revolving fund of \$40 million annually."

*"We are not able to provide an exact costing at this time. The government's plan needs to include a blended investment plan that includes direct grants, access to provincially-backed financial credit, and other innovative financing options."*

The Wellesley Institute is very interested in working with ministry officials to develop a robust set of indicators of need, and to frame pragmatic, effective and affordable policy options.

In these challenging fiscal times, the prospect of raising substantial revenues is daunting. However, we offer two observations:

- first, the ***cost of “doing nothing” is exacting a terrible toll***. Precarious housing and homelessness is costly to individual health and to the health of communities and is also providing a drag on the economic and draining government resources. It is not just social policy groups, but also business organizations (most recently, the Canadian Chamber of Commerce) that are calling for government leadership.
- second, the value of housing investments is measured not just in better health for individuals, stronger communities and reduce government costs in health care utilization and related areas. The federal government, in their most recent report to Canadians on their stimulus spending, calculate that the economic multiplier for housing investments is as high as 1.5 – which means ***every government dollar invested in housing leverages one dollar and fifty cents in jobs and other economic activity***.

### **Housing as a human right**

The Ontario Human Rights Commission held extensive consultations on the human right to housing throughout the province and, in 2009, issued a detailed policy on human rights and rental housing that is available at <http://www.ohrc.on.ca/en/issues/housing>. While the Commission has not issued a policy, to date, on other forms of housing, the rental policy paper is very instructive. The Commission, in its introduction, notes:

*“Housing is a human right. International law states that Canada must work towards making sure everyone has access to adequate and affordable housing. But some people, based on factors such as race, ancestry, disability, sex, family status and social and economic status, do not receive the housing rights they are entitled to. When multiple factors intersect, the disadvantage increases and people are at even greater risk of discrimination, poverty and even homelessness.”*

*“In Ontario, the Human Rights Code applies to both tenants and landlords. Under the Code, everyone has the right to equal treatment in housing without discrimination and harassment. And landlords are responsible for making sure housing environments are free from discrimination and harassment. People cannot be refused an apartment, harassed by a housing provider or other tenants, or otherwise treated unfairly because of one or more of the Ontario Human Rights Code grounds...”*

*“The right to equal treatment without discrimination applies when renting a unit (for example, in a high rise apartment, condo, co-op or house). It covers processes for choosing or evicting tenants, occupancy rules and regulations, repairs, the use of related services and facilities, and the general enjoyment of the premises.”*



*“Housing providers are not the only people responsible for making sure tenants’ human rights are respected. Government legislators, policy makers, planners and program designers, tribunals and courts must also make sure their activities, strategies and decisions address discrimination in housing.”*

***We recommend a further amendment to Bill 140 that would direct the Minister of Municipal Affairs and Housing to prepare within 180 days a comprehensive long-term affordable housing strategy that meets the housing needs of Ontarians and fulfills the province’s human rights obligations.*** As already noted, we are not trained in legislative drafting, but we offer the following proposed amendment:

- 1. The Minister shall, in consultation with representatives of municipalities, Aboriginal communities, non-profit and private sector housing providers and civil society organizations, including those that represent groups in need of adequate housing, establish a comprehensive Ontario housing strategy designed to meet the diverse housing needs of all Ontarians – with specific targets for those groups that experience the heaviest burden of housing insecurity and homelessness.**
- 2. The Ontario housing strategy shall be developed in consultation with the Ontario Human Rights Commission and others with expertise in housing and human rights to ensure that the strategy respects, protects, and promotes the right to adequate housing.**
- 3. The Minister shall report back to the Ontario Legislature within 180 days of the proclamation of this legislation with the key elements of the Ontario housing strategy, including housing indicators and measurements, targets, timelines, funding mechanism and measures to ensure accountability for results.**
- 4. The Ontario housing strategy shall ensure that the cost of housing in Ontario does not compromise an individual’s ability to meet other basic needs, including food, clothing and access to health care services, education and recreational activities, and shall provide financial assistance, including financing and credit without discrimination, for those who are otherwise unable to afford rental housing.**
- 5. The national housing strategy shall give priority to ensuring the availability of secure, adequate, accessible and affordable housing to those without housing and to members of groups particularly vulnerable to homelessness, including:**
  - a) those who have not had secure, adequate, accessible and affordable housing over an extended period;**
  - b) those with special housing requirements because of family status or size or because of a mental or physical disability;**
  - c) members of groups denied housing as a result of discrimination; and**

- d) those who are experiencing violence or who are at risk of experiencing violence.
6. The Ontario housing strategy shall include incentives for affordable rental housing and shall ensure the availability of housing that:
- a) is safe, secure, adequate, affordable, accessible, and not-for-profit in the case of those who cannot otherwise afford it;
  - b) reflects the needs of local communities, including Aboriginal communities;
  - c) provides access for those with different needs, including, in an appropriate proportion, access for the elderly and the disabled that allows for independent living as a result of housing adaptations;
  - d) uses design and equipment standardization where appropriate to accelerate construction and minimize cost;
  - e) uses designs with LEED (Leadership in Energy and Environmental Design) certification;
  - f) includes not-for-profit rental housing projects, mixed income not-for-profit housing cooperatives, special-needs housing and housing that allows senior citizens to remain in their homes as long as possible;
  - g) includes housing for the homeless;
  - h) includes provision for temporary emergency housing and shelter in the event of disasters and crises; and
  - i) complies with standards for the maintenance of existing housing stock or for the construction and maintenance of new housing and appropriate health, security and safety standards.

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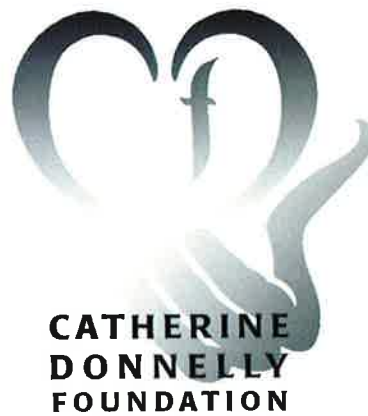
# **A Guide to Developing an Inclusionary Housing Program**

Developed for:  
Acorn Institute Canada

**Sept 2010**

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Other Partners:



## **Contents**

<b>Introduction</b>	1
<b>Overarching Considerations</b>	3
Mandatory vs Voluntary Programs	3
Negotiable vs Fixed Regulations	3
As-of-Right vs Re-Zoned Developments	5
<b>Key Aspects</b>	7
Subject Developments	7
Housing Set-Asides	7
Targeted Incomes	8
Compliance Alternatives	9
Fees-in-Lieu	10
Cost Offsets	10
Development Standards	11
Affordability Controls	12
Legal Agreements	12
Control Period	12
Eligibility Criteria	12
Resale Price	13
Occupancy Controls	13
<b>Outstanding Issues</b>	14
Legal Instruments	14
Income Thresholds	15

## Introduction

This guide identifies the main aspects of inclusionary housing that should be addressed in order to implement an effective program, and also the main principles and key practices that should be followed when addressing those aspects.

It does not attempt to draft a model bylaw nor to set out specific regulations. In many cases, those regulations will depend upon the particular needs, conditions and priorities of each municipality. Also, in some cases (and as also noted here), they still will require further study and research.

The guide draws to a large extent upon the inclusionary housing practices used widely across the US. These practices in the main follow a common model and use a similar set of rules and procedures. This model is generally called inclusionary zoning, and might be described as American-style inclusionary housing. In any case, this particular model has not been used in Canada.

It is not expected that the American model will be fully adopted in this country. Different priorities, regulations and mechanisms are likely to emerge here. Also, some of the aspects of the US programs cannot be readily imported. Nevertheless, considering that these practices have been tried and tested for well over 30 years and in many different communities, this experience offers an invaluable starting point for developing corresponding programs in this country.

The guide is in three parts:

- the first looks at the overarching policy considerations that significantly affect the program, and so should be examined at the outset;
- the second identifies the aspects that should be addressed through the regulations, and the principles and practices that should be followed; and
- the last identifies two hurdles that currently limit the use of inclusionary practices generally in Canada, and that need additional research or action.

**SUMMARY OF KEY PRINCIPLES**

Inclusionary housing policies have this fundamental objective: to create a permanent stock of affordable housing located in every new housing development, and thereby spread across the community.

In order to translate this objective into a productive program, the regulations must support a number of key principles:

- The obligation to provide affordable housing should be imposed on virtually all multi-unit private residential developments.
- The subject developments should be obliged to provide a prescribed and fixed percentage of the total units as affordable units.
- The affordable housing should be provided at a prescribed fixed “belowmarket” price or rent. (This is a price or rent that substantially below the lowest market price or rent for the equivalent new unit.)
- The affordable units should be constructed on the same site as the market units and integrated with those units. Alternatives to the on-site construction should be allowed only when they better serve the affordable housing needs of the community.
- The affordability and occupancy of the affordable units should be controlled so that they remain affordable to, and are occupied by, eligible households over the long term, if not permanently.

The regulations also should ensure that the inclusionary units are built in the appropriate way, place and time.

## **Overarching Considerations**

Ahead of developing the actual regulations, consideration must be given to a number of overarching policy choices that will affect how those regulations are formulated.

The policy choices needing consideration include the following:

- whether the provision of affordable housing should be mandatory or voluntary;
- whether the regulations (or what regulations) should be negotiable or fixed; and
- whether the program should affect all developments or just those proceeding through a re-zoning or similar approval process.

### **Mandatory vs Voluntary Programs**

Inclusionary programs can be divided into two types:

- **Mandatory programs** require the developers to provide affordable housing as a condition of development approval, and then typically provide in return some form of regulatory concessions as cost-offsets.
- **Voluntary (or incentive-based) programs** encourage the developers to provide the affordable housing by using regulatory concessions as incentives.

The two are fundamentally different in this critical regard. In the mandatory, the developers have no choice but to provide the affordable housing if they wish to build anything on a particular site. In the voluntary, the developers have the right and choice to build under the as-of-right regulations, while not taking the incentives and providing the affordable housing.

Although the available evidence is not absolutely conclusive, there is ample and convincing support for saying that the voluntary programs don't work. In order to produce affordable housing at a sustained and on-going basis, the inclusionary programs must be mandatory.

For that reason, the advice provided in this guide is based solely upon the mandatory approach.

### **Negotiable vs Fixed Regulations**

In inclusionary programs, there is a potential for using two types of regulations (or a mixture of both):

- flexible regulations that can be negotiated project-by-project or
- fixed regulations that are applied without changes to all projects.

In deciding which approach to take, a balance must be found mainly between these two considerations: the need to treat all developers fairly, and need (at least in some circumstances) to adapt the regulations to the site-specific conditions.



Inclusionary programs in the US are predominantly associated with “greenfield” areas – namely, low-density suburbs built on undeveloped lands around smaller towns and on the edge of cities. More recently, a number of big cities also have adopted programs already built-up areas. The two sets of programs differ in at least two ways.

The “greenfield” programs typically impose the inclusionary obligation on virtually all private residential developments, including those that proceed under the existing “as-of-right” provisions. They also typically fix all of the fundamental regulations, including those dealing with density increases. That means the density increases are offered on a pre-determined and automatic basis.

The more recent “big-city” programs, on the other hand, have been applied mainly (but not entirely) to residential developments that obtain additional development rights through a re-zoning or similar process. Also, they allow for determining the appropriate regulatory concessions – including density increases – on a negotiated and case-by-case basis.

(Many of the “big city” programs also extend the obligation to provide affordable housing to these additional developments:

- those proceeding under some comprehensive development and approval process;
- those built on lands sold for residential by the city or other public agency; and those receiving city funding.)

The changes in the “big-city” programs can be seen as an adjustment to their reality, where regulatory concessions like density increases cannot be given automatically and without consideration of the development context. Furthermore, the majority of developments typically seek re-zoning, and so would be subject to negotiation in any case.

In order to be fair to the developers, the regulations should be set well in advance and then applied consistently. Developers should be able to buy land and develop proposals while having some degree of certainty about the requirements they must meet. No developer should be able to negotiate an advantageous deal giving them a leg up over their competitors.

At the same time, in at least some developments, good planning will call for the flexibility to address specific site conditions. Development sites – particularly, those in built-up urban settings – can present unique local conditions that affect the appropriate scale and nature of the development. These are often worked out during the negotiations associated with the approval process, and the regulations must be capable of adjusting to those negotiations.

To balance these considerations, this guide takes this approach:

- The regulations affecting the value of the affordable housing obligation should be fixed. That means that all subject developments should be required to provide at least the equivalent amount of affordable housing targeting the same income levels.
- The regulations, on the other hand, can permit some flexibility in how that obligation can be met and what concessions are provided. That means, depending upon particular site conditions, the regulations might allow different ways of providing that housing (such as, fees-in-lieu or off-site development) and offer different regulatory concessions (such as, increased density and height limits, and reduced parking standards).

But, even where some flexibility is allowed, it should be generally allowed only within defined parameters or rules that limit the discretion of the municipality and the developers, and so add some consistency and certainty.

This approach is particularly relevant to how permitted density increases are determined. Granting density increases on an automatic and predetermined basis is not appropriate in most urban settings because local conditions can vary so much. So, this approach allows the municipality first to determine what density is appropriate for each site, rather than be trapped into giving the same density increase regardless of context.

### **As-of-Right vs Re-Zoned Developments**

The inclusionary programs can be applied to two main categories of developments:

- 1) all residential developments including those proceeding under the existing as-of-right provisions, or
- 2) only those residential developments obtaining additional development benefits through a re-zoning approval or similar process – such as, one granting a change of use to residential or more development density.

While the above describes the key distinction, it must be noted that the latter category also can be expanded to include one or all of the following residential developments:

- those built on lands owned by the municipality but sold for private residential development;
- those receiving financial assistance from the municipality; and
- those involved in a comprehensive development and approval process that establishes site-specific development standards and requirements.

In order to maximize the production of the program, clearly the inclusionary obligation must be applied to the widest possible range of developments. This is the fundamental rationale for taking the first approach described above. This approach has the added justification of treating all, or virtually all, developers consistently.

The second approach represents a compromise that might be more acceptable in some communities. The rationale for targeting only the latter category of developments is that they receive additional development rights – and often considerable economic benefits – through the approval process, and so the municipality as a condition of that approval can and should recover some part of that benefit for the public good.

The second approach can be a productive alternative, where a substantial majority of the developments seek additional development rights and regulatory concessions through a re-zoning or similar process. These conditions occur in many cities and built-up areas, but not necessarily in smaller and suburban communities.

## **Key Aspects**

The following identifies the aspects that should be addressed when developing an inclusionary housing program, and the principles and practices that should be followed in addressing those aspects.

### **Subject Developments**

In principle, the obligation to provide affordable housing should be imposed on virtually all multi-unit private residential developments.

Only in this way will the program treat all developers fairly and consistently, and also produce affordable housing at an on-going and sustained rate.

One possible set of exceptions has just been noted (see As-of-Right vs Re-Zoned Developments). This would involve limiting the obligation essentially to developments receiving additional development benefits through a re-zoning or other process, but not to those proceeding as-of-right.

The other possible exception is for small developments, which might be defined as those containing less than somewhere between 5 or 30 units.

The rationale behind treating small developments differently is that the affordable housing requirements might affect them too adversely. On the other hand, because these developments could represent a significant portion of the total new housing on production, exempting them could considerably reduce the provision of affordable housing

There is an effective alternative for addressing small developments. That is to apply the affordable housing obligation to all multi-unit developments (including possibly even those down to 2 units), but accepting fees-in-lieu as the affordable housing contribution.

### **Housing Set-Asides**

In principle, the subject developments should be obliged to provide a prescribed and fixed percentage of the total units as affordable units.

Set-asides ranging from 10% up to 20% have been proven to be possible and effective. The required set-aside could be affected by the degree of affordability required and the cost offsets provided.

The simplest way to apply the set-aside is to take as affordable units the same percentage of the various unit types being built by the developer.

As a general rule, the same set-aside requirement should be applied uniformly to all developments, but there is a potential for different requirements in particular circumstances:

- a lower set-aside when particular types of housing, such as housing for still lower incomes or for rent rather ownership, are provided; or
- a higher set-aside when an off-site option is used (see Compliance alternatives).

There is a potential for requiring certain types of units like family units. It must be recognized that these additional requirements can impose additional costs on the developer (for example, in the form of additional design and construction costs). Those costs must be weighed against the benefits, and might merit additional concessions.

### **Targeted Incomes**

In principle, the affordable housing should be provided at a prescribed and fixed “below-market” price or rent. A “below-market” price or rent is one that is substantially below the lowest market price or rent for the equivalent new unit.

To achieve this, maximum household income ceilings should be used to determine eligibility for the units, and the “below-market” price or rent should be set at a level that corresponds with those income ceilings.

These income ceilings will be needed to be differentiated by household size and/or type so that the households can be matched to suitably-size units. The ceilings, along with the prices and rents, will need to be adjusted at least annually.

A suitable approach for setting these income thresholds has not been developed so far in this country. Setting of the initial income thresholds (and related prices and rents) by itself is relatively straightforward. What complicates the matter is that these must be also linked by some suitable index or other method to the resale price (and the corresponding income ceiling) as part of the long-term affordability controls. It is an issue that needs further study (see Affordability Controls and Outstanding Issues).

The US programs typically require that the affordable units be delivered at a price or rent affordable at or below a prescribed maximum household income level.

They are commonly described as “below-market” prices or rents because they are set at a level that is substantially below the lowest market price or rent for the equivalent new unit.

The income thresholds are differentiated and broken down by household size. This allows for setting different price and rent limits appropriate to units of a different size according to bedroom count.

This approach is facilitated by the federal government, which annually updates and provides the median income by household size for every market area across the country. Each municipality then determines the corresponding maximum rents and prices that can be charged for the specific unit types.

These income thresholds are expressed as a percentage of the local median household income. The actual percentages arise from community to community, with the higher percentages associated with more expensive communities. The percentage used for ownership units most typically ranges from 80 to 120% of median income, but even higher thresholds are seen. The corresponding percentage for rental units is lower, most typically in the range of 60 to 100%.

### **Compliance Alternatives**

In principle, the affordable units should be constructed on the same site as the market units.

Under certain circumstances, consideration can be given to allowing other alternatives, such as the following:

- payment of fees-in-lieu,
- construction of affordable units on another site,
- provision of developable land, and
- provision of upgraded existing units.

Experience has shown that the vast majority of developers will seek to use these alternatives – and, especially, fees-in-lieu – whenever the value of those contributions are determined in a reasonably favourable way. So, in the absence of some limits on these alternatives, any municipality allowing them will end up with few inclusionary units.

These alternatives should be permitted under clearly defined rules, possibly only at the discretion of the municipality, and in any case only when they clearly better serve the housing needs of the community. The last criterion, for example, might be considered

met when the alternative would support additional affordable units, affordable units of deep affordability, or units built in a more suitable location.

### **Fees-in-Lieu**

Fees-in-lieu allow the developers to buy-out their obligation through a cash payment. Although the use of fees-in-lieu should be limited for the reason just noted, they do have benefits in certain circumstances. They provide a feasible way for small developments to contribute toward affordable housing. They provide an alternative of last resort in the case of particularly difficult sites to develop.

Fees-in-lieu provide a local source of funding that can be used to provide for special needs and other housing that requires additional subsidies.

The fees-in-lieu should be set at least at a rate that fully reflects the value of the affordable housing obligation. For example, one way to determine that value is to take the sum of the difference in prices between the unprovided affordable units and their market equivalents.

This rate should be used when determining the obligation of small developments.

Consideration should be given to establishing a higher rate for developments buying out their obligation as a way of ensuring that the payment of fees-in-lieu in these circumstances clearly provides a greater benefit to the public than the on-site construction.

### **Cost Offsets**

Consideration should be given to providing concessions available through the regulatory process that off-set the losses that the developers might incur by the developers in providing the affordable units.

These cost offsets should be limited to those available from the development regulation and approval process. The main alternatives include the following:

- regulatory relaxations;
- fee reductions or waivers; and
- fast-tracked approvals

Regulatory relaxations refers to changes to the development standards and requirements set out in the zoning by-laws. Where appropriate, these could such possibilities as increases in the permitted density, and reductions in the height, setback, parking and other requirements.

Where possible, these cost-offsets should be provided on a fixed basis and provided to all developments. However, in the case of many of the regulatory relaxations – including particularly density increases – the appropriate cost-offsets possibly can be determined

only on a negotiated and site-specific basis (see As-of-Right vs. Re-Zoned Developments).

These cost offsets should not include financial subsidies. Inclusionary zoning is a way of providing affordable housing without relying upon conventional funding. Developers should and can be expected to provide affordable housing in these programs without financial subsidies. Any use of financial subsidies should be limited to very specific circumstances – namely, to supplement and enhance the affordability of the units already being provided by the developers.

In addition to the cost offsets, there is potential also for offering cost savings by allowing affordable units with less floor space or reduced interior amenities (see Development Standards).

### **Development Standards**

The regulations should ensure that the inclusionary units are built in the appropriate way, place and time.

Depending upon the approach taken, regulations may be needed to address the following specific aspects of the affordable units:

- their minimum floor space;
- their construction quality;
- their delivery timing;
- their distribution and location; and
- their outside appearance.

The simplest way of addressing most of these aspects is by requiring that the affordable units match the market units. This approach can taken with regard to their floor space, construction quality, external appearance and delivery timing.

The regulations should prevent the affordable units being segregated in a separate area, and preferably should require them to be inter-mixed and dispersed through out the market units, and in a way that leaves to two indistinguishable.

Consideration should be given to providing cost savings to the developers by allowing a different standard of interior finishes and amenities in the affordable units, provided that standard is based upon acceptable building practices and the energy efficiency of the units is not diminished.

Setting minimum floor space standards for the affordable units would be needed only if the developers are allowed to reduce their size of the units as one of the cost savings. Otherwise, the standard provided in the market units should be considered acceptable for the affordable units.



## **Affordability Controls**

In principle, the on-going affordability and occupancy of the affordable units should be protected in order to ensure that they remain affordable to, and are occupied by, eligible households over the long term.

The following focuses on the controls necessary for affordable ownership units because this type of housing is relatively new and untried in Canada. In contrast, the corresponding controls on affordable rental are well-developed and understood in this country.

The main aspects that need to be addressed are the following:

- legal agreements;
- control period;
- eligibility criteria;
- resale price; and
- occupancy controls

### Legal Agreements

The controls should be embedded in a legal document that binds the initial and all subsequent owners over the prescribed period of control.

Ontario municipalities only have limited, and perhaps inadequate, options at this time to protect long-term affordability and occupancy (see Outstanding Issues). Their main resort appears to be an 'option to purchase', but this instrument has administrative burdens that the many municipalities might not wish to assume. The best solution would be new legislated authority, possibly based upon the approach already taken in BC.

### Control Period

The affordability and occupancy controls should be put in place for a long period of time. Consideration should be given to 30 years as a minimum, if not maintaining the controls permanently or for the life of the units.

### Eligibility Criteria

The controls should set a maximum household income ceiling differentiated by household size as the principle eligibility criterion for the affordable units. These thresholds will need to be adjusted regularly – probably, at annually – to allow for changes in household incomes and house prices over time.

The regulations should establish rules for ensuring the household type and size are compatible with the affordable unit being occupied.

In the US programs, the inclusionary ownership units are controlled almost universally through restrictive covenants registered on the title of the property. They can be used to bind the initial as well as all subsequent owners to the various affordability restrictions over the prescribed period of control. Through these covenants, the initial price reduction is locked in and passed on to the subsequent buyers, after allowing for some suitable inflationary adjustment.

The period of control varies, but it is generally now at least 30 years, and often in perpetuity or for the life of the building.

In some places, this primary legal instrument is also supplemented by an 'option to purchase'. This option allows the municipalities to buy the affordable units whenever offered for resale. They typically exercise this right, not by buying the unit, but by assigning the option either to a non-profit agency or to an eligible buyer on their waiting list.

Consideration also could be given to various supplementary criteria. Those criteria could require that the household:

- have completed an approved homebuyer education course;
- live or work in the community;
- have assets not exceeding a prescribed limit;
- be a first-time buyer; and
- be pre-qualified for a mortgage.

#### Resale Price

The controls should establish an index, formula or other method for determining the resale price whenever the affordable units are resold, or subsequently resold, during the control period.

Establishing the most appropriate method should entail finding a suitable balance between two objectives: protecting the affordability of the affordable units over the long term, while also allowing the seller to receive a fair and reasonable equity stake when selling.

There also will be a need to deal with an outstanding hurdle: the lack of good income and price data upon which to base these resale prices (see Outstanding Issues).

#### Occupancy Controls

The controls should ensure that the owner cannot rent at the unit, except possibly only for a short term, at an affordable rent and with the approval of the municipality or some delegated agency.

## Outstanding Issues

Two major issues must be addressed before inclusionary housing practices can be widely readily adopted in this country. Both relate to protecting the long-term affordability of affordable ownership housing.

Appropriate practices for protecting the long-term affordability of these units have not been developed in Canada. This is because affordable ownership housing is a relatively recent and largely untried type of housing here. It has been provided only in limited and one-off circumstances in this country, and in most of these cases, the affordability has not been adequately protected.

The two hurdles that must be addressed revolve around these two aspects:

- establishing an effective and efficient legal mechanism that can be used to protect affordability over the long-term; and
- finding a way of setting income-eligibility thresholds that can be applied to subsequent purchasers.

Both of these aspects need further research and study. US practices offer some guidance, but for different reasons cannot be fully adopted here.

### Legal Instruments

Controls must be placed on the affordability and occupancy of the affordable units in order to ensure that they remain affordable units whenever resold and then occupied by income-eligible households. This is fundamental to the inclusionary programs, which should be directed at providing affordable housing permanently throughout the community.

Municipalities in Ontario and elsewhere do not have effective legal tools to protect the affordability for this purpose.

First of all, they do not have the authority to use restrictive covenants as in the US. This legal instrument is used for this purpose almost universally by municipalities across the US, where the authority is conferred under common law and not by legislation. Common law practices as they have evolved in this country do not confer the same authority to the municipalities.

Second mortgages are most similar mechanism widely used in this country, but they are not adequate for securing long-term affordability. They can be used to recover the public interest these units – namely, the value of the concessions used to achieve the reduced price – when the units are resold for the first time. But they are not able to lock-in that reduced price for the succeeding buyers over the long term.

The only effective legal mechanism apparently now available to municipalities is to register an 'option to purchase' on the affordable unit when resold. This would give

the municipality the right to buy the unit at a prescribed price, or possibly to assign the right to an eligible buyer or agency. While effective, this mechanism might entail administrative demands that some municipalities might not care to undertake.

The best approach appears to that already taken in BC. The provincial government there has established a useful Canadian precedent by passing legislation that authorizes local governments to control the resale price, buyer eligibility and other matters necessary for sustaining long-term affordable ownership. Their approach is one that apparently can and should be adopted in Ontario and elsewhere across the country.

### **Income Thresholds**

The inclusionary units are offered at a reduced price that falls below the market price for the equivalent unit. In order ensure that only eligible households occupy them, the programs must set an income ceiling on the buyers of these units that is commensurate with that price.

The central problem here is not with setting the income ceiling for the initial purchase, but in establishing a process for resetting the income ceiling and corresponding house price whenever the unit is resold.

The process raises various issues that still must be resolved. What is the best index, formula or method that can be used to calculate the resale price? Also, should priority be given to maintaining the affordability of the units for subsequent owners, or allowing the seller to realize a substantial equity gain from the sale (or some compromise between the two).

Setting these thresholds in Ontario and elsewhere in this country also faces a particular hurdle: the lack of appropriate income data upon which to base these calculations. The necessary data have never been collected by the municipalities nor provided by the senior levels of government in this country.

To provide an effective basis for setting the income thresholds, household income data must be available in a format that is:

- current and updated at least annually;
- differentiated by household sizes and/or types appropriate for unit allocation;
- relevant to the ownership housing market (and not rental market); and
- specific to the particular municipality or market area.

On top of this, the data should come from an independent credible source, in the very possible case that these particular controls are challenged before the courts.



## Strengthen Ontario's Provincial Policy Statement as one tool to meet the province's housing needs

### Submission by Wellesley Institute to PPS five-year review

The Wellesley Institute believes that a strengthened Provincial Policy Statement can be an important tool for communities across the province to ensure all Ontarians have access to a healthy and affordable home. We are pleased to offer these recommendations in response to the Ontario government's request for submissions as part of the five-year review of the PPS.

The Wellesley Institute is an independent research and policy institute dedicated to advancing urban health. Our own research and other national and international research confirms that a good home is vital to ensuring good health. This submission was prepared for the Wellesley Institute by independent consultants Brian Eng and Richard Drdla and we gratefully acknowledge their expertise and valuable contributions.

### The Provincial Policy Statement and affordable housing

This submission was prepared to provide input into the review of the 2005 Provincial Policy Statement. It focuses on the affordable housing obligations of the statement, and particularly on how they should be improved to fulfill its stated goal – namely, “to provide for an appropriate range of housing types and densities required to meet the projected requirements of the current and future residents.” This submission is founded on two basic propositions:

1. An adequate provision of affordable housing is a fundamental and critical feature of any “strong, livable and healthy” community.
2. The Provincial Policy Statement (PPS) has a vital role in ensuring that the municipalities are fully engaged in providing for that housing.

### PPS one element of a set of affordable housing tools

A significant number of Ontario households are experiencing housing insecurity and homelessness, and a strengthened Provincial Policy Statement is one element in a set of affordable housing tools that are required to end the crisis.

At the start of 2010, the Ontario Non-Profit Housing Association reported that 141,635 households were on affordable housing waiting lists across the province – an increase of 9.6% from the previous year. Canada Mortgage and Housing Corporation reported that 627,500 Ontario households were in core housing need in 2006, including one-in-three renter households. Precarious housing has a deep and persistent impact not only on the health and lives of those who directly experience it, but insecure housing also disrupts communities, as well as the economy.

To respond to deep and persistent housing insecurity, the Ontario government has more than 20 programs managed by three ministries, yet the Ontario Auditor General in his 2009 annual report raised concerns about effectiveness and co-ordination of housing programs and investments. The Ontario Ministry of Municipal Affairs and Housing spent \$651 million in affordable housing operating expenses in the year ended March 31, 2010 (down from \$692 million the previous year), and \$663 million in capital spending (up from \$93 million) – with \$798 million of total housing investments coming from the federal government (up from \$573 million).

After a six-month consultation in 2009 to create a long-term affordable housing strategy, the provincial housing ministry said that the plan “is anticipated for release in 2010.” The plan will be an important tool in meeting the housing needs of Ontarians. The Housing Network of Ontario has set out five key tests for success in the long-term housing plan. These are:

1. Bold targets and sustained funding to ensure an adequate supply of quality, affordable housing for Ontarians, supported by multi-year financial commitments.
2. A solid measuring stick that includes a solid foundation of accurate evidence about the scale of housing insecurity and homelessness and a clear way to measure progress.
3. Accountability to ensure the Long Term Affordable Housing Strategy is kept on track, and the plan remains accountable to the people it intends to serve.
4. Make housing truly affordable and accessible so that all Ontarians are able to access housing they can afford, and supports should be provided to ensure equitable thriving, inclusive communities.
5. Reform housing legislation to build stronger communities through the key legislation that governs municipal planning, social housing and the private rental market.

The proposals set out below to strengthen the PPS need to be part of a broad set of policies and funding from the Ontario government to tackle the range of housing issues across the province.

#### Planning context for the Provincial Policy Statement

Ontario has used PPSs since 1983 to express its authority over “matters relating to municipal planning that ... are of provincial interest.” These statements provide a binding planning

framework for all municipalities. All official plans, as well as associated land-use regulations and development decisions, “shall be consistent with” the policies set out in these statements.

The role of the policy statements became more important after the planning reforms in 1995. Until that time, the Province had reviewed and approved local municipal plans. The reforms curtailed that responsibility. As a consequence, the statements have become the primary vehicle for expressing provincial direction on key province-wide planning issues.

Affordable housing was addressed for the first time in the 1989 housing policy statement. Through this statement, Ontario’s major and growing municipalities were directed for the first time to plan for a full range of housing types.

This housing statement was prepared in response to the rapid growth in the late 1980s, especially in southern Ontario. During this period, the private development industry had focused on higher-priced single-detached dwellings and luxury condominiums, while ignoring much needed smaller and more affordable housing.

The land-use planning process was also seen to be very much part of the problem. It was criticized at the time particularly for widely employing development regulations that too often impeded the provision of the less expensive forms of housing.

#### Current provisions of the Provincial Policy Statement

Under the current *PPS*, the fundamental obligation of municipalities toward affordable housing is an extension of their wider housing obligation. This obligation is “to provide for an appropriate range of housing types and densities” needed for their existing and projected housing needs.

To meet this housing obligation, the municipalities are directed to do essentially the following:

- maintain a reasonable supply of appropriately serviced and zoned lands for housing; and
- use development standards that minimize costs and facilitate compact development.

As part of this obligation, they are also directed specifically to provide for housing “affordable to low and moderate income households.” To that end, they are expected to set and implement minimum targets, either on their own or in conjunction with their upper-tier regional authority.

Housing affordable to low and moderate income households is defined using two different standards – one based on household income and the other on housing price or rent. Each standard sets a somewhat different level of affordability.

It is important to note that there are no other responsibilities or tools specific to the provision of the housing for low and moderate income households.

## Principal purpose of the Provincial Policy Statement

The principal purpose of the PPS housing policies has remained the same through its past several iterations. (The 1996 version provides the only exception; it removed all references to affordable and low-and-moderate-income housing.)

This principal purpose has been to increase the diversity and supply of housing available on the private market, particularly at the lower end of the market.

The purpose has never been to provide for affordable housing under any strict definition of that term. Put another way, it has never been to extend the range of housing affordability below that already being provided by the private market.

The PPSs have not recognized the significant affordability gap that has occurred between market housing and social housing. There are many households that can no longer afford new market housing, but are not eligible for government assistance. The number of households falling into this gap has increased considerably in recent years, as market prices have risen dramatically in many communities while median incomes have stagnated.

This distinction is important as it helps to explain why the *PPSs* have never been effective in addressing affordable housing. The municipalities have not been held responsible for, nor made capable of, causing the production of housing that is truly more affordable. At best, they can, through good planning, only provide the opportunity for private developers to build less expensive forms of market housing, when (or if) they are ever willing to do so.

## Relevant lessons from the US experience

Ontario is not the only major jurisdiction that has attempted to confront the shortage of affordable housing by engaging municipal governments more fully in its production. The states of California, New Jersey, Massachusetts and Illinois, and regional authorities for greater Portland and the Twin Cities, have all in different ways developed affordable housing mandates that oblige their constituent municipalities to provide for affordable housing. Their experience provides relevant precedents and important lessons that can be used in Ontario.

The overriding lesson from this experience is that municipalities, through their own resources and powers, are capable of supporting the production of affordable housing. The supports are typically not sufficient to provide the deep subsidy to reach low-income households needing social housing. But they are able to provide a shallow subsidy sufficient to help moderate-income households being left out of the private housing market by rapidly rising prices.

The other main lesson is that most municipalities are unlikely to accede to providing for affordable housing, except when faced with an effective affordable housing mandate, and particularly one that includes these provisions:



- the municipalities are obliged to cause the development of affordable housing in a substantive way that goes beyond merely planning for it;
- the municipalities are given clear and demanding affordable housing targets;
- affordable housing is rigorously defined in a way that provides the housing at a price or rent below that currently being made available by the private market;
- the municipalities are given a range of suitable tools that are adequate to meet their affordable housing targets;
- municipalities are held accountable for meeting their affordable housing targets;
- municipalities have timely and appropriate data for setting income and price thresholds for the affordable housing relevant to their particular market areas;
- municipalities are able to protect the affordability of the housing – including affordable ownership housing – for an enduring period of time.

An effective affordable housing mandate also can be constructed here in Ontario. It starts with making key changes to the *PPS*, but also involves making supportive changes to the other parts of the planning system as well. The following recommendations address all of these changes.

#### Recommended revisions to the Provincial Policy Statement

The PPS must be significantly strengthened in order to make it into an effective affordable housing mandate. Revisions particularly are needed to these four critical provisions:

**1. The statement must establish a clear obligation for all municipal jurisdictions to use all of their available powers and resources in an affirmative and pro-active way in providing for affordable housing.**

The current obligation of the municipalities to provide for affordable housing has no substantial consequence. They are only expected to provide an opportunity for affordable housing by planning appropriately for affordable housing. That obligation falls well short of requiring the municipalities to provide assistance or incentives of their own that will support the development of affordable housing.

The PPS must make clear that municipalities do have a responsibility to effect the development of affordable housing through the full use of their own powers and resources. They cannot solely rely upon private market, or provincial and federal funding, to achieve it.

At the same time, as noted below, the powers and resources available to municipalities to provide for affordable housing also must be expanded so that they have the capability to meet this more demanding obligation.

**2. The statement must define affordable housing effectively as “below-market housing” – that is, housing that is provided at a price or rent substantially below that available for the equivalent new housing in each community.**

Under the PPS, the municipalities are directed essentially to provide for housing affordable at the “low-end-of-market.” This is housing that can be built by the private sector, while still earning a reasonable profit without any public incentives and assistance. This housing does not extend the price range of housing; it just expands the amount of less expensive housing available.

The more demanding “below-market” standard is directed at producing new ownership and rental housing at an affordability level not currently available, and in doing so, providing for a range of housing needs that now goes unrecognized and unmet.

**3. The statement must set fair, measurable and demanding affordable housing targets for each municipal jurisdiction.**

The municipalities are now able to set their own affordable housing targets without any provincial guidelines or rules. At best, this creates an arbitrary and inconsistent patchwork of targets. At worst, it leaves ample opportunity for the municipalities to trim their obligations.

The targets must be set in a way that clearly holds all municipalities to a common performance standard. The targets must ensure that all municipalities are providing for a fair share of affordable housing. As much as possible, they also must be founded upon the local needs for affordable housing as well as the local capabilities for providing it. All of this will not be readily achieved.

If the municipalities are allowed to continue setting their own targets, then their determinations must be subject to clear and consistent rules. Alternatively, the province should consider setting targets or quotas as currently done by the major jurisdictions in the US.

**4. The statement must establish systems for monitoring the performance of the municipalities in providing for affordable housing, and holding them accountable for meeting their targets.**

Municipalities at the current time are not held accountable for providing for affordable housing. There is no monitoring if the targets are met, nor if the housing remains affordable for any sustained period of time.

At the very least, the municipalities must be required to report on a regular basis on their efforts to produce and protect affordable housing. In time, it might be necessary to consider ways of enforcing the provisions of the PPS when a municipality persists in not meeting its obligations.

## Recommended changes outside the Provincial Policy Statement

In addition to the changes to the PPS, associated changes are critically needed to other parts of the planning system, in order to support the strengthened role of the PPS. Those needed changes include the following three important provisions:

### **A. The municipalities must be provided with the authority to use locally-based tools to provide effectively for affordable housing.**

The tools currently available to municipalities are not adequate to provide for affordable housing. They are limited essentially to providing subsidies derived from property taxes, and offering municipal lands at a low or no cost. Neither can be used in a sustained way.

The municipalities must be given other new tools commensurate with the expanded and more demanding obligation to provide for affordable housing.

The most effective of these new tools is inclusionary housing. It is important because it enables municipalities to leverage incentives coming out of development regulation and approval processes to cause production of affordable housing without depending upon financial subsidies.

There are also other tools that deserve consideration. These include the use of development charges specific to affordable housing, tax increment financing, housing trust funds, community land trusts, and funding derived from other locally-based taxes.

### **B. The municipalities must be provided with the authority to control the affordability and occupancy of affordable ownership units whenever resold over an enduring period of time.**

Municipalities in Ontario currently do not have the legal means to ensure that affordable ownership housing remains “permanently” affordable. At best, they can use second mortgages to recover their financial stake in the housing when sold onto (and then lost to) the private market. Or, they can use a “right of purchase” to re-acquire the affordable housing whenever sold, and then resell the housing at affordable price.

They need the authority similar to that available to local governments in British Columbia. Under provincial legislation there, local governments are able to use positive covenants registered on title that ensure that the affordability of the housing is passed onto each subsequent buyer without the direct involvement of the local government.

### **C. The municipalities must be supplied with the income data needed to establish the locally-specific income ceilings for determining eligibility for affordable housing, not only when sold initially, but also upon resale.**

The income data now available to the municipalities is inadequate for a number of reasons. It is not timely nor renewed on annual basis, specific to each municipality or market area, and differentiated by different household sizes and/or types.

The province is better able to provide – or organize the provision of – the data needed by every municipality, than have each municipality wrestle with generating its own. It would be far much more efficient. It would also be fundamental to setting a consistent performance standard for all municipalities, and for establishing effective monitoring procedures of the outcomes.

All of which is respectfully submitted,

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