

Wellesley Institute Submission in Response to the Proposed Regulation Under the Planning Act Related to Inclusionary Zoning

Executive Summary

Wellesley Institute welcomes the opportunity to respond to Ontario's proposed regulations on inclusionary zoning. These will implement a priority in the Long-Term Affordable Housing Strategy, and we commend the government for moving forward on this.

Housing is an important factor in health and well-being. People with low incomes or other disadvantages face large problems of housing affordability and quality, which is bad for health. Inclusionary zoning is a tool that can help provide affordable options, reduce housing problems, and build mixed communities.

This brief suggests some modifications to the proposed regulations. These proposals build on Wellesley Institute's expertise and research on inclusionary zoning. These changes would improve the ability of municipalities to use inclusionary zoning, and enhance opportunities to create more affordable housing.

- **Allow more flexible 'set asides.'**
Allowing a higher percentage of affordable units in developments would make the policy more effective. Requirements of 15–20 percent affordable have been successful in many jurisdictions.
- **Provide for longer 'affordability periods.'**
Increasing the length of time that housing must remain affordable creates longer-lasting benefits. Affordability for more 30 years – often permanent – is used in many jurisdictions.
- **Facilitate the transfer of units to non-profits for affordable rental.**
Inclusionary zoning can create either affordable ownership or rental. Enabling and encouraging the transfer of rental units to non-profits can ensure affordability and help people in need.
- **Reduce the cost burden on municipalities.**
To require that municipalities cover 40 percent of developers' cost of making housing affordable is onerous and will impede take-up. This should be substantially reduced.
- **Permit municipalities to contribute with density bonuses.**
Where municipalities are required incentivize or reimburse developers for the cost of making housing affordable, they should be empowered to use density bonuses to achieve this.

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Wellesley Institute welcomes the opportunity to respond to the proposed Ontario inclusionary zoning regulations. We commend Ontario for moving forward on inclusionary zoning as was identified in the Long Term Affordable Housing Strategy and as it complements the Ontario Fair Housing Plan. Wellesley Institute has been at the forefront of research on inclusionary zoning, including hosting a foundational conference in 2008 and publishing research reports on implementing inclusionary zoning in Ontario.¹ We recently met with stakeholders and experts to identify ways of strengthening the proposed Ontario inclusionary zoning regulations.

Affordable housing is a bedrock foundation for health. Wellesley Institute research highlights that affordable mixed-income housing strengthens individual and population health.² When people cannot find housing they can afford, families, communities, and our health suffers. Unaffordable housing eats into families' budgets, producing instability and leaving little for the other necessities of healthy lives. Racialized people, women, and recent immigrants disproportionately bear the burden of unaffordable housing. This is one of the primary drivers of the significant health inequities in Ontario. Inclusionary zoning policies can help level housing inequities and improve health by providing more affordable options.

Inclusionary zoning can provide the power to build significant affordable housing and help to dispel rising segregation and inequality. It has been effective in comparable jurisdictions across the US and Europe in producing affordable homes for people by scaling up affordable housing production with increased market housing development.³ Inclusionary zoning has also contributed to more inclusive communities by mixing affordable and new market housing together. However, inclusionary zoning policies come in varying shapes and sizes, some of which do very little, and only well-designed policies will play a significant part in addressing the dearth of mixed-income affordable housing.

Wellesley Institute recognizes Ontario's need to arrive at a policy that accommodates diverse interests. Those interests include developers, municipalities, and providers of affordable housing. They include the two-thirds of Ontario's population and growth that is not served by new housing development because it is not affordable to them.⁴ Developers are concerned that inclusionary zoning will affect their business model and potentially the viability of projects. Experience in other jurisdictions shows, however, that the development industry adapts to inclusionary zoning requirements as it does to other regulatory provisions, without deleterious impact on real estate development.

The proposed regulations require some alterations to maximize the opportunity to create significant affordable housing and build more mixed-income communities through inclusionary zoning. These

changes to the regulations would empower municipalities to implement effective, responsive, and responsible inclusionary zoning policies. Allowing for a higher percentage of affordable units in new developments would strengthen this policy by producing multiple times more affordable units. Increasing the length of time units remain affordable would extend the impact over more decades. Setting priority and supports for the transfer of units to non-profits would address the dire lack of affordable rental. Lowering the costs for municipalities and allowing the use of density bonuses would make inclusionary zoning more attractive for municipalities, leading to more widespread use. Evidence from international jurisdictions supports that these changes would lead to more affordable housing for Ontario.⁵ These proposed amendments are detailed below.

1) Allow more flexible ‘set asides.’

‘Set asides’ are the percent of a new development that is designated as affordable housing. They can be identified in terms of number of units or gross floor space. The proposed regulations limit the percent of inclusionary affordable housing that can be set aside by municipalities in new developments to 5% (10% near rapid transit) of units or floor space. In comparable jurisdictions, 15%-20% is an effective policy, and in New York City, 50% of units must be affordable to a wide spectrum of households.⁶ A 5% set aside would significantly reduce the impact of inclusionary zoning. Amending the proposed regulations to require a set aside no less than 20% would multiply the number of affordable units built, increase income mix in new developments, and make inclusionary zoning more attractive for widespread municipal use.

2) Provide for longer ‘affordability periods.’

The periods for which affordable units must remain affordable are referred to as ‘affordability periods.’ The proposed regulations cap the period of affordability at 30 years with a minimum of only 20 years of affordability. Short affordability periods limit the impact of inclusionary zoning and transfer the affordability problem to the next generation. International jurisdictions are moving toward 99 years or in-perpetuity affordability periods, with 30% of US jurisdictions having affordability periods of 99 years or longer.⁷ The proposed regulations could be strengthened by allowing for in-perpetuity affordability in the case of long-term affordable rental units and removing the rigid equity phase outs for affordable homeownership units. This would provide affordable units for decades longer and give more freedom to municipalities to implement flexible inclusionary zoning policies.

3) Facilitate the transfer of units to non-profits for affordable rental.

Who will own the affordable units once they are built? Inclusionary zoning can be used to build affordable condos for individual families to own, or the ownership could be transferred to non-profits to run as long-term affordable rental. Both affordable ownership and rental are good goals. However, in Ontario the principal need is for long-term affordable rental housing, and this is where our focus should be. The proposed regulations are silent on any mechanism to transfer affordable units to non-profit/co-op housing providers to run as rental housing. Enabling that option can ensure that units are kept as affordable rental for the long term, consistent with the mandate of such providers. It can be combined with federal and provincial subsidies on the same property to help those in deeper need. The proposed regulations could be strengthened by providing encouragement, priority, or supports for the transfer of affordable units to non-profits or co-ops for use as rental. This would increase the supply of affordable rental housing,

increase tenure mix, and would make units more affordable to families along a wider income spectrum.

4) Reduce the cost burden on municipalities.

The proposed regulations require that municipalities pay developers 40% of the cost of making the units affordable. This high mandatory municipal contribution will make it unattractive for many Ontario municipalities to use inclusionary zoning widely, or at all. A 40% contribution is fiscally onerous: few municipalities in Ontario will be able to afford many units. Many European jurisdictions with successful inclusionary zoning programs do not require municipalities to contribute to the cost of affordable units at all. The municipal contribution is waived in the proposed regulations for areas which implement a Community Planning Permit System. This waiver provides an incentive for municipalities to move towards a more proactive and locally-informed community planning system, though this system remains several years away from implementation. The proposed regulations could be strengthened by substantially reducing the 40% municipal contribution. This would encourage municipalities to use inclusionary zoning more widely, thus producing more affordable units.

5) Permit municipalities to contribute with density bonuses.

The proposed regulations place a high cost on municipalities, but then prohibits a primary way that municipalities can contribute: density bonuses. Some jurisdictions, such as New York City, make good use of these kinds of financial offsets for developers. Density bonuses can help offset the costs of inclusionary units and encourage greater density. They can help ease the transition to inclusionary zoning for developers while the market adjusts. The proposed regulations could be strengthened by allowing municipalities to contribute with density bonuses. This would make inclusionary zoning policies more attractive for municipalities, leading to wider implementation and thus more units and more mixed-income developments.

Action on inclusionary zoning is a positive step for affordable housing in Ontario. The changes to the regulations outlined above would make inclusionary zoning a more effective policy to help maximise the opportunity for Ontario and local communities. These changes are consistent with the experiences of effective international jurisdictions. They would lead to more affordable units being built, allow those units remaining affordable for decades longer, and contribute to more economically inclusive communities. Inclusionary zoning would help to improve population health and health equity in communities across Ontario. If we can be of further assistance, please do not hesitate to contact us.

¹ Richard Drdla Associates (2010) "A Guide to Developing an Inclusionary Housing Program." Wellesley Institute, ACORN Canada, Catherin Donnelly Foundation.

² Mahamoud, A. et al. (2012) "Housing and Health: Examining the links." Wellesley Institute.

³ Calavita, N. & Mallach, A. (2010). *Inclusionary Zoning in International Perspective*. Cambridge, MA. Lincoln Institute of Land Policy.

⁴ In 2011 to 2016, Ontario had net reduction in homeowner households at all annual income levels under \$100,000 (calculated from Statistics Canada, 2016 Census cat. 98-400-X2016228 and 2011 NHS cat. 99-014-X2011028). In 2016, 65.1% of Ontario households had incomes under \$100,000. Moreover, only a tiny share of housing production is for rental tenure.

⁵ Gladki, J., & Pomeroy, S. (2007). "Implementing Inclusionary Policy to Facilitate Affordable Housing Development in Ontario." Report prepared for the Ontario Non-Profit Housing Association.

⁶ Madar, J., & Willis, M. (2015). "Creating Affordable Housing Out of Thin Air: The Economics of Mandatory Inclusionary Zoning in New York City". NYU Furman Center.

⁷ Hickey, R., Sturtevant, L., & Thaden, E. (2014). "Achieving Lasting Affordability through Inclusionary Housing". Lincoln Institute of Land Policy.