

Ministry of Municipal Affairs and Housing  
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Toronto, Ontario M7A 2J3  
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**RE: 019-6173**

**Proposed Changes to Ontario Regulation 232/18 – Inclusionary Zoning**

The City of Ottawa is pleased to present its comments on the proposed amendments to Ontario Regulation 232/18: Inclusionary Zoning, ERO number 019-6173.

The City of Ottawa began its work in inclusionary zoning in 2019, shortly after the Province limited its application to MTSAs and lands subject to a Community Planning Permit system. At the time, the City of Ottawa submitted its objections to the Province, noting that any geographic restriction should come from the findings of the feasibility studies already required by the regulation. In short, the City of Ottawa recognized the value of inclusionary zoning as a tool to add affordable housing and did not support efforts to limit its application.

As such, the City of Ottawa does not support the proposed amendments to O. Reg. 232/18. There are three main changes proposed:

1. A maximum set-aside rate of 5%;
2. A maximum period of affordability of 25-years; and
3. A lower limit for rents and purchase prices of 80% of the average market rent or the average purchase price.

**The City of Ottawa Recognizes that Development must Remain Feasible**

We appreciate the need to maintain development feasibility in any inclusionary zoning framework: the City of Ottawa has taken a very cautious approach to inclusionary zoning to ensure that whatever is proposed does not sterilize development. Moving forward, staff has direction from its Council to form a working group with industry representatives and affordable housing experts to ensure that any inclusionary zoning framework satisfies the needs and concerns of all affected parties. It is not the City's intention to move forward with a framework that would pause residential development in MTSAs entirely, raise market rates, or cost more to administer than it would to fund the same number of units using existing programs.

For example, the City of Ottawa has already reported that a set-aside rate of 0% for purpose-built rentals currently makes sense. However, the City retains the discretion to increase that set aside rate as the land economics change.

The proposed changes to O. Reg. 232/18 would eliminate almost all municipal discretion for inclusionary zoning, forcing a decision between only 0% and 5%. In some instances, we know that rates above 5% could be considered feasible, yet we would be prevented from asking for those units. Scenarios where more than 5% is feasible given certain financial offsets are also off the table, even if the impact to the developer is no different than a 5% and no offset scenario.

## **Municipal Discretion and Market Reactions should Determine Inclusionary Zoning Thresholds**

A uniform approach to inclusionary zoning across the province is not appropriate. Toronto, London and Ottawa, for example, have very different market conditions and planning priorities. The City of Ottawa submits that the municipality is in the best position to study and formulate an inclusionary zoning framework, learning from site-specific Official Plan and Zoning By-law amendments to formulate the best framework for its market. It does not make sense for the Province to intervene with key inclusionary zoning conditions where more favourable conditions could be possible.

We understand that the Province is keen to ensure that development is not made infeasible by inclusionary zoning, but the proposed limits in Ontario Regulation 232/18 are below what Ottawa, Mississauga and Toronto have already studied and determined to be feasible. That is, we know that in at least three municipalities in Ontario, more affordable units, longer affordability periods and deeper affordability are attainable through inclusionary zoning. It runs contrary to the intent of Bill 23 to prohibit such favourable outcomes.

Further, the option for a municipality to achieve a more generous inclusionary framework by offering various offsets to the developer is eliminated, even though such an arrangement could mean more affordable units with a lesser impact on feasibility.

## **Degree of Affordability will not Help Households in Need**

The degree of affordability is a key factor in any feasibility analysis. The proposed *lower limit* of 80% average market rent or average purchase price is not in line with the Provincial Policy Statement, 2020 or with best practices. Further, it fails to consider the impact of other shelter costs, such as utilities, condominium fees and property taxes, on affordability.

Like the PPS does, inclusionary zoning prices should be determined by income decile to ensure that the units are affordable for households that would otherwise be priced out of the market or be under considerable strain to make rent or mortgage payments.

Additionally, if the province were to impose a lower limit for rents at 80% of average market rent (AMR), it may result in minimum affordability requirements not being met for several federal and municipal funding programs essential to supporting the development of affordable housing. For example, both the CMHC National Housing Co-Investment Fund and the Federation of Canadian Municipalities Sustainable Affordable Housing programs set minimum affordability requirements at 80% median market rent (MMR) at the neighbourhood level. As 80% MMR is a deeper level of affordability than 80% AMR, all IZ units would not meet eligibility requirements for these programs. This would result in fewer funding/financing opportunities and would have significant impacts on the financial viability of affordable housing projects.

Until we know how average market rent and purchase price are calculated, we cannot properly comment on which households this metric is supposed to benefit. The City is concerned that by tying affordability to market prices rather than to income, the price of units will not be low enough to benefit even moderate income households.

## Conclusion

If these proposed changes are adopted, inclusionary zoning will become a nearly unusable tool in Ontario. If the aim is to provide affordable units, then these restrictions should not be enacted and the individual municipality should be responsible for studying the feasibility of various inclusionary zoning scenarios, including financial offsets.

Sincerely,

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