

***Comment and suggestion on Proposed Amendment to O. Reg 232/18:
Inclusionary Zoning (ERO number 019-6173)***

The proposed amendment will:

- *Ensure as of right zoning is in place for building height/density within one year in major transit station areas (MTSAs) and protected major transit station areas (PMTSAs) to support the goal of building 1.5 million homes in the next 10 years*
- *Municipalities would be required to update their zoning by laws to specify minimum heights and densities (to meet the minimum required density targets) "as of right" within one year of MTSA/PMTSA approval*

A separate amendment will then regulate the amount of inclusion on these sites – limiting to 5% of units (or net GFA) and a minimum price at 80% of the average rent or resale price as prescribed by the Minister each year.

Impact of these amendments

All transit lands will be upzoned – this increase in density will substantially increase density and the number of homes built. It will also avoid lengthy delays and thus save time and cost for the developer.

The pre-zoning will also substantially increase the potential yield (profit) from the higher density development.

This is a substantial benefit to developers that have already purchased this land at lower historic prices – and creates considerable financial capacity to absorb some level of affordable inclusion – well in excess of the proposed 5%.

For other (passive) landowners in the designated PMTSA and MTSA areas this similarly massively enhances land value. The pre-zoning creates a windfall gain to these existing landowners who will sell to developers at new higher land value. **So rather than improve affordability the effect of the increased zoning will be to inflate land values with the benefit flowing to existing landowners. This is not the stated intent of Bill 23.**

If the pre-zoning can prescribe a level of affordable inclusion (lower rents and prices) this will reduce the value of the land and the windfall benefit and ensure that the enhanced yield can be used to offset reduced revenues for the developer. A more meaningful IZ rate will minimize the windfall gain to passive existing landowners – who would then sell at the lower pre- rezoning value. **This is a better way to avoid inflating land values and to ensure affordability goals are achieved**

Restricting the percentage of affordable units to only 5% fails to generate fair share of the value uplift attributable to the increased density. It is recommended that when pre-zoned this minimum be increased to 15% in order to drive down land values and better achieve affordability

It is also noted that the benchmark of 80% of AMR/resale price is only moderately affordable, not deeply affordable. It is accepted that it is not appropriate to set the affordability level at extremely low rents/prices – affordability can be better addressed by stacking either ownership assistance or rent allowance on top of this 80% requirement). But it is possible to prescribe a larger percentage as affordable – ideally 15-20%, which is the common practice in the wide array of jurisdictions with IZ regulation (e.g., in the US, and the UK).

Such higher requirements would have a much stronger effect of driving land values back down (to pre pandemic values), minimizing windfall gains and facilitating greater degree of affordability – which should be the primary goal of this legislation

The concept of creating certainty and minimizing an often-lengthy period of negotiation is a positive step. But by establishing only a 5% inclusionary requirement vastly underutilized the “planning gain” and potential to ensure that a larger proportion of new supply is directed to more affordable outcomes.

Accordingly, it is recommended that the restriction to a max 5% inclusion be revised to 15% of units and/or GFA

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