Affordable Housing:
A Comparison of How Municipalities are Responding to a Growing Need

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Housing Policy in Canada

A brief history

- Dominion Housing Act, 1934 – first program to provide loans for housing
- National Housing Act, 1939 –first program to create publicly-owned low rent and social housing
- 1946 – Regent Park in Toronto became the first purpose-built public housing project -69 acres and over 2000 units
- 1954 – Federal government agreed to insure mortgage loans –program became the Canadian Mortgage Housing Corporation (CMHC) and still vital today, guaranteeing mortgage loans where deposit is less than 20%
- 1970s – provinces and cities became active in providing subsidized housing and supporting low income housing built by non-profits through rent supplements
- Public housing seen as too costly so focus shifted to incenting private development

Housing Policy in Canada

A brief history cont'd

- Changes to the Tax Act to exempt registered home ownership plans from tax and to exempt capital gains from principal residences
- 1993 – Federal government withdrew funding social and affordable housing programs and transferred responsibility to the provinces who transferred much of it to municipalities
- Cities turned to density bonusing to encourage developers to build affordable units and also to require affordable units in new subdivisions and in high rise buildings
- CMHC remained active in insuring mortgages and smaller homes were allowed in established neighbourhoods
- Homelessness grew as a result of a shortage of affordable housing and a move to move people out of mental health institutions

Housing Policy in Canada

A brief history cont'd

- 2000s – Federal and provincial affordable housing initiatives provided capital to build units in exchange for guaranteed below-market rents, and often focused on special groups including seniors and off-reserve Aboriginal people
- CMHC providing mortgage insurance for up to 100% of the cost of a house/condo to encourage ownership
- 2010 – planning for social housing devolved to municipalities in Ontario

Defining Affordable Housing

- Housing cost = the total monthly rent/mortgage and utilities
- Affordable housing = housing where the total monthly housing cost is less than 30% of the gross household income (CHMC)

What Tools do Municipality Have?

- Grants from other levels of government to allow for loans and grants to builders of affordable units – Municipal Capital Facilities
- Land trusts
- Secondary suites / garden suites / granny flats / laneway flats
- Density and height bonus / inclusionary zoning
- TIF programs / cash-in-lieu
- Waive fees and charges

Planning and Land Use Regulation

- Zoning and building regulation was local
- 1868: Toronto's first zoning ordinance
- 1923: Toronto's first comprehensive building safety ordinance
- 1952: Toronto's first comprehensive zoning by-law / ordinance
- 2007: Regent Park was demolished by the City of Toronto and re-built in a joint venture with private sector developers and community assistance groups
- 2008: City of Toronto tower renewal program to upgrade its social housing stock
- 2018: Ontario opened the door for municipalities to enact Inclusionary Zoning ordinances by passing the Promoting Affordable Housing Act, 2016

The Rise of Inclusionary Zoning

- Enables municipalities to demand affordable housing units when reviewing new developments, rather than negotiate them on a site by site basis. Voluntary programs become mandatory requirements.
- Problems to come include time limits for units to have to remain affordable, cost can drive away development potential or result in the loss of other community benefits
- **Toronto:** advancing to a mandatory inclusionary zoning program; approvals still underway
- Began process to require Inclusionary Zoning after the Province enacted legislation authorizing it – new development in Toronto in the five years leading up to Inclusionary Zoning averaged 2% affordable, and under new policy between 10-20% affordable housing is required on site
- Higher levels of affordable housing in major transit station and those with strong market demand, meaning areas where price and rental escalation high, and renter households paying 50%+ of incoming on shelter costs
- Higher levels of larger developments

Other Inclusionary Zoning models

- **Chicago:** inclusionary zoning as of 2003
  - 10% of units on lands acquired from City must be affordable, 30 years
  - 20% of units must be affordable if receive TIF assistance, 30 years density bonus for on-site affordable or pay per unit fee in lieu
  - TOD bonus increases number of affordable units
- **Minneapolis:** effective January 1, 2020 developers are given options to:
  - Provide 8%on-site units at/below 60% area median income
  - Provide 4% on-site units at/below 30% area median income for 20 years
  - With City assistance, 20% of units at/below 50%area median income, 30 years
  - Pay an in-lieu fee
  - Produce or preserve required units off-site
  - Donate land to the City, subject to conditions TBD

Other Inclusionary Zoning models
Cont'd

- **New York:** mandatory inclusionary zoning since 2016
  - Applies in rezoned specified areas of obsolete industrial/commercial to capture some of the value uplift for the public
    - Over 25 units to create 25% affordable (permanent) at 60% AMI or
    - 30% affordable (permanent) at 80% AMI
    - Workforce housing option in some areas, to 120% AMI
    - Public funding assistance for up to 100% affordable buildings for 35 years

Other Inclusionary Zoning models

Cont'd

- **Miami:** mandatory inclusionary zoning in downtown approved 2018
  - Rental developments to include minimum of 14% workforce housing or 7% affordable units
  - Condo developments to include minimum 10% workforce housing or 5% affordable units
  - Does not apply in areas where mainly single family homes
- **San Francisco:** adopted inclusionary zoning in 2002
  - Developers can choose to build affordable units on-site, off-set or pay a fee in-lieu based on square foot
  - "below-market-rate program"

Rets of Canada: Vancouver, Calgary, Mississauga and Halifax rely on voluntary inclusionary zoning / density bonusing

Today's Housing Market

- Home prices continue to skyrocket – in Toronto avg. detached house price is over $1 million and condo prices surging – bidding wars common
- Investment in downtown condos has pushed many out of being affordable
- Efforts to control vacant units bought for investment purposes through a tax, that first implemented in Vancouver
- Height and Density bonusing remains the primary tool to achieving affordable housing units in new developments
- The appeal process is slow and expensive if agreement cannot be reached, so adds incentive for developers to be more open to meet targets

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Mary Ellen Bench serves as Counsel in Dentons' Real Estate group, where she advises a broad range of public and private sector clients on governance, municipal law, development, infrastructure and related matters.

Throughout her career, clients and colleagues, alike, have relied on Mary Ellen's exceptional skillset and professional excellence to lead numerous infrastructure and development projects, provide significant input on governance matters and municipal legislative reform, and advise on many municipal corporate, development and finance matters.

With more than 30 years' experience in municipal public service, Mary Ellen held various leadership roles in the legal department at the City of Toronto, as well as City Solicitor for the City of Mississauga. In those roles, she was often engaged on project teams outside of the traditional legal role, because of her practical approach that uniquely achieved solutions to challenging problems that respect and garner the support of all parties, a quality for which she is known throughout the business and legal communities.

In 2006, the Law Society of Ontario recognized Mary Ellen as a Certified Specialist in Municipal Law in respect of local governance matters, and land use planning and development, areas in which she exemplifies the highest standards of the profession. The Rotman School of Management also certified Mary Ellen as an In-House Counsel Specialist, reinforcing her capabilities as a strategic business partner, both internally and with her clients.

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Thank you

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