



**February 1, 2018**

Provincial Planning Policy Branch  
Ministry of Municipal Affairs  
777 Bay Street, 13th Floor,  
Toronto ON M5G 2E5

**Sent by Email: [inclusionaryzoning@ontario.ca](mailto:inclusionaryzoning@ontario.ca)**

**RE: PROPOSED REGULATION UNDER THE PLANNING ACT RELATED TO INCLUSIONARY ZONING  
OFFICIAL PLAN POLICIES AND ZONING BY-LAWS (MINISTER'S REGULATION) – EBR REGISTRY NUMBER  
013-1977.**

Established in 1950, the Ontario Municipal Social Services Association (OMSSA) is a non-profit organization whose members are the 47 Consolidated Municipal Service Managers (CMSMs) and District Social Services Administration Boards (DSSABs) across Ontario. We support leadership in integrated human services through strong local service system management in all municipalities. OMSSA members support increasing the supply of affordable housing. Rental and social housing stock is a high priority for all service managers. However, the regulations as proposed are aligned to reducing costs to first time home buyers in the condominium market rather than encouraging the development of affordable rental housing. Home ownership is an important goal, but there is a strong need to increase the supply of rental housing and social housing units. Many communities are seeing rental rates explode and vacancy rates decline as RGI waitlists grow. The GTA has seen housing affordability at its lowest level in measured history due to significant inflation in the real estate market. At the same time, northern communities are experiencing declining populations with fewer development opportunities. Further rural areas have seen an increase in homelessness and poverty within their communities which will need the supports provided by additional affordable rental stock.

OMSSA and many other stakeholder groups had expected differently focused Inclusionary Zoning legislation when Bill 7 (Promoting Affordable Housing Act, 2016) was released. Unfortunately, we are disappointed with the current regulations posted on December 18, 2017. We encourage the Ministry to consult further with municipalities, service managers and stakeholders on an appropriate framework that will result in better participation targeted to the key objective of building additional rental units. The financial cost that requires municipalities to contribute 40%, the lack of incentive for rental and the massive administrative and reporting burden on municipalities will result in minimal participation under the proposed Inclusionary Zoning framework.

The current posted regulations on Inclusionary Zoning have the feel of a municipally-funded, first time homeowners program. Home ownership should be a lower priority than against increasing rental and RGI stock which helps the most vulnerable in our communities who we prefer to target over moderate income earners. Subsidizing first time homebuyers could also reverse the intentions of the Fair Housing Plan by driving up prices due to supply and demand. The provincial government has already attempted to address affordable home ownership through the Fair Housing Plan. Increasing interest rates and the new stress test may also impact real estate affordability. OMSSA would prefer to allow the market to determine real estate prices while instead focusing on rental affordability and RGI wait lists. The current proposed regulations provide the opportunity to create affordable ownership housing in condominiums but it fails to provide the opportunity to create much needed affordable rental housing. This is a crucial problem because rental vacancies are low and as a result with negatively impact the ability to fully utilize the new provincial portable housing benefit and the portable housing benefit proposed under the National Housing Strategy. OMSSA calls on the Ministry to allow municipal discretion to include purpose-built rental developments from the application of an inclusionary zoning by-law. The Province should establish a high level administrative framework with annual funding to ensure that units can be secured and maintained for the long-term, with the option to permit units to be operated as rental housing.

Service Managers have a major role in the planning and administration of social housing within the province of Ontario. Although inclusionary zoning would target the lower-tier municipalities, OMSSA members have an interest in seeing Inclusionary Zoning succeed by building new purposed based rental and affordable housing within the province of Ontario. Under the current regulations however, it will not be successful. Inclusionary zoning traditionally does not serve the lowest income individuals but crafted appropriately it could be part of the mix as a useful tool in addressing both housing affordability and purposed built rental would be a more welcome potential tool for municipalities. Rural and Northern municipalities are unclear if Inclusionary Zoning will be of any benefit to them. We have not been able to find any examples where this has been successful from a rural perspective. Smaller municipalities may have difficulty meeting the 20-unit minimum threshold. Reducing to 5 would increase opportunities for rural and Northern municipalities across the province.

The Province should consider a role for service managers in the planning of inclusionary zoning for affordable housing units. Social housing is traditionally the responsibility of CMSMs and DSSABs. Planning falls under the jurisdiction of the lower tier municipalities. A coordinated and innovative approach will be required to make Inclusionary Zoning successful in Ontario. A one size fits all approach designed by the province will not work. Municipalities should have more flexibility to enable creative solutions that work within their own communities. Service managers may have an interest in supporting those municipalities to achieve common objectives. If a centralized approach is taken, the current regulations will be of no benefit to most of the province.

As proposed, it is highly unlikely that there would be significant utilization of inclusionary zoning voluntarily funded by municipalities. A better balance with the housing development industry must be considered. This legislation seems to be an attempt to appease developers following rental control. Provincial funding is required to support inclusionary zoning as municipalities do not have the resources to fund this alone with just the property tax base. A provincial financial contribution would indicate resolution about creating more affordable housing in the province. Assisting with administration and reporting would also encourage uptake. At this point, nothing tangible has been put on the table to encourage participation of inclusionary zoning locally. There is a fear it will be imposed by the province.

OMSSA members would like to better understand the rationale regarding the prescribed formula that requires municipalities to contribute 40% of the difference between the sum of the average market price for all the affordable housing units and the sum of the affordable price for all affordable housing units. Under the proposed regulatory framework, it is more feasible for a municipality or non-profit housing provider to implement and administer an affordable housing program without Inclusionary Zoning. OMSSA completely rejects and is opposed to this formula that would impose a massive financial burden on local municipalities.

The proposed regulations allow municipalities to provide the following incentives:

- waivers or reductions in planning application fees;
- reductions in parking requirements;
- exemptions for parkland contribution requirements;
- exemptions from development charges, and/or;
- capital contributions.

City of Toronto staff has estimated that the City contributions required to implement Inclusionary Zoning would range, on average, from \$110,000 to \$158,000 per unit, based on 2017 market conditions. This magnitude of incentives would far exceed the City's current fees and charges incentives for new affordable rental housing, which are approximately \$28,000 per unit. This total could be as high as an additional \$158M per year in the City of Toronto. Within York Region, staff estimate between \$50,000 and \$200,000 would be required to off-set an affordable ground related unit (townhouse, semi-detached, single-detached). In the context of the overall local budget and priorities, that is simply not feasible. Irrespective of the design of the regulations, it is crucial that inclusionary zoning implementation be voluntary and in no form mandatory. OMSSA members encourage removing the mandatory offering of financial contributions by municipalities to implement inclusionary zoning.

OMSSA calls for maximum local flexibility, especially when it is expected to use their own dollars. The Province needs to provide greater local flexibility and offer higher level enabling regulation so that municipalities are able to determine program mechanisms, and improve the implementation and uptake of a locally developed Inclusionary Zoning program. OMSSA recommends providing the ability for municipalities to establish the maximums for "unit set aside" and "offsite units" to serve the needs of their local housing markets. Municipalities should be responsible for determining which measures and incentives they may offer to support the provision of affordable housing units through inclusionary zoning. Further, municipalities should be permitted to authorize the construction of affordable housing units on off-site lands. Program targets, inclusion rates and "affordable units" should be determined by the municipality based on housing priorities already identified in local housing and homelessness plans. Section 37 of the Planning Act enables height and density bonusing in exchange for facilities, services or other matters. This is where there is most likely to be successful implementation of Inclusionary Zoning if allowed. Section 37 would not apply to developments where inclusionary zoning is proposed. This eliminates flexibility and is restrictive for municipalities. In the United States, Inclusionary Zoning has been most successful in the largest cities and areas with rapid population growth. According to a Social Planning Toronto report, many U.S. inclusionary zoning programs do not aim to compensate developers for affordable housing. Instead, municipalities most commonly offer density bonuses, which results in more affordable units.

As an upper tier municipality, Niagara, Halton, York, Peel and Durham do not have the ability under the Planning Act to pass Zoning By-laws within their jurisdictions. Lower-tier municipalities are charged with this responsibility. Clarification is required to determine if both upper and lower tier municipalities will be required to update their Official Plans with enabling policies related to inclusionary zoning.

Participation by an upper tier municipality may not be required in a two-tiered municipal structure, if a lower-tier municipality chooses to implement inclusionary zoning in their Official Plans. If an upper tier municipality chooses to participate in inclusionary zoning, clarification is required as to:

- Whether the upper and/or lower tier municipality is expected to prepare the requisite municipal assessment report prior to embarking on Official Plan and Zoning By-law amendments to implement inclusionary zoning;
- The flexibility for upper and/or lower tier municipalities to mutually agree who is responsible for paying the 40% difference between average market price and affordable price for all affordable housing units;
- How inclusionary zoning agreements would be structured between upper and lower tier municipalities, and how the proceeds related to the equity of an affordable housing unit could be shared among the parties; and
- Whether the upper and/or lower tier municipality bears the burden of administration responsibilities over the life of the program, which can be upwards of 20+ years;

Providing this clarification will be helpful to the high growth GTA communities surrounding Toronto where inclusionary zoning could be successful assuming modifications to the existing regulations.

The financial burden on municipalities is a major concern of municipalities and so is the reporting and administrative burden. There are significant administration costs associated with implementing inclusionary zoning including:

- the preparation of a municipal assessment report
- preparing and executing agreements with developers
- monitoring applicable affordable units over a 20-year affordability period, and
- determining how proceeds from the sale of an affordable housing unit are to be shared between the municipality and the landowner.

As currently proposed, all costs associated with administering inclusionary zoning will be exclusively borne by municipalities. There is also confusion over who would hold priority over the mortgage in the event of a default. Does the priority rest with the bank or the municipality? This has the potential to undue legal costs and a further administrative headache. The proposed regulations indicate that financial incentives would not be required for development or redevelopment within an area subject to a community planning permit system (formerly development permit system). Community planning permit systems are implemented at the lower tier municipal level and, while the system may be efficient once established, they involve significant work to put in place. Support from the province to address administrative and reporting burdens is needed.

Providing affordable housing is increasingly challenging for municipalities. Ontario municipal governments are the only ones in Canada who are responsible for social housing, and they contribute

more than the federal and provincial governments combined to this housing stock. The municipal property tax base cannot cover the costs of necessary capital repairs, operations, administration, and the development of much-needed new housing. Adding inclusionary zoning to the municipal toolbox for developing affordable housing could be positive. As a voluntary tool, it has the potential to greatly benefit many of Ontario's municipalities, but, it should not be considered the only solution.

In summary, generally, service managers support the concept of inclusionary zoning but it must be done correctly to achieve intended outcomes and avoid unintended consequences. Unfortunately, this is not the case with the proposed regulations, both for the province or local municipalities. The regulations are not aligned with the priority of increasing the rental stock badly needed in high growth communities with low vacancy rates. The proposed regulations will have a large financial, administrative and reporting burden which is a disincentive to implementation. Local flexibility is required to address unique local needs within communities. Clarification is required to determine the role of upper-tier municipalities who act as service managers (CMSMs and DSSABs). While Inclusionary Zoning has potential to be successful in large high growth communities, it will not be helpful to rural communities or Northern communities under the current model. It will not address the needs of the lowest income earners who should be the target for support.

OMSSA encourages further consultation prior to the province moving forward with the regulations as posted. OMSSA members ask for a framework that will:

- provide more local flexibility
- provincial funding
- encourages an increase in rental housing
- clarifies the service manager role
- reduces the reporting and administrative burden.

Inclusionary Zoning, with the implementation restrictions and requirements set out in the draft regulations, is not the tool municipalities were seeking and the Province should be expected that voluntary participation will be limited under the currently proposed framework. At this point there is strong opposition to what has been proposed both in the media and by our membership.

Thank you very much for considering the views of the Ontario Municipal Social Services Association (OMSSA) on the proposed Inclusionary Zoning regulations. Our membership looks forward to working with the province to address some of these concerns in the final version of the Inclusionary Zoning regulations to create an effective tool that works for both the province and the municipalities. We also support submissions made by ONPHA, AMO, ACORN, the Co-operative Housing Federation of Canada and individual municipalities such as the City of Toronto, Durham Region and York Region on this issue.

Personal regards,

Darryl Wolk  
Policy Analyst  
**Ontario Municipal Social Services Association**  
1 Dundas Street West  
Suite 2500  
Toronto, ON, M5G 1Z3