



Submission to the City of Toronto regarding a human rights-based approach to its assessment of Inclusionary Zoning

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In December 2019, the City of Toronto took a landmark step in recognizing housing as a human right and incorporating a human rights-based approach in its ten-year HousingTO 2020-2030 Action Plan.

A human rights-based approach requires the City to review policies against established standards and norms under international law. **This includes the eight elements of the right to housing:**

1. Accessibility and cultural appropriateness,
2. Adequacy,
3. Affordability,
4. Equity,
5. Non-discrimination,
6. Safety,
7. Security of tenure, and
8. Tenant participation.

It also requires the City to use the **maximum available resources** to advance the right to adequate housing and to **prioritize those in greatest need** in all policies that impact people's access to adequate housing.

Given that Toronto's housing system is predominantly in the private market, and new residential development is the key mechanism by which the City plans to meet the housing needs of Toronto's growing population, Inclusionary Zoning (IZ) is a critical tool to support the City's commitment to progressively realize the human right to adequate housing for all residents.

To align with the City's human rights-based approach, the forthcoming IZ feasibility assessments should explore the potential for IZ to maximize the delivery of affordable housing for those in greatest need. With this in mind, we recommend that the City explore the following areas in its assessments.

1. Maximize deeply affordable housing

The right to adequate housing is universal and the City appropriately aims to deliver housing to residents across the income spectrum. However, the City's current purview of IZ is limited to the delivery of moderately affordable housing for lower-to-middle income households rather than prioritize those in greatest need by delivering deeply affordable units. Evidence shows that IZ can provide deeply affordable units in Toronto, albeit at lower volumes.¹ The City's assessments

1 Pomeroy, Steve. (2019). *Examining the feasibility and options for an inclusionary zoning policy in Toronto*. Accessed at <https://maytree.com/wp-content/uploads/Examining-feasibility-options-inclusionary-zoning-policy-Toronto.pdf>

should consider the extent to which IZ can provide deeply affordable units in order to identify IZ policies that support those in greatest need where there is the capacity to do so.

2. Prioritize affordable rental housing

Under the City's draft IZ policies, the affordable units provided will match the tenure of the other units within the development. This would predominantly deliver affordable housing for ownership. People in greatest need will not be able to access affordable ownership and require affordable rental housing instead. The City's assessment should consider how the supply of affordable rental, rather than ownership, can be prioritized. For example, it could explore if its IZ policy can require ownership-based units be sold to non-profit landlords to offer as affordable rental.

3. Prioritize people over profit

The City's IZ policies need to maximize the number of affordable units built by striking a balance between the set-aside requirement and the incentive developers have to build. The City's previous assessment reports have been based on the assumption that "developers are not likely to reduce their profit expectation."² This assumption significantly limits the scope for IZ to provide affordable units. A human rights-based approach requires the City to instead explore the extent to which developer profits could be negotiated without affecting the amount of affordable housing that is developed.

4. Focus on rapid housing delivery

Under the City's draft IZ policies, only 5 to 10 per cent of units in IZ developments would be set aside as affordable to avoid shocking the market. The City proposes to review this after three years and consider options to increase the affordability requirement. Previous assessments have shown that the market can sustain a much higher set-aside which should abate concerns of shocking the market.³

Adopting a low set-aside is counter to the principle of committing the maximum available resources to the delivery of adequate housing. Instead, a human rights-based approach would consider options for IZ to accelerate the delivery of affordable housing. For example, one option would be to set a higher set-aside from the outset and prioritize developments that provide the highest number of affordable units in the approval process.

2 The City of Toronto. (2020). *Update: Evaluation of Potential Impacts of an Inclusionary Zoning Policy*. Accessed at <https://www.toronto.ca/wp-content/uploads/2020/09/8fd6-CityPlanning-Toronto-IZ-Update-Draft-May-2020.pdf>

3 The City of Toronto. (2019). *Evaluation of Potential Impacts of an Inclusionary Zoning Policy in the City of Toronto*. Accessed at <https://www.toronto.ca/wp-content/uploads/2019/05/90b6-Final-Draft-City-of-Toronto-IZ-Analysis-May-21-accessible.pdf>

5. Provide long-term affordability

The City has already revised its initial IZ proposals to extend the affordability period from 25 to 99 years. Assessments have shown that such an increase in the affordability period makes little difference to the feasibility of developments, and stakeholder consultations have highlighted that a 25-year affordability term would not provide the sustainable stock of affordable units required.⁴ As the lack of affordable housing in Toronto is a chronic rather than short-term issue and security of tenure is one of the eight elements of the human right to housing, a human rights-based approach would ensure that IZ delivers housing that is affordable in the long term. Therefore, the City should retain the 99-year affordability requirement in its feasibility assessments and final IZ policies.

6. Counter housing inequities

The housing market creates and exacerbates multiple inequities in Toronto. IZ is one of the ways the City can provide housing for those whose needs are not met by the market. A human rights-based assessment would consider ways that IZ policies can reduce existing housing inequities. For example, the assessment could explore how IZ could increase the supply of accessible, universally designed units and the supply of lower-cost family-sized units for sole-support parents.

A human rights-based approach to Inclusionary Zoning can maximize the supply of affordable housing

The City has set ambitious affordable housing targets in the HousingTO 2020-2030 Action Plan. While IZ alone will not be able to deliver the full complement of affordable housing that this city needs, it is crucial that IZ plays its part.

The forthcoming IZ feasibility assessments is the City's opportunity to fully understand the potential for IZ to advance the human right to adequate housing in Toronto. In particular, the City's assessments should explore how IZ can achieve the following:

1. Maximize deeply affordable housing,
2. Prioritize affordable rental housing,
3. Prioritize people over profit,
4. Focus on rapid housing delivery,
5. Provide long-term affordability, and
6. Counter housing inequities.

4 The City of Toronto. (2020). "Attachment 3 – Description of Draft Inclusionary Zoning Framework." Accessed at <https://www.toronto.ca/legdocs/mmis/2020/ph/bgrd/backgroundfile-156404.pdf>