

Hon. Peter Milczyn

Minister of Housing

777 Bay St.

Toronto, ON

Thursday, February 1, 2018

Dear Minister Milczyn:

We are writing to express our deep concern over the draft inclusionary zoning regulations published shortly before Christmas.

As advocates for affordable housing, we urged the government to bring in inclusionary zoning legislation and lauded the Ministry for the thoughtful Bill that was passed last year. We looked forward to new policies that would ensure that the development boom contributed to the creation of badly needed affordable housing. We were, therefore, distressed to see a set of draft regulations that undermine virtually every aspect of the legislation. The regulations, as currently drafted, ensure that little affordable housing will be built and that the highly profitable development industry will contribute little, if anything, to support the creation of affordable housing.

The regulations proposed will effectively repeal the legislation and abandon its fundamental goal: to have the revenues generated by development contribute to the creation affordable housing, at minimal cost to the taxpayer.

Instead, these draft regulations minimize the total volume of affordable housing possible. The draft regulations set caps on the amount of new affordable housing municipalities can build under inclusionary zoning. They also set these caps far below the levels used in the vast majority of inclusionary zoning policies in North America, and exclude many developments from participating at all.

The draft regulations ban municipalities from creating policies that enable housing to remain affordable for any longer than 30 years, which simply passes the affordable housing crisis on to the next generation.

These regulations also, inexplicably, shift considerable costs from developers onto taxpayers, requiring municipal ratepayers to foot a significant share of the costs, whereas virtually all inclusionary zoning policies in North America require developers to foot the costs, not ratepayers.

The regulations appear to be designed to stop inclusionary zoning from doing anything more than creating a small number of ownership units at shallow subsidies over a short term, when Ontario's most significant housing need is long-term affordable rental. The regulations also seem to favour for-profit development instead of engaging non-profits in creating affordable housing, which has often been the most effective way to ensure long term affordability.

Although the legislation gave municipalities the ability to design programs to fit their local contexts, the regulations reverse that flexibility and instead tie the hands of municipalities. The regulations as drafted forbid local governments from shaping inclusionary zoning policies to meet local housing needs and market conditions in their communities, and instead, impose cookie cutter rules at the lowest common denominator on all cities and towns across Ontario.

These changes not only subvert efforts to create affordable housing, they fly in the face of the evidence with regards to inclusionary zoning policy best practice across North America, where higher thresholds and longer affordability periods are common and are increasingly used, and taxpayer payouts to developers are rare.

We urge you, Minister Milczyn, to revise the regulations to reflect the intent of the legislation and the evidence showing which approaches to inclusionary zoning are most effective.

Specifically, we ask that you make the following changes to the regulations:

1. The current draft regulations forbid municipalities from applying inclusionary zoning policies to any building under 20 units. Since development patterns vary widely across municipalities, municipal governments should be able to set the appropriate size of developments covered by inclusionary zoning bylaws locally, without constraints from the province.
2. The current draft regulations forbid municipalities from asking that developers make any more than 5% of the units in any development affordable (10% in high density transit zones). Across North America, limits that low are unusual, and "set asides" in the neighbourhood of 20% are far more common; New York's inclusionary housing plan includes set asides of up to 30%. Allowing municipalities to set their own set aside levels is more in keeping with both the legislation and with best practice, so no limit should be set in the regulations.
3. The affordability periods are limited to 20-30 years in the draft regulations. This effectively passes the affordable housing crisis onto the next generation and does little to address the need for a long-term solution. It also flies in the face of current practices in other North American jurisdictions, which are moving to longer affordability periods and in many cases to perpetual affordability or 99-year affordability periods. Developing regulations that force municipalities to limit the duration of affordability is inconsistent with the legislation's support for allowing municipalities to make the choices that are right for their residents' affordable housing needs and their housing markets. There should be no province-wide imposed cap on affordability periods.
4. The draft regulations impose "measures and incentives" that require every municipality in Ontario to shift costs from developers onto taxpayers. For every unit of affordable housing created by a new development, this draft regulation requires municipalities to compensate developers for 40% of the cost of making units affordable. Compensation to developers is an unusual policy, rarely included in other inclusionary zoning programs in North America. Even in the jurisdictions where it is allowed, it is used minimally. Across North America, the cost of affordable units is absorbed by the developments, primarily by lowering land prices, which is also a significant benefit given overheated land prices in many Ontario communities. Municipal funds are generally best spent on deeper subsidy programs that the development market can't address, not on payments to developers. There is no reason for Ontario to ignore best practice and the preponderance of public policy by having taxpayers subsidize the highly profitable development industry. No compensation should be required under the regulations.
5. Limits on building affordable units offsite are also included in these draft regulations. The offsite units are required to be "in proximity" to the original building, but proximity is not defined. Municipalities should be required to create a locally appropriate definition of "proximity" to ensure consistent application of the offsite development rules. Many inclusionary zoning policies

in North America also require developers to provide additional units if they employ the offsite provision. This is an appropriate addition to the draft regulations, although units provided by non-profits should be exempt from this requirement.

6. The regulation also forbids building offsite affordable units funded by inclusionary zoning unless the buildings the units are in are at least 50% market rate units, making it almost impossible for non-profit providers to play a role. Few non-profits have the capacity to build and market an additional unit for every unit of affordable housing they provide. The capacities and capital of the non-profit sector are best focused on providing badly needed affordable units. The draft regulations should exempt non-profits from this restriction.
7. As housing markets vary widely, exemptions for purpose-built rental should not be imposed province-wide. It is worth noting that many new rental developments are luxury rental buildings and are ideal candidates for participation in inclusionary zoning programs. This exemption should be removed.

We look forward to seeing these revisions made to the draft regulations so that the valuable legislation the government passed last year is able to have its intended and much needed positive affect on the provision of affordable housing.

Signed by over 60 housing and poverty advocacy organizations across Ontario:

Kenneth Hale	Advocacy Centre for Tenants Ontario
Adeena Niazi	Afghan Women's Organization
Lee Soda	Agincourt Community Services Association
The Rev. Canon Beth Benson	Anglican Church of St. Mary and St. Martha
Enrique Robert	Birchmount Bluffs Neighbour Centre
Anita Khanna	Campaign 2000 Canada
Steve Lurie	Canadian Mental Health Association Toronto Branch
Avvy Go	Chinese & Southeast Asian Legal Clinic
Rain Chan	Chinese Canadian National Council
Lynn Daly	Christie Ossington Neighbourhood Centre
Harvey Cooper	Co-operative Housing Federation of Canada, Ontario Region Office

michael kerr	Colour of Poverty - Colour of Change
Joey Edwardh, Ph.D.	Community Development Halton
Sanga Achakzai	Council of Agencies Serving South Asians
Bruce Rivers	Covenant House
Claire Barcik	CRC/Regent Park Community Food Centre
Ainsley Chapman	Evangel Hall
Margaret Hancock	Family Service Toronto
John Plumadore	Federation of Metro Tenants' Associations
Mark Aston	Fred Victor Centre
Leslie McDonald	Habitat Services
Hugh Tye	Hamilton Community Legal Clinic
Duberlis Ramos	Hispanic Development Council
Brian Davis	HomeComing Community Choice Coalition Houselink
Patricia Mueller	Homes First
Melissa Goldstein	Housing Action Now
Jean Stevenson	Madison Community Services
Shelley Zuckerman	North York Community House
Debbie Douglas	OCASI
John Anderson	Ontario ACORN
Victor Willis	Parkdale Activity-Recreation Centre
Angela Robertson	Parkdale Queen West Community Health Centre
Michael Braithwaite	Raising the Roof

Board of Management	Ralph Thornton Centre
Fatima Filippi	Rexdale Women's Centre
Kimberly Curry	Seeds of Hope Foundation
Patricia O'Connell	Sistering
Peter Clutterbuck	Social Planning Network of Ontario
Shalini Konanur	South Asian Legal Clinic of Ontario (SALCO)
Kripa Sekhar	South Asian Women's Centre
Carol Zoulalian	St. Jude's Community Homes
Bill Sinclair	St. Stephen's Community House
Kapri Rabin	Street Health
Maura Lawless	The 519 Community Centre
Peter Frampton	The Learning Enrichment Foundation
Philip Unrau	The Neighbourhood Group
Rachel Gray	The Stop Community Food Centre
John Cartwright	Toronto & York Region Labour Council
Kira Heineck	Toronto Alliance to End Homelessness
Susan Bender	Toronto Drop-In Network
Joan Anderson	Toronto HIV/AIDS Network
Ian Edward	Toronto Kiwanis Boys and Girls Clubs
Rob Howarth	Toronto Neighbourhood Centres
Murray Jose-Boerbridge	Toronto People with AIDS Foundation
Nigel Barriffe	Urban Alliance on Race Relations

Carol Annett	VHA Home HealthCare
Ginelle Skerritt	Warden Woods Community Centre
Maureen Fair	West Neighbourhood House
Angus Palmer	Wigwamen Incorporated
Anne Bancock	WoodGreen Community Services
Marcie Ponte	Working Women Community Centre
Janice Hayes	YouthLink
Heather McGregor	YWCA Toronto
