

Faculty of Community Services

Centre for Urban Research and Land Development



Is Inclusionary Zoning a Needed Tool for Providing Affordable Housing in the Greater Golden Horseshoe?

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EXECUTIVE SUMMARY

The purpose of this paper is to explore the need for inclusionary zoning (IZ) as a tool for providing affordable housing in the Greater Golden Horseshoe (GGH). There is a consensus that GGH municipalities are increasingly facing an affordable housing problem. There is also a growing view that municipalities need additional tools like IZ to enhance the supply of affordable housing within their boundaries. At present, Ontario municipalities are not permitted to implement IZ measures and the Province is under pressure to reconsider this prohibition.

It is generally recognized that the provision of affordable housing to meet the needs of lower income households is an income redistribution program most appropriately funded by the senior levels of government, not municipalities or the homebuilding industry. Municipalities are being forced to search for less satisfactory, locally based approaches due to a marked shortfall in funding from the Ontario and federal governments.

Findings

The findings pertaining to the five questions addressed in the research are summarized below.

What is inclusionary zoning and what is the rationale behind it?

Inclusionary zoning is a municipal policy tool which has been designed to produce affordable housing within new private sector residential development. It typically reserves a percentage of affordable housing units in new developments that require re-zonings. In exchange, density tradeoffs are frequently offered to offset the cost.¹

In its purest form, the rationale underlying IZ is to leverage private sector involvement in affordable housing provision. The goal is to minimize public expense by providing density bonuses, and sometimes other municipal incentives, to encourage the creation of affordable housing in diverse socioeconomic communities.

Has inclusionary zoning provided a significant amount of affordable housing?

In some contexts, inclusionary zoning has effectively produced affordable housing units. In others, it has been much less effective. The effectiveness of any IZ policy depends on a jurisdiction's specific housing market structure and conditions, regulatory context and the design of the policy itself.

¹ Some versions of IZ mandate affordable housing benefit as part of all new residential development. It is our view that, at this time, this is not an appropriate component of any potential IZ policy for the GGH. This policy would have broad adverse and undesirable implications for the housing market.

The affordable housing provided through IZ measures typically has been at, or slightly below, what is generally regarded as the lower end of the market. Without additional subsidies from government, IZ has not been effective at providing affordable housing units for households in the greatest need.

What are the housing market impacts of inclusionary zoning?

An appropriately designed IZ policy with density tradeoffs, and possibly other incentives such as property tax or development charge relief, should have no adverse overall housing market impacts. However, most IZ schemes are not designed to fully counter added development costs by providing equivalent or greater financial benefits to the developers.

Market impacts result from the ways in which developers react to IZ provisions. Responses can vary from accepting lower profits on projects, to trying to raise the purchase prices, to offering lower prices for future site acquisitions. The market impacts flow from the particular responses that, in turn, are a function of the IZ provisions and housing market conditions and structure. These impacts can be small or large.

How does inclusionary zoning interact with other tools available to GGH municipalities to provide affordable housing?

Ontario municipalities already have access to several tools to provide affordable housing within their borders. These include exemptions or reductions in development charges and property taxes which are levied on new residential developments, Section 37 of the Planning Act, and the provision of second units within existing single-detached houses.

Section 37 is closely related to IZ, as they both exchange community benefits for planning permissions to build at densities or heights greater than are currently permitted on sites designated for new residential developments. Since affordable housing is currently a community benefit permitted under Section 37, also allowing IZ would be duplication.

It is well documented in the literature that allowing second suites in single-detached houses as a matter of right is one of the most significant ways for municipalities to expand their supply of affordable rental housing.

Focusing on specific affordable housing tools for individual municipalities to consider takes attention away from the critical need to promote housing affordability at the market-wide level. The reduced affordability of ground-related housing in the GGH in particular is a result of a robust demand and a critical shortage of serviced sites to accommodate the demand. A recent CUR report

documents the failure of municipalities to provide sufficient serviced sites and of the Province to monitor the situation and initiate corrective action.²

Should IZ be introduced as a tool to provide affordable housing in the GGH?

The research findings indicate that IZ in Ontario might not be necessary. Inclusionary zoning effectively duplicates the provisions of Section 37 of the Planning Act which allow municipalities to provide additional density in exchange for community benefit contributions, including affordable housing. Moreover, municipalities can enhance housing affordability in the GGH in a significant way by greatly increasing the supply of serviced sites for all types of new housing units and encouraging the creation of second units in the existing stock of single-detached houses.

Recommendations

The following recommendations flow from the findings of the research conducted for this report:

- The Ontario government need not pursue new legislation to permit IZ.
- The Province should encourage municipalities which use Section 37 of the Planning Act to give greater priority to affordable housing.
- The Province should ensure the total community benefits which are obtained from Section 37 contributions be more closely tied to the financial benefits which developers obtain from rezonings.
- The Province should consider amending Section 37 to provide the development industry with more transparency and certainty regarding future financial contributions when they are considering purchasing sites.
- The Province should consider requiring municipalities to permit second suites as a matter of right in all lower density neighbourhoods in the GGH.
- The Province should monitor and enforce the policies of the Provincial Policy Statement (Policy 1.4.1) so that there is at least a three-year supply of serviced land for all types of housing relative to the expected demand in the GGH municipalities at all times.

² Frank Clayton, *Why There is a Shortage of Ground Related Housing in the GTA*. (Toronto: The Centre for Urban Research and Land Development, Ryerson University, 2015), http://www.ryerson.ca/content/dam/cur/images/CUR_PC%234_Shortage_New_Ground-Related_Housing_June1%2C%202015.pdf.

1. BACKGROUND

Many municipalities across Ontario, and particularly in the Greater Golden Horseshoe (GGH), are increasingly facing an affordable housing problem. As home prices and rents continue to rise faster than incomes, more households are unable to secure adequate housing at a cost that they can afford.

It is generally recognized that the provision of affordable housing to meet the needs of lower income households is an income redistribution program most appropriately funded by the senior levels of government, not municipalities or the homebuilding industry. Municipalities are being forced to search for less satisfactory, locally based approaches due to a marked shortfall in funding from the Ontario and federal governments.

One of these approaches is Inclusionary Zoning (IZ). Currently, the Ontario government does not allow municipalities to implement IZ provisions but it is being urged to do so.³

IZ policies have existed in U.S. cities for many years. Indeed, over 500 American jurisdictions have implemented some form of inclusionary zoning.⁴ A number of Canadian voices have been raised in support of IZ. These include the Ontario Non-Profit Housing Association, the Wellesley Institute, the Cooperative Housing Federation of Canada and, most recently, planners in the cities of Toronto and Mississauga. Advocates view IZ as a way to minimize government funding commitments by having developers provide affordable housing in new residential projects.

Alternatively, critics of inclusionary zoning have emerged, particularly the Ontario Home Builders Association and the Canadian Home Builders Association. Opponents suggest that inclusionary zoning could have broader negative implications on the price and supply of housing, and that there are more effective ways to support affordable housing needs than through IZ.⁵

This policy commentary explores the extent to which IZ has been shown to be an effective tool in the provision of new affordable housing. The paper addresses several primary questions:

- What is inclusionary zoning and what is the rationale behind it?
- Has inclusionary zoning provided a significant amount of affordable housing?
- What are the housing market impacts of inclusionary zoning?
- How does inclusionary zoning interact with other tools which are available to GGH municipalities to provide affordable housing?
- Should IZ be introduced as a tool to provide affordable housing in the GGH?

³ Liberal and NDP members of the Ontario Legislature have presented five private member's bills to introduce inclusionary zoning legislation in Ontario; two of these bills advanced to second readings.

⁴ Robert Hickey, Lisa Sturtevant and Emily Thaden, *Achieving Lasting Affordability through Inclusionary Zoning* (Cambridge, MA: Lincoln Institute of Land Policy, 2014).
https://www.lincolninst.edu/pubs/dl/2428_1771_Achieving%20Lasting%20Affordability%20through%20Inclusionary%20Housing%20-%20Final%20-%2006-9-14-NS07-14.pdf.

⁵ *Long Term Affordable Housing Strategy: Update 2015* (Toronto, ON: Ontario Home Builders' Association, 2015).

2. WHAT IS INCLUSIONARY ZONING?

Inclusionary zoning is a policy program that requires or encourages private developers to provide affordable housing (e.g. 10-30% of the units) as part of market rate housing projects.

Inclusionary zoning policy has existed in the United States for over four decades.⁶ It first significantly emerged in Montgomery County, Maryland, in 1974 after advocacy groups and city officials became concerned that new housing was increasingly targeting an upper class demographic.

Inclusionary zoning in the United States initially emerged as a response to two primary factors, both of which have been characterized as value captured for public benefit:

- Provision of affordable housing units
- Socioeconomic integration

Exclusionary zoning practices in the U.S. were leading to the segregation of communities based on class and colour. The desire for greater integration, along with federal government cutbacks in affordable housing provision, pushed municipalities to explore new tools to meet the growing need for affordable housing.

The inclusionary zoning tool is used primarily in the states of California and New Jersey, and in larger cities like Boston, New York, Denver and San Francisco. The Canadian cities of Vancouver, Montreal and Toronto have limited experience with IZ policies.

Discussion surrounding inclusionary zoning in Canada emerged primarily in response to federal cutbacks in affordable housing provision. Subsequently, several provinces, including Ontario, downloaded the responsibility for affordable housing onto municipalities.

The main principle behind inclusionary zoning in Canada is to leverage private sector involvement in providing affordable housing. Fundamentally, IZ is intended to produce affordable housing units at minimal public expense. This policy tool is also intended to increase societal benefit by integrating affordable housing into private developments. Statements which directly address the use of inclusionary zoning include:

- “Inclusionary zoning allows us to build complete communities, it would help us to build a more affordable city and to overcome inequalities between communities.”⁷
- “Inclusionary zoning could require affordable housing as part of new development and increase the supply.”⁸

⁶ Hickey, Sturtevant and Thaden, *Achieving Lasting Affordability*.

⁷ Councillor Mike Layton, *Ahead of the Curve: Preparing for Inclusionary Zoning for the City of Toronto*, Notice of Motion (Toronto: City of Toronto, 2015), <http://www.toronto.ca/legdocs/mmis/2015/mm/bgrd/backgroundfile-79707.pdf>.

⁸ *Agenda, Planning & Development Committee Meeting, June 22, 2015* (Mississauga: City of Mississauga, 2015), http://www7.mississauga.ca/documents/agendas/committees/pdc/2015/06-22-2015_-_PDC_Agenda_1.30pm.pdf.

- “In many cases thousands of affordable housing units have been brought on stream [through inclusionary zoning] without incurring public expenditure.” (Co-Operative Housing Federation of Canada).⁹

More recently, support for inclusionary zoning policy has been advanced in terms of a ‘win-win’ planning tool. The logic behind this support is that a municipality would provide density benefits that offset much of the additional cost of a developer providing affordable housing units.¹⁰

Gladki and Pomeroy define IZ approaches either as mandatory or voluntary:¹¹

- Mandatory: “that require[s] all residential developments over a certain size to include a percentage of affordable housing and include specific offsets or compensation for the developer.”
- Voluntary: “that establish[es] a schedule of incentives that developers may elect to negotiate in exchange for inclusion of some negotiable level of affordable dwellings.”

Through either approach, IZ in its purest form is intended to provide a municipality with affordable housing units from market rate development. In theory, these affordable units should have limited impact on developer profits because of additional density provisions. Many entities, including New York University’s Furman Center¹² and the Co-Operative Housing Federation of Canada,¹³ promote this understanding.

Over time, the concept of inclusionary zoning has evolved, and has been implemented in many different ways to leverage local conditions.¹⁴ The City of Toronto has suggested that it could use different offsets like expedited approval times.¹⁵ Other municipalities have provided direct financial

⁹ *Now is the Time for Action on Affordable Housing* (Toronto: The Co-Operative Housing Federation of Canada, 2015) <http://www.chfcanada.coop/eng/pdf/ontdocs/2015%20Pre-Budget%20Submission.pdf>.

¹⁰ Rick Jacobus, *Inclusionary Housing: Creating and Maintaining Equitable Communities* (Cambridge, MA: The Lincoln Institute of Land Policy, 2015), https://www.lincolnst.edu/pubs/dl/3583_2928_Inclusionary_Housing_web.pdf.

¹¹ John Gladki and Steve Pomeroy, *Implementing Inclusionary Policy to Facilitate Affordable Housing Development in Ontario* (Toronto: Ontario Non-Profit Housing Association, 2007).

¹² “Using land use regulation to link development of market rate housing units to the creation of affordable units.” (New York: NYU Furman Center, 2015); Josiah Madar and Mark Willis, *Creating Affordable Housing out of Thin Air: The Economics of Mandatory Inclusionary Zoning in New York City* (New York: NYU Furman Center, 2015), http://furmancenter.org/files/NYUFurmanCenter_CreatingAffHousing_March2015.pdf.

¹³ “The Province, under its planning authority, can mandate a municipal zoning approval process that requires developers to make a percentage of units in new developments available at below-market rents. In return, the developer would receive a ‘density bonus,’ allowing more units than would ordinarily be permitted under zoning restrictions.” *Now is the Time for Action on Affordable Housing* (Toronto: The Co-Operative Housing Federation of Canada, 2015).

¹⁴ An Ontario private members bill (Bill 39) introduced in 2014 adopted a broad interpretation of IZ, which would have allowed municipalities to implement a quid pro quo mechanism whereby a determined proportion of affordable units were provided in exchange for offsets to be defined by the municipality. It also allowed municipalities to choose not to provide any offset. However, it would be applicable only to projects over 20 units that require a site-specific by-law or by-law amendment.

¹⁵ In a preliminary report, the City of Toronto suggested that it would use inclusionary zoning in a manner that would require developers to include a percentage of affordable housing units in developments over 20 units, and offer fast tracked approvals and other incentives in exchange, to be identified in a more thorough study.

Toronto City Council, Referral of Member Motion to the Planning and Growth Management Committee, 8 May 2015,

relief to share the cost of affordable housing. For example, the City of Denver currently offers developers up to \$25,000 per affordable unit provided.

Municipalities typically offer tradeoffs to developers to offset or incentivize the provision of affordable housing. The tradeoffs are diverse and vary by municipality, but can generally be categorized as: 1) having no financial cost to the municipality, or 2) incurring municipal cost or subsidies (see Figure 1). Generally, the most common tradeoff is to offer an increase in density in exchange for affordable units. Tradeoffs can be more extensive to offset a higher percentage of affordable units, or units provided for households of a particular income.

Figure 1: Variations of Inclusionary Zoning			
1)	Formula based	OR	Negotiation based
2)	Mandatory	OR	Voluntary
3)	Specified % of affordable units in new residential development (e.g. 20%)	OR/AND	Cash contributions or, Provisions of other sites
4)	Municipal cost-free, such as, Density bonus or Expedited approvals	OR/AND	Municipal cost or subsidy, such as, Development charge exemptions Property tax relief Direct grants Fee w aivers

Notwithstanding the provision of affordable housing units in new developments, there are some challenges related to the operational aspects of affordable housing provided under an IZ policy. These include:

- Whether affordable units should remain in private ownership, or should be transferred to government or non-profit ownership (eg. Toronto Community Housing Corporation);
- The length of time that private rental units remain affordable (eg. 20 years, the life of the buildings, perpetuity); and
- Monitoring the units to ensure that they remain affordable over time and are occupied by tenants needing assistance.

Ahead of the Curve: Preparing for Inclusionary Zoning in the City of Toronto,
<http://www.toronto.ca/legdocs/mmis/2015/pg/bgrd/backgroundfile-80023.pdf>.

3. WHAT IS MEANT BY AFFORDABLE HOUSING?

The term ‘affordable housing’ is not clearly defined in the IZ literature and is subject to many interpretations. For housing policymakers, affordable housing primarily refers to the relationship between shelter costs and income. Unaffordable housing is typically expressed as a percentage (*e.g.* more than 30%) of household income being spent on shelter which is suitable to the composition of a given household. CMHC employs this definition in its estimates of core housing need in Canada.¹⁶ In Ontario, the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe also make reference to this definition.¹⁷

Historically, the federal and provincial governments built or financed the construction of new housing to accommodate lower income households that were paying more than 30% of their incomes for housing. These projects are known as social housing. The senior levels of government and municipalities then subsidize tenants to ensure that they are not overspending for adequate and suitable accommodation.

Funding for new affordable housing projects has been reduced, but tenants continue to be subsidized in existing developments. In addition, funding is provided for some needy tenants in private rental accommodation. Through this process, a municipality leases units at a market rent and then subsidizes the rents of tenants so that they do not pay more than 30% of their income for shelter. The subsidy is shared by the three levels of government.

From a private developer perspective, affordable housing refers to private housing which is built at the lower end of market prices or rents. Lower end of market units are typically less well-located, have smaller unit sizes and amenities, and have a higher density than the bulk of new housing units which are being built.

Further, there is a housing economics theory that affordable housing units can be provided by the private marketplace through a process known as filtering. Skaburskis and Meligrana define filtering as “the movement of housing stock from higher-income to lower-income households as it deteriorates and becomes less expensive.”¹⁸ There is no agreement in the literature as to how well the filtering process actually works, especially in growth markets that characterize much of the GGH.

There is a consensus in the literature that housing markets with higher or rising housing prices and rents relative to incomes have more serious affordability problems than markets with lower housing

¹⁶ CMHC requires three tests to determine core household need. Adequacy refers to housing that does not require major repairs. Affordable refers to dwelling cost less than 30% of total before-tax household income. Finally, the suitability test is to determine whether the dwelling has enough bedrooms for the size and make-up of the household. If any one of these tests fails then the household is in core housing need.

¹⁷ The Ministry also offers an alternate definition, which for homeownership states that the purchase price may be at least 10% below the median purchase price for the regional market area, and for a rental unit where the rate is at or below the average market rent for a unit in the regional market area.

¹⁸ Andrejs Skaburskis and John Meligrana, *Filtering in Housing*, Research Highlight, Socio-Economic Series 04-040 (Ottawa: CMHC, 2004).

prices or rents. As TD Bank economists have recently reaffirmed, the GTA has for a long time been one of the least affordable housing markets in Canada in terms of the overall price or rent to income ratio. This problem is becoming more severe as shelter cost growth outpaces incomes.¹⁹

Ontario's Ministry of Municipal Affairs and Housing (MMAH), in its publication "Municipal Tools for Affordable Housing," provides a useful schema for helping to crystallize the way in which housing affordability should be defined. This schema can be applied to this assessment of IZ (a copy of the schema is included as Appendix A). The Ministry acknowledges that affordable housing is a broad concept and looks at affordability as a continuum with a distinction between non-market housing (provided by government and not-for-profit groups) and market housing:

- Non-market housing includes: homelessness, emergency shelters, transitional housing, supportive housing, and social housing; and
- Market housing includes: subsidized rental, and private market rental and homeownership.

In the literature, housing affordability for IZ purposes is generally limited to what the Ministry identifies as social housing, subsidized rental, private market rental and home ownership housing.

The Ministry describes these affordable housing types in the following ways:

- Social housing: housing developed with government funding; includes public, non-profit and cooperative housing;
- Subsidized rental: market housing subsidized through government funding;
- Private market rental: private market rental comprises the majority of affordable housing in Ontario; and
- Home ownership: in 2006, 71% of households in Ontario owned their own homes.²⁰

Affordable private market rental and home ownership housing is provided through filtering in the existing housing stock and through lower-end-of-market units in new construction.

Governments and non-profit organizations, rather than the private sector, provide deeper levels of affordability and social support services, including transitional housing and supportive housing, for those who need them.

¹⁹ Derek Burleton and Diana Petramala. *GTA Housing Boom Masks Growing Structural Challenges* (Toronto: TD Economics, 2015) http://www.td.com/document/PDF/economics/special/GTA_Housing.pdf.

²⁰ Ministry of Municipal Affairs and Housing, *Municipal Tools for Affordable Housing*. (Toronto: Queen's Printer for Ontario, 2011).

4. LITERATURE REVIEW – IMPACTS OF INCLUSIONARY ZONING

4.1 Has inclusionary zoning provided a significant amount of affordable housing?

It is difficult to ascertain the overall effectiveness of IZ policy. Literature suggests that it has been effective in some contexts, and not very effective in others. Our literature review has revealed several important findings which follow.

4.1.1 The practices, regulatory framework and goals of an IZ policy are fundamentally determined at a local level

There is no universally accepted best practice for IZ policy. Municipalities should respond to the dynamics of their specific markets. Important factors to consider include economic conditions, the local development industry, level of housing affordability which is being targeted and degree of support from higher levels of government.

An evaluation of several American municipalities supports this belief (see Appendix B). Jurisdictions across the United States have established IZ policies despite differences in existing fees which are taken from development (eg. impact charges, linkage fees), different requirements in terms of targeted affordability and percentage of affordable units.

Municipalities may also impose a geographic boundary to their IZ policy. That is, the policy may be limited to areas experiencing high growth where there is the opportunity to capture benefit from increased public demand in a particular neighbourhood or region, without distorting the rate of growth. For example, in a study of New York City, the Furman Center suggests that IZ policy in high rent neighbourhoods, coupled with a density tradeoff, could encourage the development of affordable units without additional subsidy. Alternatively, in low rent neighbourhoods, additional subsidy is required in order to make projects feasible and produce affordable units.²¹

4.1.2 Inclusionary zoning policy has proven effective at producing affordable housing units in some jurisdictions

The literature generally suggests that the use of IZ is effective at increasing the production of affordable units beyond that which an unrestrained market provides. Broadly speaking, in jurisdictions with IZ policies, 3% to 7% of annual net new housing stock is affordable at varying levels of affordability, scope and content.²²

A study of municipalities in metropolitan San Francisco, Washington, D.C. and suburban Boston has concluded that IZ policies are effective at creating units for households between “very low” to “moderate” incomes. These policies produced between 9,154 and 15,252 units roughly between

²¹ Madar and Willis, *Creating Affordable Housing*.

²² Kerry D. Vandell, “Inclusionary Zoning: Myths and Realities” (final draft, 2003) legistar.cityofmadison.com/attachments/3281.pdf.

1992-2004, with varying levels of government incentive and subsidy.²³ These units would be classified as social or subsidized rental or ownership on the Ministry's spectrum of housing. Further, larger and more affluent areas were more likely to adopt IZ, and more flexible a policies led to more productive programs.

4.1.3 To effectively reach deep levels of subsidy, including core housing need, higher levels of government must be involved

Depending on the level of offsets, inclusionary zoning can be economically feasible to serve a range of affordability levels. However, serving the deepest levels of affordability, including core-housing need, cannot typically be offset by density bonuses or fee waivers. If core housing need is the target, IZ policy could have market-distorting impacts if external sources of funding are not provided.

A 2007 paper commissioned by the Ontario Non-Profit Housing Association concluded that implementing a mandatory 15% affordable requirement for both homeownership and rental units targeting the 40th percentile, in exchange for a 25% increase in density, provides a breakeven point where there is still modest incentive for the developer.²⁴ This suggests that the targeting of core housing need requires deeper density offsets, and perhaps subsidies.

Since 1988, Vancouver has used a form of IZ which is applicable to new developments with more than 200 units. Between 1998 and 2008, the policy secured the capacity for 2,533 units. However as of 2008 only about 1,647 had been built.²⁵ Vancouver's IZ policy functions in a manner that secures land and capital for units which would be made affordable to core housing need, but it relies on funding from higher levels of government to construct and operate them. As of 2003, funding from the British Columbia Government effectively evaporated. In some cases the municipality has been forced to compromise on targets to offer units at core housing need.²⁶ Applied to the Ontario Ministry's spectrum in Appendix A, Vancouver's model initially developed social housing for core household need, but has shifted towards providing housing closer to market rate as funding has become scarce.

4.1.4 IZ does increase socioeconomic integration, however the impact and benefits differ depending on community characteristics.

IZ policy has also been furthered as a tool to promote socioeconomic integration, encouraging communities mixed by income and race.²⁷ In some municipalities it has been primarily used as a tool

²³ Furman Center, *The Effects of Inclusionary Zoning on Local Housing Markets: Lessons from the San Francisco, Washington DC and Suburban Boston Areas* (New York: New York University, 2008) http://www.wellesleyinstitute.com/wp-content/uploads/2013/01/ResourceUS_Furman.pdf.

²⁴ Gladki and Pomeroy, *Implementing Inclusionary Policy*.

²⁵ Wellesley Institute, *Vancouver BC: 20% Core Need Housing Policy* (Toronto: Wellesley Institute, 2010) <http://www.wellesleyinstitute.com/wp-content/uploads/2010/03/CaseStudyVancouver.pdf>

²⁶ Julie Mah and Jason Hackworth, "Local Politics and Inclusionary Housing in Three Large Canadian Cities." *Canadian Journal of Urban Research* 20, no. 1 (2011): 57-80.

²⁷ Gladki and Pomeroy, *Implementing Inclusionary Policy*.

to integrate lower and middle-income households into upper income communities. The overall success of IZ at promoting social integration is uncertain.

An American study of the effectiveness of IZ policies at promoting mixed incomes in 11 different municipalities concluded that, overall, IZ policy tends to produce affordable units throughout a jurisdiction, including in low-poverty neighbourhoods.²⁸ Also, some have argued that, in the aggregate, IZ increases the racial and economic integration of neighbourhoods. However, there is no scholarly consensus on this, and the value of this inclusion depends largely on the existing conditions of the neighbourhoods in question.²⁹

Therefore, IZ policy can be viewed as increasing socioeconomic integration to some degree, but the benefit must be examined on an individual community level.

4.2 What guarantees exist to ensure that affordable housing units provided through IZ remain affordable in the housing market over the long-term?

Most municipalities specify the length of the term of affordability for units, and have different mechanisms in place to enforce levels of affordability. Many stipulate that the units must remain affordable in perpetuity, and use tools such as restrictive covenants and municipal right to first purchase. Other municipalities state that the units must remain affordable for terms ranging from 10 to 99 years. An analysis of 307 jurisdictions with inclusionary policies found that roughly one third require 99-year terms or permanent affordability.³⁰ As experience with IZ grows, term limits are increasing in length, towards perpetuity.

It has been suggested that municipalities use three primary tools to ensure long-term affordability:

- Ground leases – Used by Community Land Trusts (CLT) for permanently affordable homes. For a nominal fee, owners of homes lease the land on which the home is located and pay only the cost of the structure or improvements made to it. The CLT maintains control of the land and the homeowner agrees to restrictions on the future price. In the GGH, this model is only viable on municipally held sites;
- Deed Covenants – Restrictions placed on the title of the property that are often for 30-50 years. Jurisdictions will often sign covenants that renew the affordability limits with every new homeowner, or hold a preemptive buy-back option to maintain affordability;
- Shared Appreciation Loans – Use of a second loan on the property, due upon sale, to operate as a subsidy. The loan must be paid back when the property is sold, and protects the affordability of the home but allows for some market appreciation.

²⁸ Heather L. Schwartz, Liisa Ecola, Kristin J. Leuschner and Aaron Kofner, *Is Inclusionary Zoning Inclusionary?* (Santa Monica, CA: RAND Corporation 2012) http://www.rand.org/pubs/technical_reports/TR1231.html.

²⁹ Constantine E. Kontokosta, “Mixed Income Housing and Neighborhood Integration: Evidence from Inclusionary Zoning Programs,” *Journal of Urban Affairs* 36, no. 4 (2014): 716-741.

³⁰ Hickey, Sturtevant and Thaden, *Achieving Lasting Affordability*.

4.3 What are the housing market impacts of inclusionary zoning?

A well-designed IZ policy that incorporates density tradeoffs and subsidies like fee waivers in exchange for affordable units, in theory, need not have a significant adverse impact on the housing market in the GGH. A 2015 review of IZ literature found a study which concluded that, “concerns about tradeoffs between affordable housing produced through IZ and negative market effects are exaggerated.”³¹

Negative market impacts are most likely to emerge if both 1) the IZ policy is mandatory; and 2) the costs of providing the affordable units are not completely offset by the financial benefits offered to the developers. If the policy were voluntary, developers could simply opt out if the costs outweighed the benefits, which would result in no market impact. If the benefits from the policy equaled, or even provided greater financial returns to the development industry, there should be no market impacts on the production or price of new housing.

The literature suggests that there are four potential reactions from developers to an IZ policy that does not offset adverse market impacts, as seen in Figure 2:

Figure 2: Types of Impacts of IZ on Developer Profit assuming Affordable Housing Provision Costs are not offset by Density Tradeoffs		
1)	Absorbed by the developer	If existing margins are high enough, may not change a project’s financial viability
2)	Passed forward to buyers of new homes	Difficult for developers to do because of competition from existing housing stock
3)	Capitalized in the purchase price of land (reduced prices)	Can only happen in the longer term – Developers must have certainty on affordability and tradeoff provisions in advance of purchase
4)	Developers choose not to build in the jurisdiction	If there are alternate municipalities in the region, they may, to some extent, provide viable substitutes

The impact of inclusionary zoning depends on the stringency of the IZ policy itself. Many policies offer flexibility, allowing developers to provide cash in lieu of affordable housing units, or other sites earmarked for affordable housing provision. This influences the policy because the cost of providing different forms of benefit may impact a project’s viability.

A study conducted by New York University’s Furman Center of the San Francisco Bay Area and suburban Boston suggests that a significant indicator of IZ success is the amount of time that the policy has been in place. In San Francisco, it found no evidence of an impact of IZ on new housing development, and an increase in prices during times of price appreciation, but a decrease when the regional market was cooling. In suburban Boston, it found a small impact on prices during times of

³¹ Vinit Mukhija, Ashok Das, Lara Regus and Sara Slovin Tsay, “The Tradeoffs of Inclusionary Zoning: What do we know and what do we need to know?” *Planning, Practice and Research* 30, no. 2 (2015): 222-235.

economic growth.³² Alternatively, a broader Northern California study from 1988-2005 found that municipalities with IZ policies did have “measurable” impacts on housing markets. These municipalities did not experience a change in the number of permits for single or multi-family projects, but an increase in the proportion of multi-family units. They further found an increase in home prices of between 2-3% higher than price increases in municipalities without IZ policies. It concluded that the rate of new housing production did not decline, but any extra cost that was not offset was passed on to consumers, and that the depth of the impact was dependent on the level of affordability required.³³ Under certain conditions, housing prices and sizes experience slight negative effects. However, cost offsets can mitigate the impact on supply and price of new units.³⁴

From these cases, it appears that extra cost associated with IZ policy does not necessarily result in a significant change in housing supply or the rate of growth. In some instances it appears that a portion of the cost which is not offset by benefits is passed onto consumers. In the longer term, the cost can be incorporated into the price of land.

³² Schuetz, J., Meltzer, R., & Been, V., *Silver Bullet or Trojan Horse? The Effects of Inclusionary Zoning on Local Housing Markets* (New York: NYU Furman Centre, 2009).

³³ Gerrit-Jan Knaap, Antonio Bento and Scott Lowe, *Housing Market Impacts of Inclusionary Zoning* (College Park, MD: National Center for Smart Growth Research and Education, 2008).

³⁴ Mukhija, V. et al. “The Tradeoffs of Inclusionary Zoning.”

5. HOW DOES INCLUSIONARY ZONING RELATE TO OTHER HOUSING AFFORDABILITY TOOLS AVAILABLE TO ONTARIO MUNICIPALITIES?

As previously noted, Ontario municipalities are not allowed to implement IZ provisions at this time. However, they do have access to several other affordable housing tools that are briefly discussed below.³⁵ Ultimately, Ontario municipalities have ample tools available to them without the need to add IZ to their toolkits. In fact, Section 37 of the Planning Act embraces IZ without explicitly calling it IZ.

5.1 Development charges

Under the Development Charges Act, 1997, municipalities can support affordable housing in two ways: (a) by providing exemptions from development charges for affordable housing and (b) by including an allowance for affordable housing in the capital levy on new development based upon historical service levels in the municipality.

An exemption for development charges for affordable housing can result in a significant cost savings for an affordable housing developer. In Toronto, the savings for a 2-bedroom or larger apartment would be \$21,992 per unit.³⁶ In Peel Region the savings for an apartment greater than 750 square feet would be \$26,306 per unit.³⁷

Since municipalities traditionally spend relatively little of their capital funds on subsidized housing, and only a small portion of their development charge supports subsidized housing. For example, the City of Toronto collects just \$741, or 3.3%, for a 2-bedroom apartment. Peel Region collects just \$525, or 2%, for the same unit.

5.2 Section 37 of the Planning Act

Ontario municipalities can leverage Section 37 of the Planning Act to provide an array of services or facilities in exchange for increases in height and density. One of these services is the provision of affordable housing. Only a few Ontario municipalities have implemented Section 37 provisions – the City of Toronto being the major one.

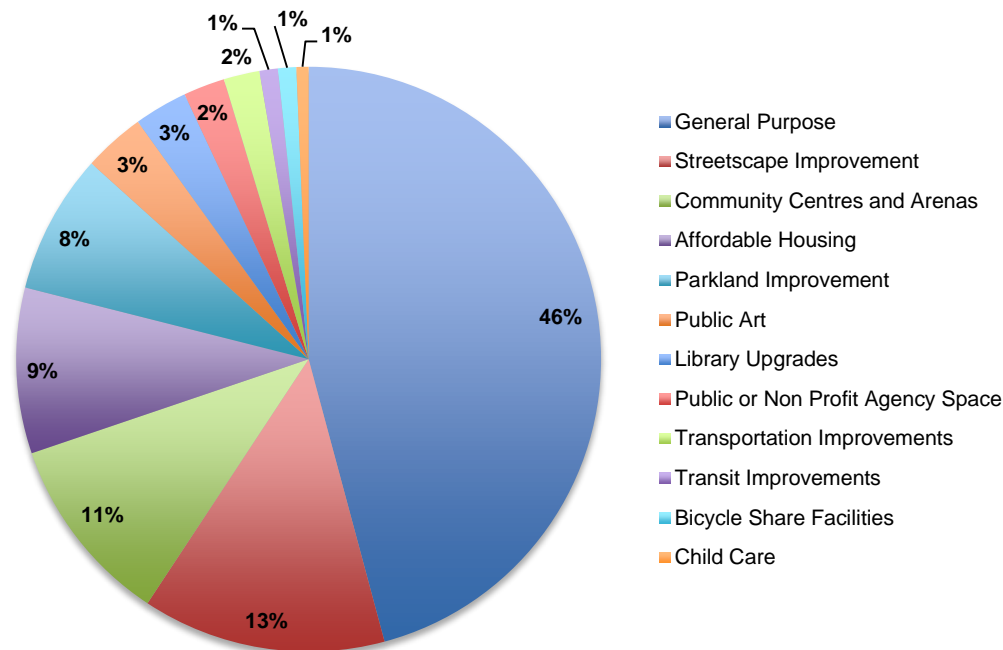
As Figure 3 shows, between 2013 and 2014 only 9% of all the benefits negotiated by the City of Toronto from Section 37 projects have been for affordable housing. Therefore, although the tool can be used to negotiate affordable housing provision, it has rarely been done.

³⁵ Note that the discussion here is based on the Ministry's Municipal Tools for Affordable Housing unless otherwise stated

³⁶ City of Toronto. (2015). Residential Development Charge Rates Effective August 1, 2015. <http://www1.toronto.ca/City%20Of%20Toronto/Corporate%20Finance/Developmental%20Charges/Files/pdf/D/D%20Rates%20Effective%20August%201%202015.pdf>

³⁷ Peel Region. (2015). Residential Development Charge Rates Effective August 1, 2015. <https://www.peelregion.ca/finance/PDFs/Aug-2015-Schedules.pdf>

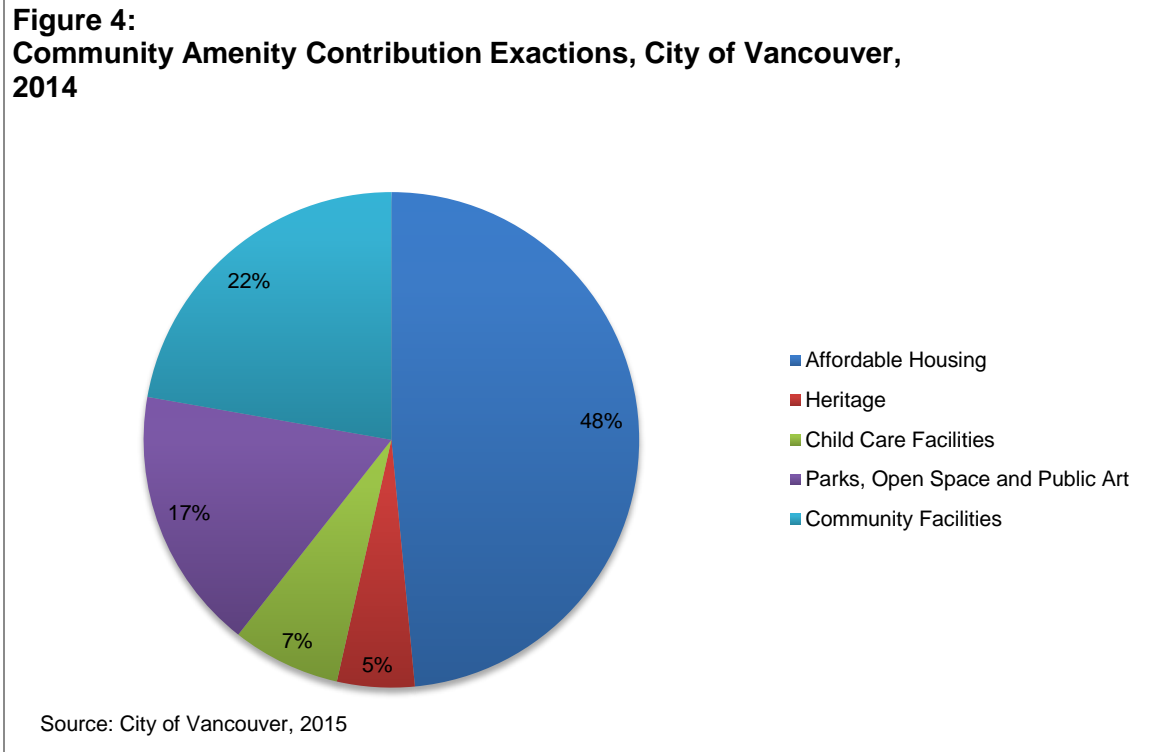
**Figure 3:
Section 37 Exactions, City of Toronto, 2013-2014**



Source: City of Toronto, 2015

As a municipal tool, Section 37 is effectively the same as an IZ policy. The only difference is that Section 37 can extract benefits for a variety of services and facilities, not just affordable housing. The use of Section 37 in Toronto has prioritized benefits other than affordable housing. If a municipality really wants to support affordable housing provision through IZ, it can use Section 37 to have the same results by reducing benefits to non-housing services and facilities. The municipality simply needs to prioritize affordable housing.

Vancouver employs a policy similar to Section 37 that exacts benefit from up-zonings – the Community Amenity Contribution. Vancouver’s Council identifies a list of priorities and guidelines that directs where benefits from up-zoning should be directed. The primary difference from the way that Section 37 is administered in Toronto is that Vancouver’s benefit is derived at a municipal scale and councilors are not involved in the negotiations. Therefore, it removes any local political dynamics and provides more certainty to both the developer and the municipality. This is a formulaic approach based on an identified schedule of priorities, which has resulted in affordable housing benefits comprising 48% of total contributions. Although negotiation is involved in non-standard re-zonings, the expected benefits are clearly identified.



5.3 Second units

According to the MMAH, second units — also known as basement apartments or secondary suites — are “one of the most inexpensive ways to increase the stock of affordable rental housing and integrate affordable housing throughout the community, while maintaining neighbourhood character.”³⁸

As of October of 2014, there were an estimated 30,641 second suites in the Toronto CMA. Further, these suites have been found to be, on average, rented at a rate slightly below market value.³⁹ Municipalities could advance policies to promote the creation of secondary units in existing detached housing. Second suites not only increase the stock of lower end market housing, but integrate that housing throughout much of the municipality.

5.4 Property tax reduction

Many municipalities impose higher property tax rates on multi-residential rental properties than on ownership residential properties. Under the Assessment Act, municipalities can create a new multi-residential property class with a rate comparable to ownership properties. This would allow for lower rents for new rental housing, since it decreases the operating costs.

³⁸ Ministry of Municipal Affairs and Housing, *Municipal Tools for Affordable Housing*.

³⁹ *Rental Market Report: Greater Toronto Area* (Ottawa: Canada Mortgage and Housing Corporation (CMHC), 2014).

Municipalities could also exempt affordable rental projects from property taxes. For example, the City of Toronto exempts approved rental housing projects from taxes for terms of 25-50 years, subject to rents being at or below average market rents as determined by the CMHC.

5.5 Other tools

Several other tools are available, including reductions in parkland dedication, flexible parking requirements, or reduction of development application fees.

Land use planning mechanisms, like Toronto's Large Sites Policy, can also be employed. The Large Sites Policy stipulates that, in re-zonings on sites larger than 5 hectares, the first priority under Section 37 negotiations will be the provision of 20% of the additional units as affordable housing, in the form of physical units, land or cash.

Municipalities have a broad array of tools available to support the development of affordable housing in the Greater Golden Horseshoe. Section 37, specifically, can function as an IZ policy if affordable housing is prioritized.

6. SHOULD IZ BE INTRODUCED AS A TOOL TO PROVIDE AFFORDABLE HOUSING IN THE GGH?

The research findings indicate that IZ in Ontario might not be necessary. Inclusionary zoning effectively duplicates the provisions of Section 37 of the Planning Act which allow municipalities to provide additional density in exchange for community benefit contributions, including affordable housing. Moreover, municipalities can enhance housing affordability in the GGH in a significant way by greatly increasing the supply of serviced sites for all types of new housing units and encouraging the creation of second units in the existing stock of single-detached houses.

7. RECOMMENDATIONS

Recommendations, based on the research, are outlined below.

The Ontario government need not pursue new legislation to permit IZ.

IZ overlaps with Section 37 of the Planning Act, which already allows municipalities to collect contributions for affordable housing. Section 37 provides Ontario municipalities with the ability to exact community benefits in exchange for increased height and density. One of the community benefits obtainable through Section 37 is affordable housing.

The Province should encourage municipalities which use Section 37 of the Planning Act to give greater priority to affordable housing.

If affordable housing is truly a priority, the Province should help to ensure that affordable housing contributions under Section 37 policies represent a significant portion of the total community contribution collected by municipalities.

The Province should ensure the total community benefits which are obtained from Section 37 contributions be more closely tied to the financial benefits which developers obtain from rezonings.

To ensure fairness for both the municipality and developer, and to prevent adverse market impacts, there should be some relationship between the financial value of the density bonus and the value of the community benefits negotiated through Section 37.

The Province should consider amending Section 37 to provide the development industry with more transparency and certainty regarding future financial contributions when they are considering purchasing sites.

Making a transparent schedule of fees expected when applying for an up-zoning gives both developers and municipalities certainty, reduces risk and promotes a fairer competitive environment.

The Province should consider requiring municipalities to permit second suites as a matter of right in all lower density neighbourhoods in the GGH.

Second suites have been identified as an underused tool to provide more affordable housing in the GGH. Second suites are inexpensive to implement, are integrated into existing communities, and generally offer units at lower rents than average.

The Province should monitor and enforce the policies of the Provincial Policy Statement (Policy 1.4.1) so that there is at least a three-year supply of serviced land for all types of housing relative to the expected demand in the GGH municipalities at all times.

A shortage of serviced sites has contributed to a marked increase in prices for ground-related housing in the Greater Toronto Area.⁴⁰ To reverse recent declines in market-wide

⁴⁰ Clayton, *Why There is a Shortage of Ground Related Housing in the GTA*.

affordability, the Province should monitor and enforce PPS policies requiring municipalities to maintain at least a three year supply of serviced or readily serviceable land for a range of housing types at all times. The lack of housing options is contributing to poorer housing choice and reduced mobility of GGH households, as well as to deteriorating affordability.

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Appendix A: Ontario Ministry of Municipal Affairs and Housing, Ontario's Housing Continuum



Source: Ministry of Municipal Affairs and Housing. *Municipal Tools for Affordable Housing*. Toronto: Queen's Printer for Ontario, 2011. <http://www.mah.gov.on.ca/AssetFactory.aspx?did=9270>

Appendix B: Experience with Inclusionary Zoning in Select American Municipalities

Appendix B: Experience with Inclusionary Zoning in Select American Municipalities							
Municipality	Mandatory/Voluntary	Successful in terms of meeting proportion targets?	Density Bonus/Offsets	Impact Fees?	Other Exactions	Targeted income (AMI)	Units produced
Boston	Required on rezoning – Has been noted that the zoning code is so out of date that essentially every development requires rezoning	Moderately. Meeting approximately 30% of the goal	Density bonusing only	No	Linkage fees	50% of units to 80% of lower of AMI, remainder is 100% or less	From 2000 – 2009, produced 1200 units. Approximately 6% of all new development
Denver	Mandatory	No – Has been redesigned	No density, cash subsidy	Yes, variable based on property valuation and location. Roughly \$3,000-\$10,000 per single family house (2015)	No	50-95% of AMI	From 2009-2014, 16 units were produced. Cash in lieu collected will produce 447 units over the next 2 years
New York City	Voluntary (Mandatory policy was introduced in May 2015)	Mixed reviews. 2% of total development, but 13-19% in targeted neighbourhoods	Density, tax breaks	N/A	N/A	80% AMI or below	2,800 since 2005
San Francisco	Mandatory	Moderate. Fluctuates heavily with market activity.	Essentially none. Refunds on environmental review and on building permit fees for the affordable component	Yes, variable based on property value and area. Roughly \$4,000-\$35,000 (2015)	Linkage Fees	90% for ownership and 55% for rental	2000 units from 1992 - Present
Seattle	Voluntary and geographically limited	Yes, it has generated new units and revenue. Because the program is voluntary, there isn't a standard to be held to.	Density bonus in exchange	\$7,103 (2012)	Looking at making the program mandatory and expanding the geographic scope	60-80% AMI	Obtained \$32m from 2001-2013 and produced 56 units. Total estimate is 714 units have been produced as a result of the IZ policy
Washington DC	Required on rezoning	Yes, on track to comprise approximately 10% of all development	Density, tax relief	N/A	N/A	Half for households at 50% AMI and half at 80%	From 2009-2013 produced approximately 100, with 1,000 more under construction or approved
Montgomery County, MD	Mandatory	Yes. However, production has declined as available greenfield sites have become limited.	Density bonus	\$41,383 (2012)	Linkage fees	65% of AMI	More than 12,500 units since 1974. However, period of affordability fluctuates from 10-99 years.