

Date: September 29, 2023	Originator's files: LA.07.BIL
To: Mayor and Members of Council	
From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building	Meeting date: October 25, 2023

Subject

ERO Posting 019-7669 “Changes to the definition of an “Affordable Residential Unit” in the Development Charges Act, 1997 for the purpose of municipal development-related charge discounts and exemptions” and Implications for the City of Mississauga

Recommendation

1. That Council endorse the proposed comments outlined in Appendix 2 to the report entitled “ERO Posting 019-7669 “Changes to the definition of an “Affordable Residential Unit” in the Development Charges Act, 1997, for the purpose of municipal development-related charge discounts and exemptions” and Implications for the City of Mississauga,” dated October 4, 2023 from the Commissioner of Planning and Building, and authorize staff to finalize comments as needed.
2. That the City Clerk forward the report entitled “ERO Posting 019-7669 “Changes to the definition of an “Affordable Residential Unit” in the Development Charges Act, 1997, for the purpose of municipal development-related charge discounts and exemptions” and Implications for the City of Mississauga,” dated October 4, 2023 from the Commissioner of Planning and Building, to the Ministry of Municipal Affairs and Housing; Mississauga’s Members of Provincial Parliament, the Association for Municipalities Ontario, and the Region of Peel.

Executive Summary

- On November 28, 2022 Bill 23 – *More Homes Built Faster Act, 2022* received Royal Assent. The legislation mandated that municipal governments provide developers with relief from municipal development-related charges to encourage developers to provide affordable units.
- Through ERO Posting 019-7669, the Province is proposing to update the definition of “affordable housing unit.”

- Staff are supportive of the proposed definition, which considers both income and market criteria. However, additional information and clarification is required regarding methodology to determine affordability rates, as well as administration of the fee relief. A summary of proposed comments is provided in Appendix 2. Comments are due to the Province by October 28, 2023.

Background

Bill 23 – *More Homes Built Faster Act, 2022* proposed several changes to the planning and development legislative framework, including a requirement that municipalities provide relief from development-related charges (development charges (DCs), community benefits charges (CBCs), and parkland cash-in-lieu (CIL)) on affordable housing units to stimulate new affordable housing construction. The requirement to provide fee relief is not yet in effect. The combined per unit municipal DCs (local and Regional), parkland CIL, and CBC is currently in the range of \$50,000-\$90,000, depending on unit size and location.

“Affordable housing” in this context was based on 80% of average market price/rent of a unit, with no consideration of the income of the purchaser or tenant. Ontario municipalities, as well as the Association of Municipalities Ontario (AMO), advocated for this definition to be changed to include income-based criteria. The Province announced their intent to make a change during the 2023 AMO conference.

At present, the Province is seeking feedback on an updated definition of “affordable housing” for the purposes of development-related fee relief. Comments are due to the Province by October 28, 2023.

Bill 23 also introduced fee relief for “inclusionary zoning units” and “attainable residential units.” The ERO posting does not appear to propose changes to these definitions, however staff seek to clarify how these types of units may be impacted by the proposed changes or future proposals from the Province.

Comments

The proposed definition of “affordable housing” (see Appendix 1) requires a comparison of two values noted below, the lower of which determines the affordable price / rent rates. The affordability rates will be further established through a Provincial bulletin.

1. 90% of average market prices for ownership units / 100% average market rents (AMR) for rental units; and,
2. Income of households in the 60th percentile of the population, which represents the high end of the “moderate income household” range.

Staff are generally supportive of the proposed change. The proposed definition is similar to the affordable housing definition that guided Mississauga’s Missing Middle Affordable Housing

Strategy (2017). Under this approach, the City can be more confident that the relief issued for development-related charges occurs only on units that are truly affordable to moderate income households. It is also staff's opinion that the proposed definition will empower municipalities to meet the needs of individual communities, and better manage local affordability issues.

While supportive of the overall direction, staff have questions and concerns regarding the precise methodology and data sources to establish the affordability rates in the Provincial Bulletin, administration of the affordable units, and the general relationship of the proposed definition to other parallel terms in the legislation, e.g. "inclusionary zoning unit" and "attainable residential unit". Detailed comments to the Province are proposed in Appendix 2.

Recommendation: Support the proposed definition in principle, with a commitment to continued consultation by the Province on the methodology, data sources, and administration

Affordable Rental Housing

The proposed affordable rental definition ties in well to other fee exemptions or discounts already approved by City Council, Regional Council and the Province, including:

- Full local DC exemptions for non-profits housing developers providing units at 100% AMR and 50% DC reductions for rents between 100% and 125% AMR;
- Peel Region incentive program for rents under 100% Median Market Rent;
- DC, CBC, and parkland CIL exemptions for non-profit housing pursuant to Bill 23; and,
- DC discounts ranging from 15% to 25%, depending on unit type for market rental units pursuant to Bill 23.

Additionally, staff are drafting a Community Improvement Plan for fee reductions and/or tax incentives for rental units including those not owned by non-profits. Consultation has started with the Housing Panel.

Table 1 illustrates the impact of the propose definition on Mississauga. Shown are the estimated rental thresholds for Mississauga using the proposed definition. The lower of the two values would establish the cap for exemptions.

Table 1 – Comparison of Monthly Rent Approaches (\$2023)

Mississauga	Average Rent (CMHC)*	Income based Max Rent*
Rental Apartments (all bedrooms)	\$1,630	\$2,345

*Staff estimated value. Includes utilities.

Today, average rent is lower than income based rent for the 60th decile. Staff suggest separate average rent thresholds be established based on number of bedrooms. For example, the three

bedroom average rent in 2023 is approximately \$1,880. Using this as an average rent threshold would encourage more of these larger family sized units.

Recommendation: Establish separate average rent thresholds based on number of bedrooms

Affordable Ownership Housing

It is important to note that the Province requires both ownership and rental units to remain affordable for 25 years. This requirement should prevent flipping and ensure ownership units are managed with a long term perspective. With this in mind, the increase in the average sale price threshold from 80% currently, to the proposed 90%, is acceptable assuming the detailed methodology results in prices that are at the lower end of the range shown in Table 2.

Table 2 estimates the ownership thresholds that could result from the proposed definition, the lowest value of the two approaches would apply.

Table 2 – Comparison of “90% of Average Sale Price” to Maximum Affordable Purchase Price for Moderate Income Households (\$2023)

Mississauga	Average Sale Price*	90% of Average Price*	Income based Max Affordable Purchase Price*
Condominium Apartments (all bedrooms)	\$460,000- \$650,000	\$414,000- \$585,000	\$447,000- \$506,000

*Staff estimated range. Actual methodology and values have not been announced.

As can be seen by the large ranges in Table 2, it is currently difficult to estimate the potential amount of qualifying units. The thresholds for ownership units are very dependant on the eventual methodology chosen. For example:

- *What will the market area be?* Staff suggest city-wide data for Mississauga would provide a large enough sample size and would be appropriate for our municipality.
- *Will the thresholds vary by amount of bedrooms or unit size?* City staff suggest it is very important that different rates be established for apartment condominiums based on number of bedrooms or unit size. If this this not done, the unintended consequence may be to exclusively encourage bachelor and/or small units less suitable for families.
- *Should a multi year/month rolling average be used?* City staff suggest yes.
- *Should outliers be included in average?* City staff suggest a median value that removes outlier values may be preferable.
- *What is the data source and how often is it updated?* Various firms/organizations can provide similar market based data.
- *What is the indexing rate for household income?* Municipalities typically use Census income decile data and have historically indexed it to the current year based on CPI.

However, with CPI increasing much faster than incomes in recent years other Statscan annual Labour Force Survey wage data can provide a better indexing rate more reflective of actual income growth.

- *What down payment percentage, interest rate, property tax and utility (condo fee) assumptions are to be used for the income based threshold?* It may be better to let municipalities establish these assumptions.

Given the level of detail that goes into the calculations, staff suggest it may be advantageous for the Province to set out general guidance in the bulletin but let municipalities set the precise thresholds. Cities could then maintain consistent definitions with their other affordable housing work such as inclusionary zoning. Alternatively, the Province should create a working group of municipal representatives to help develop the specific definition criteria and thresholds.

Recommendation: That the Province establish general guidance in the bulletin but let municipalities set the precise thresholds

Administrative Details May be Complex

Staff have concerns about the administrative framework of the fee relief. The *Development Charges Act, 1997* requires that developers receiving fee relief for affordable units enter into an agreement with the municipality to secure the affordability of the unit for a period of 25 years. Staff are seeking further information from the Province on what authority will be given to municipalities to oversee the affordable units over the 25 year affordability period (e.g. ensuring homebuyers qualify, capping unit prices / rents). An alternative option that the Province could consider is treating the fee relief as a rebate to the homebuyer as opposed to an upfront exemption to the developer, which would allow the City to check incomes of buyers and ensure the savings are passed onto the homebuyer. Rules need to be established to prevent abuse through short term flipping.

Recommendation: That the Province consider treating the fee relief as a rebate to the homebuyer as opposed to an upfront exemption to the developer.

Financial Impact

Staff continue to express concern for the cumulative impacts of changes to development charges legislative framework on municipal revenues. Any revenue shortfall will be addressed and brought forward to Council. Staff will continue to advocate to the Province for the City to be made whole.

Conclusion

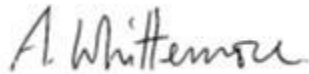
The Province is currently seeking feedback on a proposed definition of affordable housing for the purpose of qualifying units for relief from development-related charges. Staff have prepared comments on the proposal and are supportive of the new definition, as it utilizes an income-based metric as well as a market-based metric to establish the affordable price / rent. However,

additional information is required about data and assumptions used in the methodology and process for administering municipal charge relief for affordable housing units.

Attachments

Appendix 1: Proposed Definition of “Affordable Housing” for the Purpose of Fee Exemptions for Development-related Fees

Appendix 2: Proposed Comments to Province re. ERO Posting 019-7669



Andrew Whittlemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Catherine Parsons, Planner, City Planning Strategies Division

Appendix 1: Proposed Definition of “Affordable Housing” for the Purpose of Fee Exemptions for Development-related Fees

The proposed definition for rental housing is as follows:

“For rental housing, where the rent is no greater than the lesser of,

- i. the income-based affordable rent for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing, and
- ii. the average market rent identified for the residential unit set out in the Affordable Residential Units bulletin.

In identifying the income-based affordable rent applicable to a residential unit, the Minister of Municipal Affairs and Housing shall,

- a. determine the income of a household that, in the Minister’s opinion, is at the 60th percentile of gross annual incomes for renter households in the applicable local municipality; and
- b. identify the rent that, in the Minister’s opinion, is equal to 30 per cent of the income of the household referred to in clause (a).”

The proposed definition for ownership housing is as follows:

“For ownership housing, where the price of the residential unit is no greater than the lesser of,

- i. the income-based affordable purchase price for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing, and
- ii. 90 per cent of the average purchase price identified for the residential unit set out in the Affordable Residential Units bulletin.

In identifying the income-based affordable purchase price applicable to a residential unit, the Minister of Municipal Affairs and Housing shall,

- a. determine the income of a household that, in the Minister’s opinion, is at the 60th percentile of gross annual incomes for households in the applicable local municipality; and
- b. identify the purchase price that, in the Minister’s opinion, would result in annual accommodation costs equal to 30 per cent of the income of the household referred to in clause (a).”

Appendix 2: Proposed Comments to Province re. ERO Posting 019-7669

Definition and Methodology

- The City is generally supportive of the proposed definition of affordable housing as it contemplates both household income and market rates, as opposed to market values only. This approach will ensure that moderate income households can afford the affordable units. However, further information is required to fully understand the impact of the existing definition introduced through Bill 23 vs. the proposed definition under consideration.
 - What data sources will be used to determine average market price / rent?
 - Should outliers be included in average? City staff suggest a median value that removes outlier values may be preferable.
 - What will the market area be? Staff suggest city-wide data for Mississauga would provide a large enough sample size and would be appropriate for our municipality.
 - Should a multi year rolling average be used? City staff suggest yes.
 - What methodology and data sources will be used to determine household income?
 - What is the indexing rate for household income? Municipalities typically use Census income decile data and have historically indexed it to the current year based on CPI. However, with CPI increasing much faster than incomes in recent years other Statscan annual Labour Force Survey wage data be provide a better indexing rate more reflective of actual income growth.
 - Will the thresholds vary by amount of bedrooms or unit size? City staff suggest it is very important that different rates be established for apartment condominiums based on number of bedrooms or unit size. If this this not done, the unintended consequence may be to exclusively encourage bachelor and/or small units less suitable for families.
 - What down payment percentage, interest rate, property tax and utility (condo fee) assumptions are to be used for the income based threshold? It may be better to let municipalities establish these assumptions.
- For the affordable ownership definition, staff suggest the Province consider adopting the proposed definition that incorporates the income-based metric, with the exception that the “80% of average price” market metric is used instead of the 90% as proposed.

Administration

- Will municipalities be given the opportunity to provide input on the standard form of agreement that the Province may issue for the purposes of administering the fee relief to affordable units?
- Will a similar agreement be required for developers receiving relief for Community Benefits Charges and Parkland Cash-in-lieu fees under the *Planning Act*?
- At the point of permit issuance, when the DC exemption is given, how can the City ensure/check that which unit will be given a the DC exemption?
- How does the agreement ensure cost savings get passed onto the home buyer? How does the agreement ensure the unit remains affordable for a 25 years?
- How does the Province propose to prevent flipping of the unit?

- Will the Province consider a rebate program to the homebuyer, instead of the current upfront exemption approach? In this scenario, the developer would pay the development-related fees in full, and once the unit is occupied by the homebuyer, they would apply for a rebate on the fees. This way, municipalities can check the household income levels the price paid for that particular unit, and ensure that the savings would be passed on directly to the home purchaser.
- The requirement to provide fee relief, in conjunction with various other changes to development-related fee legislation will impact City revenues. Will municipalities be made whole?

Other

- The “attainable housing unit” definition was introduced through Bill 23. What types of development will fall under this category? Will additional exemptions or discounts be applied to these units?
- Does the proposed definition of “affordable residential unit” impact inclusionary zoning units? Staff recommend the Province does not change the definition of affordable housing for the purpose of units secured through inclusionary zoning by-laws. Currently, the City of Mississauga’s IZ by-law utilizes the existing PPS, 2020 definition to define affordability.
- Are development related fee exemptions in effect for IZ units?