

October 27, 2023

Ruchi Parkash  
Municipal Finance Policy Branch  
College Park 13th flr, 777 Bay St  
Toronto, ON, M7A 2J3

**Subject: Niagara Region Comments – ERO 019-7669  
Review of Proposed Changes to the Definition of “Affordable  
Residential Unit” in the *Development Charges Act* for the Purpose of  
Municipal Development-related Charge Discounts and Exemptions**

### **Background and Purpose**

On November 28, 2022, the Province of Ontario passed Bill 23 (*More Homes, Built Faster Act*). Under this legislation, section 4.1 was added to the *Development Charges Act, 1997* (“the Act”), which listed new definitions for affordable residential units and provisions for their exemption from development charges. Further, through changes to the *Planning Act, 1990*, this same definition is to be used for exemptions to community benefits charges and parkland dedication. Section 4.1 will come in force on a day to be named by proclamation by the Lieutenant Governor.

On September 28, 2023, the Ministry of Municipal Affairs and Housing published Bill 134 (*Affordable Homes and Good Jobs Act*), which proposes to amend the definitions of affordable residential unit in Section 4.1 of the Act by introducing an income-based criteria and increasing the threshold for the market-based test for affordable rent and purchase price.

Specifically, Bill 134 seeks to repeal subsection 4.1(2) of the Act, and to replace the definition of “affordable residential unit, rented” with the following:

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 in accordance with subsection (5), and
- ii. the average market rent identified for the residential unit set out in the Affordable Residential Units bulletin.

Similarly, subsection 4.1(3) would also be repealed and the definition for “affordable residential unit, ownership” revised to state:

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 in accordance with subsection (6), and
- i. 90 per cent of the average purchase price identified for the residential unit set out in the Affordable Residential Units bulletin.

Bill 134 also seeks to repeal subsections 4.1(5) and 4.1(6) of the Act and replace it with language meant to clarify how income-based affordable rent and purchase price would be calculated. In particular, these subsections were revised to state that the Ministry would measure household income at the 60<sup>th</sup> percentile of gross annual income for households within the “applicable local municipality”. From this calculation, affordable rent would be measured at 30 per cent of the income of renter households at the 60<sup>th</sup> percentile, and for affordable purchase price, that the “annual accommodation costs” would not exceed 30 per cent of the income for these households.

Using the above definition of affordability, Regional staff calculated affordability thresholds in the Niagara Region through the use of the 2022 Provincial Policy Statement Housing Tables. The results of this analysis found that for affordable residential ownership units, the income-based affordability test was the lesser measure (i.e. \$361,100 versus \$601,000), while for affordable residential rental units the use of the average market rent was the more affordable option (i.e. \$1,199 per month versus \$1,610 per month).

### **Comments on the Proposed Changes**

The addition of an “income-based” affordability criteria better aligns with the definitions used by the Canada Mortgage and Housing Corporation, and in various land use planning documents, including the 2020 Provincial Policy Statement (PPS) and 2021 A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan). Similarly, the clarification provided in revised subsections 4.1(5) and 4.1(6) generally mirror the definition of “low and moderate income households” used in within land use planning documents to measure income-based affordability. Given these similarities, Regional staff are well-versed in using this form of definition and some of the issues that would be best addressed prior to approval of Bill 134.

#### *Clarity for Measuring Affordability*

At this time, it is unclear what sources will be used to determine gross annual household income in the calculation of income-based affordability besides that it will be measured for the “applicable local municipality”.

In practice, measuring household income at a local municipal scale would better recognize the variability in conditions between municipalities compared to

measurements taken over a regional market area. In the Niagara Region, average household income can vary by as much as \$18,450<sup>1</sup> between local municipalities; as such, calculating gross annual household income at the local municipal level would allow development charges exemptions for affordable housing to more accurately reflect the specific needs of each community.

There is no direction, however, regarding the appropriate geographic scale to be used in calculating average market rent and average purchase price. In kind, Regional staff would recommend that these measures be scaled to the “applicable local municipality” so that the same variability in market conditions are used for both tests within the definitions of affordable residential unit.

Additionally, there is a reference made to annual accommodation costs meant to help calculate income-based affordability for affordable residential ownership units. Clarity should be provided regarding the calculation of accommodation costs, and at the very least should include mortgage costs, property taxes, and property insurance, as well as condominium fees, where applicable, to reflect the total costs of home ownership.

### **Recommendations**

1. That the Province clarify the structure and source of information to be used in the Affordable Residential Units bulletin, the frequency by which they will be updated, and how measures of “annual accommodation costs” and “gross annual household income” will be determined.
2. That average purchase price and average market rent is measured for the “applicable local municipality”, where data is available, to better account for variations in local household income and market conditions.

### *Measuring Income-Based Affordability*

Core housing need is a measure used by Regional staff to help identify households living in dwellings considered unsuitable, inadequate or unaffordable. In the Niagara Region, core housing need is largely driven by unaffordable living conditions, and is experienced by those households within the 40<sup>th</sup> percentile of household income in the region.<sup>2</sup>

The proposed changes to the Act suggests that the threshold for affordability for both renter and ownership households be taken at the 60<sup>th</sup> percentile of household incomes; while this may align with general definitions of affordability, in doing so, proposed exemptions from development charges may be provided for housing priced outside of the range that is affordable for those most in need. The Province is, therefore, asked to consider whether a definition that better aligns with municipal rates of core housing would be better suited for such exemptions instead.

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<sup>1</sup> CANCEA Niagara Housing Dataset 2051, October 2021, Average household income by municipality

<sup>2</sup> CANCEA Niagara Housing Dataset 2051, October 2021, Rates of core housing need by municipality

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While Regional staff are supportive of the Province's goal to create additional affordable housing units, it is important that we not only incentivize the development of dwelling units that would serve those most in need of such exemptions, but also that the appropriate tools are in place to do so. If the appropriate targets or tools are not in place, the Province runs the risk of exempting development that will not substantially improve the affordability pressure on residents in the Niagara Region, and in turn, may provide further financial burdens on municipalities to fund these exemptions.

Further to this, following the approval of Bill 23, the Province previously stated that potential compensation would be provided to municipalities to keep development charges "whole" and ensure there are no significant shortfalls in funding needed for public infrastructure, such as sewers, roads, and other housing enabling infrastructure. Given that further exemptions to development charges, community benefits charges, and parkland dedication are anticipated following proclamation of section 4.1, Regional staff request that the Province clarify whether there'd be a commitment to financial support for municipalities tasked with implementing these changes.

Further, the Province should consider that exemptions for development charges, community benefits charges and/or parkland dedication provides a point-in-time relief for the initial costs associated with housing development; however, there are various other factors and maintenance costs, especially in the case of purpose-built rental housing, that may ultimately determine whether or not an affordable housing project is feasible for development.

### **Recommendations**

1. That the Province consider whether a threshold for affordability should better align with rates of municipal core housing need, which in the Niagara Region falls below the proposed 60<sup>th</sup> percentile for household incomes.
2. That in addition to appropriately targeted affordable housing exemptions, the Province consider other tools, factors, and subsidies that would help increase the feasibility of affordable housing developments while also helping housing providers better bridge the gap between market and affordable rents.
3. That the Province clarify whether there will be a commitment to municipalities to ensure that sufficient funding for infrastructure needed to enable housing development will be made available and to ensure that development charges are to remain "whole".

### **Questions for Implementation**

In addition to the above comments related to the changes in section 4.1 of the Act, Regional staff identified the following questions needed to be addressed to ensure proper implementation of the development charges exemption as prescribed:

- Will the Province prepare the necessary agreements to cover various types of developments and circumstance that would ensure exempted housing remains affordable for 25 years?
- Will additional funding be provided by the Province so that an appropriate number of staff can administer and monitor the 25 year agreements that would be put in place?
- How will changes in market conditions be factored into calculations of affordability over a 25 year period?
- If an income-based criteria is added, will there be any form of income verification needed to ensure that those leasing or purchasing an affordable residential unit is making less than the 60<sup>th</sup> percentile of household incomes? How will this be monitored if there is a change in employment or increase in household income?
- Further to the above, how would income verification also consider circumstances where a household has significant wealth but low annual income (e.g. seniors on a fixed income with significant net worth in assets)?
- What is the recourse that should be taken if the developer whom originally was granted the development charge exemption is no longer attached to the project? Do the agreements in place transfer to the new owner of the property/building?
- What happens if one of the units in the building goes to market rent does that impact the entitlement of the owner/builder to the reduced development charges?

As noted, Regional staff are supportive of the Province's goal to create and incentivize additional affordable housing in Ontario. The above letter has identified potential terms and processes used to calculate affordability should be clarified, where the shortfall between core housing need and the definition of affordable residential unit may need to be considered, and questions related to the administration and monitoring of the proposed exemptions to development charges. Thank you for the opportunity to provide comment. Niagara Region looks forward to ongoing engagement and discussion on the proposed changes.

Respectfully,



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Beth Brens  
Associate Director, Budgets, Planning & Strategy

