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**REPORT**
**Meeting Date: 2023-02-23**
**Regional Council**

**For Information**

REPORT TITLE: **Inclusionary Zoning Administration Update**

FROM: Sean Baird, Commissioner of Human Services

## OBJECTIVE

To inform Council that work on the Inclusionary Zoning program administration is paused given the uncertainties of Bill 23, the *More Homes Built Faster Act, 2022*.

### REPORT HIGHLIGHTS

- Bill 23 proposed changes to Inclusionary Zoning (IZ) under the *Planning Act* that limit the set aside rate of affordable units to 5 per cent, restrict the duration of the affordability period to 25 years, and establish a new market-based definition for affordable housing at prices that are 80 per cent of average resale price and 80 per cent of the average rent.
- The collective impact of these proposals, which are not yet in effect, could undermine the utility of IZ as a policy tool to deliver much needed long-term affordable housing options for moderate-income and potentially low-income households.
- The shift from an income-based definition to a market-based definition of affordability for IZ units may result in ownership housing only being affordable to high-income households. The price impact on rental housing is less clear.
- Given uncertainty regarding IZ changes as a result of Bill 23 and associated impacts and timing, staff have paused work on developing an administrative function for affordable units secured through IZ and other mechanisms.
- Upon the release of Bill 23 proposed regulations, Regional staff in collaboration with local municipal staff will reassess options to determine if there is a beneficial role for the Region of Peel (Region) within IZ and will report back to Council.

## DISCUSSION

### 1. Background

On May 12, 2022, Regional Council approved, in principle, a recommendation that the Region of Peel, Housing Services, assume an administrator role for a system to access affordable housing units secured by local municipalities through Inclusionary Zoning (IZ) and other mechanisms. The Region was best positioned to create a coordinated, single approach to managing access and turnover for affordable units on behalf of local municipalities. A one-time allocation of up to $350,000 through the Regional tax rate stabilization reserve fund R1250 was secured for initial program design. Since August 2022, Regional staff, in collaboration with local municipalities, have worked towards establishing a temporary working group to undertake program design and identify budget requirements. Staff committed to returning to Council with recommendations.

**Inclusionary Zoning Administration Update**

In October 2022, the provincial government introduced *Bill 23,* the *More Homes Built Faster Act, 2022*, to support the Province's Housing Supply Action Plan to build more homes across the province. Bill 23 proposed several amendments to the *Planning Act*, including changes that could weaken IZ's efficacy as a policy tool to secure affordable housing for moderate-income households, and potentially low-income households, who are increasingly priced out of the housing market.

As Service Manager for the affordable housing system, the Region has concerns about these proposed changes as they could undermine the general intent of IZ programs. Given uncertainty regarding the timing and implementation of Bill 23 and regulations not yet finalized, staff has paused further work on IZ and will reassess if there is a beneficial role for the Region as administrator for affordable units when Bill 23 regulations are finalized.

**2. Changes to Inclusionary Zoning under Bill 23**

An IZ program's success is largely predicated on its affiliated by-laws, governing legislation, and implementation. Bill 23 introduced the following proposed amendments to IZ under the *Planning Act (O. Reg 232/18)*:

- Establish prices at 80 per cent of average resale and 80 per cent of average rent, while exempting these units from development charges, community benefits charges, and parkland dedication requirements.

- Limit the set aside rate of affordable units to 5 per cent of the total number of units (or 5 per cent of the total gross floor area of the total residential units, not including common areas); and

- Restrict the duration of the affordability period to 25 years.

If the above proposed changes are enacted, IZ programs in the Region could be weakened for the reasons outlined below:

**a) By standardizing resale limits to 80 per cent of average resale price, IZ will not secure affordable ownership housing for moderate-income households in the 4th to 6th income decile (renter and ownership households estimated to have earned between $65,078 and $116,610 in 2021)**

  - Current IZ policies and zoning provisions set affordability levels at prices and rents that are affordable to moderate-income households, based on Provincial policy direction that states that housing is affordable if it costs no more than 30 per cent of household income. Bill 23's approach is inconsistent with the income-based approach used in the Provincial Policy Statement (PPS) definition of "affordable" as units should be currently priced closer to 55 per cent to 60 per cent of market resale prices.

  - There is a need to address housing affordability for moderate-income households. The intent of IZ is to fill a market gap rather than offer units at a slightly discounted rate.

  - The shift to a market-based definition of affordability for IZ units makes it challenging to secure units that are affordable to moderate-income households.

- Consideration of more nuanced income-based affordability is important as reductions in ownership purchase prices can largely be offset by rising interest rates and mortgage eligibility rules.

**b) Implementation may produce fewer rental and ownership units than expected given the new maximum set aside rate of 5 per cent.**

- Market analysis by N. Barry Lyons Consultants (NBLC) demonstrated that strong development market areas in Peel can support higher set aside rates without discouraging development. As this assessment was completed in 2021, it excluded development charge exemptions and other financial exemptions directed by Bill 23, meaning that prototypical developments were tested under the most onerous conditions. The maximum set aside rate directed by Bill 23 is not consistent with NBLC's feasibility analysis and other independent studies that articulate how communities can maximize construction of new affordable units.

- With a capped rate of 5 per cent, the program will not maximize the yield of possible affordable housing to address local needs. City of Mississauga staff estimate that a 5 per cent maximum will result in a minimum of 40 per cent fewer affordable units than was anticipated with current IZ provisions.

- Lowering the set aside rate overrides previously determined local municipal policy decisions. For example, the City of Mississauga's established set aside rates range from 5 per cent to 10 per cent with the potential to increase rates over time.

- Provincial legislation already limits the geographic scope of IZ to protected Major Transit Station Areas. The proposed 5 per cent cap will further reduce the ability to create supply that is affordable to moderate-income, and potentially low-income households.

**c) With a maximum affordability period of 25 years, rental and ownership units secured through IZ programs will revert to full market price in a short period of time.**

- Lowering affordability periods are not in line with best practices of longstanding IZ programs in other jurisdictions where long-term or perpetual affordability prevails.
- Since the developer does not retain ownership of affordable condominium units, development feasibility is not impacted by the affordability term for ownership units.

### 3. Ownership Units

The expected housing type most likely to be secured through an IZ program are ownership condominium units. Based on December 2022 market rates published by the Toronto Real Estate Board (TREB), applying the 80% average market price rule for condominiums would result in IZ condominium units priced at $500,000 and above. These prices would only result in affordability for high-income households in the 7$^{th}$ income decile or above (renter and ownership households estimated to have earned $116,611 or more in 2021) making IZ less effective in meeting regional and local housing objectives of creating more affordable housing options (including family-sized two or more-bedroom units) and improving housing affordability for low- and moderate-income households.

Prior to Bill 23 regulatory proposals introducing a market-based definition of affordability, IZ could produce affordable units for moderate-income and potentially low-income households. Anticipated regulatory changes, however, could create a program that effectively assists high-income households in securing homeownership for a shorter period, which does not align with regional and local municipal housing objectives.

The Canada Mortgage and Housing Corporation has forecasted a continuous decline in the average sale price across Canada until Q2 2023. Lending institutions such as Desjardins expect housing prices to nevertheless remain higher than at the start of the pandemic while development of new housing may slow due to borrowing cost increases and ongoing supply chain disruptions. Despite market analysis indicating that home prices are declining, the same continued rising interest rates impacting developers are also affecting buyers' ability to qualify for mortgage financing and manage carrying costs of ownership. Lastly, the federal Office of the Superintendent of Financial Institutions launched consultations in January 2023 to explore further tightening of mortgage lending rules. In short, there is significant uncertainty as to whether interest rates or home prices will stabilize by the time IZ units become available, or if first-time purchasers will be able to qualify for IZ units or whether affordable IZ units will be built in volume.

## 4. Rental Unit Considerations

### a) IZ Rental Units

Bill 23 proposed a standardized approach using 80 per cent of average market rates to determine the rent of an affordable IZ unit. It is unclear what will be used as the market rate benchmark. This approach may result in rental units considered affordable for moderate-income earners if the CMHC Average Market Rent (AMR) benchmark is used. In October 2022, CMHC reported Peel's private apartment average rents at $1,484 for one-bedroom, $1,666 for two bedroom, and $1,846 for a 3-bedroom unit. Table 1 illustrates these rents as compared to 80 per cent of AMR. If 80 per cent of AMR is applied, housing affordability can be achieved for moderate-income renter households with an estimated income of $45,500 who could afford a rent of $1,187 or more in 2022.

Table 1: 2022 Peel Private Apartment Average Rents (CMHC)

| Size of Bedroom | One bedroom | Two bedroom | Three bedroom |
|---|---|---|---|
| **Average market rent** | $1,484 | $1,666 | $1,846 |
| **80% of average market rent** | $1,187 | $1,333 | $1,477 |

Although rents may be affordable for moderate-income households, NBLC's feasibility analysis for Peel as part of municipal IZ implementation efforts indicated a weaker market for purpose-built rental production as compared to the ownership market. Furthermore, it is unclear whether the varying degrees of development charge exemptions in Bill 23 will be enough to encourage substantial development of purpose-built rental.

In recent months, steady increases to mortgage interest rates have caused rental prices to significantly rise as potential first-time purchasers are priced out of the ownership market and shift to securing housing in the rental market. This is having a profound effect on housing affordability. As such, it is difficult to predict whether rental prices at 80 per cent of AMR will remain affordable to moderate-income households. If higher interest rates remain, pressures on the rental market are expected to continue.

### 5. Affordable Housing Units Secured Through Other Mechanisms

Prior to September 2022, local municipalities could secure affordable housing through the development approvals process by way of mechanisms such as Section 37 (density bonusing). Market conditions in Mississauga made it possible for the municipality to leverage Section 37 provisions to secure affordable housing through the development process. City of Mississauga staff have indicated that rental and some ownership units at affordable rates based on the Provincial Policy Statement income-based affordability definition have been secured through new developments. In addition, affordable housing units can be secured as part of a local municipal Community Benefits Charge. The depth of affordability and affordability terms vary based on negotiated agreements, which continue to be under review.

Local municipal staff have identified the importance of Regional support, such as administrative expertise in maximizing the benefits of affordable housing contributions secured through mechanisms other than IZ. Regional staff will continue to collaborate with local municipal staff to determine how best to address the administration of these affordable units.

## CONCLUSION

Without finalized Bill 23 regulations, it is important to pause work on the development of an administrative system as changes to IZ may pose challenges to meeting regional and local municipal housing objectives. Staff will report back to Council after reviewing Bill 23 IZ regulations and their implications. Given changes in the housing market and regulatory context since an IZ market feasibility analysis was last conducted in 2021, staff will work with local municipalities to determine if a revised feasibility analysis should be conducted. These efforts will help to determine if there is a beneficial role for the Region in administration of affordable units.

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