



More Homes Built Faster Act – OHRC submissions December 30, 2022

Context

Ontario has enacted legislation to support its [newest Housing Supply Action Plan](#), *More Homes Built Faster*. This plan is part of a long-term strategy to increase housing supply and provide increased housing options.

In addition to the new legislation, the government is seeking feedback on several housing regulatory changes, including:

1. [Proposed Planning Act and City of Toronto Act Changes](#) (due November 24, 2022)
2. [Municipal Rental Replacement By-Laws](#) (due November 24, 2022)
3. [Ontario Land Tribunal Act, 2021](#) (due November 25, 2022)
4. [O. Reg 232/18: Inclusionary Zoning](#) (due December 9, 2022)
5. [Proposed Building Code Changes to Support More Homes Built Faster](#) (due December 9, 2022)
6. [Rent-to-Own Arrangements](#) (due December 9, 2022)
7. [A Place to Grow and Provincial Policy Statement](#) (due December 30, 2022)

OHRC submissions

Submissions/comments are required in two timeframes. The first round is due November 24 and 25. The second is due December 9 and 30. The OHRC has determined that it will provide comment on the following, given potential impact on *Code* protected groups:

- [O. Reg 232/18: Inclusionary Zoning](#) (due December 9, 2022, submitted)
- [Rent-to-Own Arrangements](#) (due December 9, 2022, submitted)
- [A Place to Grow and Provincial Policy Statement](#) (due December 30, 2022, **see below**)

OHRC submission: A Place to Grow and Provincial Policy Statement

The OHRC welcomes the government's effort to address the housing crisis. As the government moves to implement *More Homes Built Faster*, it is vital to take a human rights-based approach to housing law, policies, programs, and bylaws. This includes Ontario's obligations under the *Human Rights Code (Code)* and recognition of the right to housing as affirmed in the *National Housing Strategy Act*.

Human rights and planning

The *Human Rights Code (Code)* prohibits discrimination in five social areas, including housing and services, based on 17 grounds, such as age, race, colour, disability, receipt of social assistance, sex, gender identity, creed, and others.



Adequate housing is essential to one's sense of dignity, safety, inclusion, and ability to contribute to the fabric of our neighbourhoods and societies.¹ The importance of housing to human dignity and its status as a human right has been confirmed through both international law and in the Ontario *Human Rights Code*. Canada has recognized that adequate housing is a fundamental human right by ratifying the *International Covenant on Economic, Social and Cultural Rights (ICESR)*. Article 11 of the *ICESR* recognizes the right of everyone to adequate housing, and subsequent United Nations reports and recognitions have confirmed the importance of housing and its link to the prohibition of discrimination in all its forms.

Many groups identified by *Code*-grounds are more likely to require affordable or supportive housing, including group homes, lodging houses, social housing, or other low-cost rental housing. These forms of housing are particularly important for newcomers, people with disabilities, people who receive social assistance, racialized people, Indigenous people, students, older adults, transgender people, women and larger, young, or lone-parent families. When diverse forms of housing are restricted through planning, such as by limits to their number or location, *Code*-identified groups are disproportionately affected.

With respect to housing, municipalities fall under the *Code* both as housing providers and as bodies that provide services and make decisions that affect housing in their communities. **Planning decisions can be discriminatory if they target or have a disproportionate effect on some people based on *Code* grounds, such as by limiting or excluding affordable housing in a community or in particular neighbourhoods.**

The [Provincial Policy Statement, 2020 \(PPS\)](#) and [A Place to Grow: Growth Plan for the Greater Golden Horseshoe \(A Place to Grow\)](#) provide frameworks for municipalities to make land use decisions to fit local needs and circumstances. The *Planning Act* and the PPS recognize human rights as part of the planning process. Therefore, in taking these decisions, municipalities must ensure they do not violate the *Code*².

For instance, planning restrictions that result in a concentration of low-income housing in certain areas because they are effectively prohibited elsewhere in the municipality can lead to stigmatised neighbourhoods, resulting in social exclusion and instability. For example, grocery stores and banks often view "poor" neighbourhoods as unprofitable places to do business. The result is that people in these neighbourhoods face added barriers to their food security and financial well-being.

¹ OHRC, *Right at Home: Report on the consultation on human rights and rental housing in Ontario* (2008) at 6. The Quebec Court of Appeal has said that housing, even more than employment, is a basic need of every individual in our society. See *Desroches v Quebec (Comm des droits de la personne)* (1997), 30 CHRR D/345 (Que CA).

² See the OHRC's report, [In the zone: housing, human rights and municipal planning](#) report.



Sound land use planning creates opportunities for inclusiveness and supports the evolution of welcoming neighbourhoods that support the right to adequate housing and are free from discrimination.

Proposal

The PPS and *A Place to Grow* both provide comprehensive, integrated, whole-of-government policy direction on land use planning matters.

The government is proposing to integrate the PPS and *A Place to Grow* into a new provincewide planning policy instrument that it claims:

- Leverages the housing-supportive policies of both policy documents
- Removes or streamlines policies that result in duplication, delays, or burden in the development of housing
- Ensures key growth management and planning tools are available where needed across the province to increase housing supply and support a range and mix of housing options
- Continues to protect the environment, cultural heritage and public health and safety
- Ensures that growth is supported with the appropriate amount and type of community infrastructure.

Questions:

1. What are your thoughts on the proposed core elements to be included in a streamlined province-wide land use planning policy instrument?

As stated in previous OHRC [submissions](#) for the PPS, the OHRC calls on MMAH to recognize that planning policy instruments have the potential to affect the housing rights of people who require affordable housing like group homes, seniors' residences, shelters, lodging houses, and social housing.

The significant and disproportionate impact that restrictions on the development of affordable housing can have on *Code*-protected groups means that these planning decisions will engage the protections of the *Code*. The OHRC urges MMAH to expressly identify protecting human rights, including the right to adequate, accessible, and affordable housing, as a core element of the new planning policy instrument. Integrating this language in the instrument's Preamble would signal from the outset that the province recognizes that regulating land use and development can affect human rights. Also, it could signify that protecting human rights is an important provincial goal that contributes to enhancing Ontarians' quality of life. Making this position explicit would be consistent with the aim of the *Code*, which, among other things, is to recognize the dignity and worth of every person.



2. What land use planning policies should the government use to increase the supply of housing and support a diversity of housing types?

The OHRC recognizes the changing reality of the housing landscape, but changes are still subject to the *Code*, which has primacy over all other provincial legislation. In the last two decades, the nature of real estate markets has been drastically transformed as new actors, including financialized landlords, have dominated the market. These changes have disproportionately harmed vulnerable people, including groups protected by the *Code*. New tools are required to ensure that affordable housing is made available in this new reality.³

Section 1.4.3 of the current PPS states:

- Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by:
 - a) establishing and implementing minimum targets for the provision of housing which is affordable to low- and moderate-income households and which aligns with applicable housing and homelessness plans
 - b) permitting and facilitating: 1) all housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes and employment opportunities; and 2) all types of residential intensification, including additional residential units, and redevelopment in accordance with policy.

The OHRC recommends not only maintaining the commitments made in section 1.4.3, but also strengthening them to include provincially set targets on affordable housing and inclusionary zoning requirements that include:

- Define affordability by using percentage of the tenant's household income (30%) paid towards housing,⁴ and not percentage of average resale purchase price of ownership units or of the average market rent (AMR) for rental units
- Require that the period of affordability be permanent, e.g., 99 years
- Require housing to be accessible
- Increase set-aside rates to align with most other inclusionary zoning policies in North America, e.g., 10%.⁵

³ Manuel Aalbers, *The Financialization of Housing: A Political Economy Approach* (New York: Routledge, 2016); Elvin Wyly et al, "American Home: Predatory Mortgage Capital and Neighbourhood Spaces of Race and Class Exploitation in the United States" (2006) 88B:1 *Geografiska Annal* 105; Elvin Wyly et al, "Cartographies of Race and Class: Mapping the Class-Monopoly Rents of American Subprime Mortgage Capital" (2009) 33:2 *Int J Urban Reg* 332; Elvin Wyly et al, "Gender, Age, and Race in Subprime America" (2011) 21:4 *Housing Policy Debate* 529; Loretta Lees & Elvin Wyly, *Gentrification* (New York: Routledge, 2008); Raquel Rolnik, "Late Neoliberalism: The Financialization of Homeownership and Housing Rights" (2013) 37:3 *Int J Urban Affairs* 1058.

⁴ See Canada Housing and Mortgage Corporation (CMHC) definition of affordable housing [here](#).

⁵ According to a [2021 study](#) by Grounded Solutions Network, the vast majority of inclusionary zoning programs have a minimum set-aside of at least 10% of units.



3. How should the government further streamline land use planning policy to increase the supply of housing?

To achieve the appropriate mix of housing, the OHRC calls on MMAH to set and implement provincial targets for affordable housing, and identify, prevent, and remove barriers to accessible housing.

The OHRC has identified several human rights principles related to housing supply in its guide, *In the Zone: Housing, human rights and municipal planning*. The OHRC calls on the government to apply these principles to streamline approval processes and increase the supply and mix of stable, secure, and affordable housing in Ontario.

In particular, the OHRC calls on the government to ensure that while designing and implementing a revised planning policy instrument, the principles below be too of mind:

- Everyone has the right to live in the community of their choice without discrimination
- Communities integrate a mix of housing for different people and groups of all income levels (i.e., including affordable housing based on income, not market value), and decisions about housing *increase* the mix and availability of affordable, accessible, and supportive housing across neighbourhoods and communities, including secondary units and other forms of alternative housing
- Housing is universally designed and accessible, visitable, and adaptable for people with disabilities, families with small children and older persons
- People do not face discrimination in terms of taking part in decision-taking around housing
- Decisions about housing do not adversely target or affect *Code*-protected groups and individuals experiencing poverty (i.e., do not result in eviction into homelessness, create new barriers, further limit housing supply, or allow time expiry on affordable units)
- Decisions about housing disrepair, demolition, conversion, and renovation projects monitor for potential adverse impacts, protect housing tenure rights, and protect other economic, social, and cultural rights of existing residents as much as possible.

4. What policy concepts from the Provincial Policy Statement and *A Place to Grow* are helpful for ensuring there is a sufficient supply and mix of housing and should be included in the new policy document?

The Code has primacy over all other laws in Ontario, including the *Planning Act* and the *Places to Grow Act*. As such, section 4.4 of the current PPS provides for the following:

- This Provincial Policy Statement shall be implemented in a manner that is consistent with Ontario *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*.



The OHRC urges MMAH to maintain section 4.4 in any revised planning policy instrument.

In *A Place to Grow*, the government commits to:

- “Support a range and mix of housing options, including additional residential units and affordable housing, to serve all sizes, incomes, and ages of households.”

The OHRC encourages MMAH to strengthen this commitment by:

- Defining affordability by using percentage of household income (30%) paid towards housing and not percentage of average resale purchase price of ownership units or of the average market rent (AMR) for rental units
- Requiring that the period of affordability be permanent, e.g., 99 years
- Requiring housing to be accessible.

In *A Place to Grow*, the government also commits to:

- Support the achievement of complete communities designed to support healthy and active living and meet people’s needs for daily living throughout an entire lifetime.

The OHRC encourages MMAH to strengthen this statement by including specific commitments around accessibility. All levels of government, community planners, and housing developers must promote disability rights by committing to universal design for any new housing construction. “Universal design” makes housing accessible and adaptable not just for people with disabilities, but for everyone. Universal design allows people to age with dignity – in their own homes and communities – without costly retrofits, searching for new housing or being forced into residential care.