COMMENT 

To: Municipal Finance Policy Branch, Attn: Ruchi Parkash.

Date: Saturday, October 28, 2023.

Re: 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. - *Ministry of Municipal Affairs and Housing*.

ERO: 019-7669

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The Toronto Alliance to End Homelessness (TAEH) is a community-based collective impact initiative committed to ending homelessness in Toronto. Our network includes not-for–profit organisations that support those living with homelessness and those who are housed and who must spend a disproportionate amount of income on housing., as well as affordable and supportive housing developers, property managers, and landlords.

As part of our mission, TAEH works directly with the City of Toronto in its mandates surrounding homelessness and maintaining and growing affordable housing stock in the city, including engagement on client support services and funding. This includes TAEH co-chairing the Toronto Housing and Homelessness Service Planning Forum with both the City of Toronto Shelter, Supports and Housing Administration and the Housing Secretariat.

**Recommendations.**

1. Developing consistency in the definition of “affordable housing” across Canada is desirable.
2. Linking affordability to the gross annual income of households is preferable to using the average market rent/purchase price.
3. For the City of Toronto and other metropolitan urban areas, the catchment area for determining household income should be census tracts and not the whole municipality.
4. The proposed 60th household income percentile for rental housing is too high, and this should be lowered to reflect more accurately the “low and moderate income households” most in need of affordable rental housing.
5. Defining affordable rent as the rent paid by households not exceeding 30% of income is appropriate.
6. The definition of household should take into consideration that multiple households sharing a single housing unit should not be deemed to be a single household for the purpose of this definition but be counted separately.
7. If the actual gross annual income of all households is lower than the actual gross annual income of rental households in a catchment area, the latter value should be the deemed value for the purpose of calculating affordable ownership housing.
8. Restricting databases to household rentals or home purchases made within the past ten years will ensure that the current market realities in both the rental and home ownership markets are reflected in any current definition of affordability.
9. “Annual accommodation cost” needs to be defined and should be based on the current methodology used by the mortgage industry in determining the affordability of a home purchase.

**Analysis.**

**Consistency in the definition of ‘affordable residential unit.”**

TAEH is in favour of the desire to achieve consistency across the sector in the terminology used to describe affordable housing. As such, in principle, we support the inclusion of the existing definition of “Affordable” in the *Provincial Policy Statement (PPS), 2020* (“the *PPS*”), in the proposed definition of “affordable residential unit” in Bill 134, the proposed *Affordable Homes and Good Jobs Act, 2023* (the “Act”). While believing that an income, as opposed to a market-based definition is preferable, since in a rising market the ceiling for affordability would rise with a market-based definition; the decision to use, in any given situation, the lower of the two values so determined should mean that an income-based valuation will ordinarily prevail. This is particularly relevant in Toronto, where rents are increasing at a much faster rate than incomes.

We do note that the term ‘affordable housing’ is ubiquitous across Canada and believe that substituting this phrase for the proposed defined term “affordable residential unit” in the Act would further the desired goal of definitional consistency. We believe that such a change in phrasing of the defined term would not affect the scope of the definition itself: the use of the terms “rental housing” and “ownership housing” in the proposed subsections providing the interpretive link between the defined term and its representative components, namely ‘rental unit’ and ‘house,’ which would replace the term “residential unit” in their respective subsections.

One concern that TAEH has, however, relates to the proposed manner of determining the 60th income percentile as the ceiling in defining affordability by income. The *PPS* defines “Affordable” in relation to rent or “annual accommodation costs” (for homeowners) not exceeding “30 percent of gross annual household income for low and moderate income households.” “Low and moderate income households” are defined in the *PPS* as renter households, or households, with “incomes in the lowest 60 percent of the income distribution for the "Regional market area”; but, unlike the reference in the definition of “Affordable”, which refers to households in general for both renters and homeowners, the definition of “Low and moderate income households” while using the general household population for determining the 60th percentile for owners, uses the restricted database of rental households in the determination of the 60th percentile for renters.

This distinction has been carried over into the proposed definition for the Act. TAEH is concerned that this may lead to a flawed outcome regarding the construction of rental residential buildings. By using the 60th percentile the proposal could allow above average incomes to determine rental housing affordability. When dealing with a range of values for property that will be eligible to be defined as affordable under the Act, it is reasonable to assume that developers will preference the construction of the highest value properties within that range, to maximise their rate of return. As such, using such a high income percentile to define the ceiling on affordability will result in those residents who are most in need of rent relief having the least likelihood of gaining access to whatever buildings are built as affordable rental housing.,

TAEH also notes that the distinction between general and rental households to determine the 60th percentile for affordable private ownership housing versus rental housing is a distinction that could lead to inequities that skew the market in favour of the construction of affordable homes for private ownership compared to renting. The larger the gap in income between these two values in favour of home ownership, the greater the likelihood that developers will build homes for private ownership, since the value of the building will be greater.

While both affordable home purchases and affordable rental units are needed in the City of Toronto, TAEH believes the need for affordable rental units far exceeds the need to make the purchase of homes for private occupancy easier. as such, TAEH believes that the proposed amendments be at the least neutral in preferencing one class of affordable residential unit over the other: indeed, based on the arguments above, a case can be made to deliberately favour making amendments to the Act that privileges the construction of affordable rental residential units. This would also be consistent with both provincial and municipal policies pertaining to mixed communities, and the need to have low wage urban employees, who typically rent, living within the cities in which they work.

TAEH has concerns with the catchment area to be used to obtain the data on household incomes, be it general or restricted to rental households. The proposed legislation uses the phrase “applicable local municipality” which differs from the definition of “Regional market area” in the *PPS*. This definition is as follows:

**“Regional market** **area:** refers to an area that has a high degree of social and economic interaction. The upper or single-tier municipality, or planning area, will normally serve as the regional market area. However, where a regional market area extends significantly beyond these boundaries, then the regional market area may be based on the larger market area. Where regional market areas are very large and sparsely populated, a smaller area, if defined in an official plan, may be utilized.”

Based on this definition, and the desired goal of definitional consistency, it may be presumed that the reference to “applicable local municipality” in the case of Toronto would pertain to the city as a single unit. Considering the size and population of Toronto, the significant variations in household income across neighbourhoods, and the municipal government’s recognition that the current distribution of affordable housing in Toronto does not reflect its own policy goals concerning the creation of new affordable housing this does not seem appropriate.

TAEH submits that the definition be amended to reflect this reality and this need: the reference to “applicable local municipality” should be amended to allow the use of a smaller subunit of any given municipality. Census Metropolitan Area (“CMA”) Census Tracts (“CTs”) may be a useful unit to use, since relevant data is already collected by the federal government based on CMA-CTs; also, data collected by the Canada Mortgage and Housing Corporation (“CMHC”) would be useful.

TAEH believes that the *PPS* definition supports this position, in that it recognises that certain population distributions in relation to municipal area could lead to unfairness unless smaller units within those municipalities were used as household catchment areas. While that consideration relates to sparse populations in large municipalities, the fairness principle underpinning the distinction applies equally in densely populated large metropolitan areas such as Toronto, where there is a significant variation in average household income based on neighbourhood.

**Multiple households renting single units.**

One concern TAEH has with the term “household” used in both the *PPS* and the proposed legislation is the assumption that households do not share residential units. The PPS defines “Housing options” as including a variety of “housing arrangements” but does not include multiple households renting single units. There is no recognition of households sharing rental units due to high rents. The proposed definition must reflect the reality of shared accommodations wherein three or four individuals together may pay the rent on a two- or three-bedroom unit. As presented, this definition is implicit in the expectation that each unit would be rented by a single household. Conversely, it is implicit that a household is a single economic unit in defining affordability.

TAEH submits that both assumptions distort the data and risk leading to results that do not reflect the reality of this strategy for dealing with the lack of affordable housing: If the definition of “household” aggregates the incomes of multiple households sharing a single residential unit, then the household income data used to determine the 60th income percentile will be distorted, leading to multiple low-income households being recast as a single higher income household.

TAEH recommends that this problem be rectified in the proposed amendment through the inclusion of a definition of “household” that incorporates that found in the definition of “Housing options” in the *PPS* but expands upon it to reflect the reality of multiple households renting single units. A simple solution would be to divide the total rent by the number of households, or alternatively to disaggregate the single rent based on the actual rent paid by such households, showing each household in relation to its own notional rental unit.

**Differences in determining income threshold between classes.**

TAEH is concerned that the source for obtaining household data remains opaque. TAEH supports the City of Toronto’s recommendation that this data be obtained from Statistics Canada and/or CMHC. TAEH likewise supports the City’s request to participate in meaningful consultation regarding the calculation process prior to the release of any information through the publication of the Affordable Residential Units Bulletin.

We are, however, also concerned that the proposed distinction between household classes in a municipality used to identify the 60th percentile to determine affordability for rental units as opposed to house purchases may lead to unintended consequences that will increase economic disparity in our community. Many households living in houses that are family legacy properties without indebtedness can be “cash poor – property rich.”

Current rents across Ontario are significantly greater than historic norms, and as such simply to be a renter household requires such households to be earning a comparatively higher income compared to a similarly situated legacy homeowner. As a result, the income of the 60th percentile by gross annual income for households in a municipality could be depressed by the inclusion of legacy homeowners, while the income of the 60th percentile for rental households in the same municipality for similarly situated residential units will have been elevated by more recent and by current market forces.

Consequently, the income ceiling based on 30% of these two numbers could likewise skew in favour of prospective home purchasers compared to renters, making it economically more attractive to build residential units for ownership, as opposed to build them for rental purposes. Under the National Housing Strategy, and independent of it, through CMHC, the federal government already provides several financial supports for homeowners that are neither available (by definition) to renters, nor required to be passed on to renters where applicable through rent reductions. Creating a policy landscape that preferences development of new homes for ownership over rentals ignores the economic advantage of home equity, does not address the gap in resources and targeted supports for homeowners that are unavailable to renters, and has serious potential to further counter the goal of increasing the provincial stock of affordable rental housing.

As such, TAEH recommends that a proviso be added to the proposed determination process. We propose that the definition make clear that a comparison be made between the actual gross annual income arrived at “in the applicable municipality” for the 60th income percentiles for households in general and for rental households only; and that where the income valuation to determine unaffordability for ownership housing is less than, or equal to, that arrived at for rental households only, that the valuation for rental households be used for both classes of affordable housing.

Alternatively, or in addition, TAEH recommends using databases restricted only to households that have purchased homes or rented residential units more recently: the past ten years for any given Affordable Residential Units Bulletin would appear reasonable, as far as it would show current trends yet soften any short-term fluctuations away from those trends.

**Defining and determining “annual accommodation costs.”**

TAEH is also concerned that another aspect of this proposal will privilege the construction of residential units for private ownership as opposed to rental. In determining affordability in house purchasing, the proposed definition for affordable house purchase price in the Act references 30% of “annual accommodation costs” yet this term is not defined in either the *PPS* or in the proposed amendment to the Act. It is unclear whether it relates to property taxes, mortgage indebtedness, hydro, and/or water costs, or if there a component for wear and tear or capital repairs. While some of these costs are readily ascertainable or determinable, some, such as indebtedness, are not.

It is also the case in Ontario, with certain “annual accommodation costs” being passed on to tenants, plus an additional profit margin, that the cost of owning a property compared to renting the same property is lower. Were this not the case, home ownership would be disincentivised, which is patently not evident. The larger the bundle of costs included, and the higher this value is overall, the more expensive a property can be that still qualifies as being unaffordable. This is another way in which the discretion of the Minister in determining this bundle of costs could make it more likely that developers will build ownership housing, as opposed to residential units for renters.

Likewise, while some costs of home ownership, such as mortgage payments, are indeed tied to the purchase price of a home, others, such as hydro and water bills, are not, and others, such as capital repairs scale with price but not in a linear manner. As such, whatever inputs are used in the arrived at calculation, such inputs must be modified to reflect how closely such costs scale with valuation, otherwise more expensive homes will be more likely to be determined to be affordable under the proposed definition. As noted above, developers will prefer constructing higher value ownership housing over lower value rental buildings, all other things being equal, and such a bias would weaken provincial and municipal City of Toronto policies to increase affordable rental housing construction.

TAEH believes that a related concern is that the manner of calculation is different for the two classes: for renters, income determines affordable rent, while for homeowners, a percentage of income based on an undefined basket of costs determines affordable purchase price. Mortgage providers must determine affordability based on income in relation to purchase price, current interest rates, and standard terms, based on a value of no more than 25% of annual income, without creating an arbitrary and notional “annual accommodation cost.”

As such, we recommend this term be defined in the Act and that the definition reflects the costs traditionally assigned to home ownership by the mortgage industry in determining the eligibility of prospective mortgage holders. It may well be that additional costs as referenced above may also be a reasonable inclusion, resulting in a 30% of income value for overall “annual accommodation costs,” but these need to be clearly set out as part of the definition. Such cost categories can then be used to calculate an annual carrying cost for any given property.

**Conclusion.**

Finally, TAEH fully supports the other recommendations contained in the “City Comments on Provincial Bill 134 Proposed Definition of Affordable Residential Unit” report dated October 20, 2023; prepared for the Planning and Housing Committee of City Council meeting on October 26, 2023; which are to be incorporated into the submission from the City of Toronto to be filed in relation to this request for comments, and which pertain to other suggested changes to Bill 134.

Thank you,



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