

# Memo

To: Ministry of Municipal Affairs and Housing

From: Planning Services, Finance, Transportation and Engineering, and Legal Departments, Town of Oakville

Date: October 28, 2023

Subject: **Concerns and Recommendations on ERO #019-7669 – proposed changes to the *Development Charges Act, 1997: Bill 134, Affordable Homes and Good Jobs Act, 2023***

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## Comments

The Town of Oakville is aligned with the intention of creating more housing, and more affordable housing specifically. The proposed definition of affordable residential units would exempt these units from the town's growth funding tools (GFTs) of development charges, community benefits charges, and parkland dedication. The intent appears to be to incentivize affordable housing.

There are a number of concerns regarding the proposed definition, including the ability of the town to administer and enforce that affordable residential units meet the definition and remain affordable, and the impact on the ability of the town to finance growth related land and infrastructure required for new housing without negatively impacting housing affordability through property taxes. The absence of the "Affordable Housing Units Bulletin" makes it very difficult to comment on the proposed definition and how it will achieve the goal of increasing housing affordability.

The town has the following comments:

### Proposed Definition of Affordable Residential Unit

- The proposed definition will result in quantifiable thresholds for rental and ownership units that rely on information that will be published in the "Affordable Housing Units Bulletin" by the Minister of Municipal Affairs and Housing. This Bulletin is not yet available.
- The Bulletin will be a critical document, and in absence of the Bulletin, it is unclear how well the proposed definition will achieve affordable housing, and difficult to provide fulsome comments.
- Key information regarding the Bulletin will be required to ensure the definition achieves the intent of the province:

- Frequency of updates: How often will the Bulletin be updated? The Bulletin must maintain relevance, keeping pace with rapidly changing market conditions.
- Data: What data sources will be used? Appropriate data sources and sample sizes are needed.
- Geographic scope: What geographic breakdown will be used for thresholds? Housing affordability thresholds can vary significantly across the province, and within a municipality (i.e., North Oakville vs. South Oakville). This should be considered in establishing thresholds.
- Housing Mix: Will there be thresholds by residential unit type, or one threshold? Without a range of unit categories, it is unlikely to capture the full spectrum of family structures that require different housing types.
- Accommodation costs: What is included in accommodation costs?
- There is currently nothing mentioned to ensure that affordable housing units are purchased/rented to those most in need of affordable housing.

### **Enforcement/Control**

- Initial Exemption: GFTs are currently utilized as a condition of building permit. At the time of building permit, in most cases it will be unknown as to whether a development would meet the definition of affordable. This will result in a deferral for those developments that are willing to enter into an agreement stating that units will be affordable and require the town to confirm that a development meets the definition at a later date.
  - It will be more challenging to utilize the GFTs at the later date without the leverage of the building permit.
  - If at occupancy the development does not fit the definition, the town will have exempted GFTs when it shouldn't have, reducing collections needed for growth infrastructure unnecessarily. Interest should be payable to hold owners accountable.
- Enforcement of Agreement: Section 4.1(9) of the proposed definition states that an agreement between the landowner/developer and the municipality shall be made that requires that the residential unit be maintained as an affordable residential unit for a period of 25 years. This may be registered on title.
  - It will be extremely difficult and burdensome to monitor affordability thresholds and the sale price or rent of the residential units that have been granted the exemption over the 25 year life of the agreement. There is a high risk that units could initially meet the affordability threshold, and not remain that way over the longer term. Developments should be required to provide documentation supporting that they meet the thresholds on a periodic basis, to reduce this administrative burden and ensure that the intent of the exemption is achieved.

- Once the agreement is registered on title, if there is a change in ownership over the lifetime of the agreement, it would be the homeowner subject to the terms in the agreement. If the development ceased to be affordable, any uncollected portion from GFTs will be collected from the current homeowner, or added to the tax roll of homeowner at the time if they are not paid (within the first 25 years). This could cause a significant amount of dispute and burden to the town when enforcing the provision of the agreement on homeowners that did not strike the initial agreement.

### **Administrative Impact**

- With the proposed criteria in the new definition, there will be a significant administrative burden. Increased municipal staff time will be required to execute additional agreements, registration on title, monitoring of property prices/rental rates to ensure units meet affordable definition for the town. This could require additional staff which will be funded by property tax.

### **Impact of Town Financing**

- Similar to the town's comments provided for ERO #019-6172 submission on Bill 23, *More Homes Built Faster Act, 2022*, further reducing collections from GFTs could delay the town's ability to build infrastructure that is essential to delivering more affordable housing units.
- The exemption of affordable housing from GFTs could have a significant impact on the town's ability to finance the growth related land and infrastructure required to maintain service levels as the town grows. There is a risk that smaller residential units would be considered affordable based on the proposed definition, which would have a major impact on growth municipalities like Oakville where a large percentage of growth will be in the form of high density units. This would result in a very limited ability to utilize GFTs for growth infrastructure.
- In the absence of funding from the province to keep municipalities whole, there could be delays in key infrastructure required for growth which could in turn delay in new housing. The town may be forced to rely on increases to property taxes to make up the funding gap, which in turn impairs housing affordability.

### **NOTE:**

- On October 30, 2023 town staff provided written clarification to provincial government staff that further to the ERO memo submitted on Friday October 27, 2023 (Comment ID: 93862), the ERO submission was reflective of town staff comments. Due to the timelines, town staff could not obtain Town of Oakville Council endorsement prior to the end of the ERO commenting period. Town staff clarified that the comments submitted are subject to Town of Oakville Council resolution, which is set for November 13, 2023. Town staff will submit this resolution to the ERO once it is obtained.