



Poverty Reduction Coalition

Inclusionary Zoning:

A Tool to Address Calgary's
Affordable Housing Needs

April 2007

The Poverty Reduction Coalition is a community collaborative, supported by United Way of Calgary and Area, aimed at reducing poverty in Calgary. We work together in the belief that poverty **can** be reduced in Calgary and that we have the human and capital resources to do it.

In 2004, the Sustained Poverty Reduction Initiative was formed with the hope of instigating thoughtful social innovation in government policies, in the provision of social services, in systems reform and within the business community. Since that time, our name has changed, but not our intention.

The newly-coined Poverty Reduction Coalition works with all orders of government, the business community, social service organizations and community members to address the systemic barriers and policies that prevent low-income individuals and families from moving beyond the cycle of poverty.

We partner and collaborate with others to ensure sustained change.

EXECUTIVE SUMMARY

INCLUSIONARY ZONING AS A TOOL TO ADDRESS CALGARY'S AFFORDABLE HOUSING NEEDS



Constant levels of poverty in the 2000s, high housing costs, low vacancy rates and a declining rental stock have combined to make affordable housing a pressing issue in Calgary. Among available policy options, inclusionary zoning has been recognized as a key means of facilitating the creation of affordable housing stock.

Inclusionary zoning defined

- Inclusionary zoning either requires or encourages developers of market residential projects to construct a proportion (usually between 10 and 25%) of affordable housing in developments.
- Inclusionary zoning can be either mandatory or incentive-based. With mandatory measures, developers are required to include a portion of affordable housing prior to development approval. Various incentives are given to reduce the burden on the developer. For instance, incentive-based measures offer developers density bonuses in exchange for providing affordable housing voluntarily. With the use of density bonuses, developers receive increased developable floor space, or contributions of money, donations of land, etc.
- Certain legal provisions must be made in order to proceed with the inclusionary zoning agenda in the Alberta and Calgary contexts.

Developments across Canada

Governments in North America value inclusionary zoning as a useful tool in alleviating housing difficulties. The definition of inclusionary zoning is broad and the approaches employ great variability.

- The Canada Mortgage and Housing Corporation (CMHC) has thoroughly investigated inclusionary zoning through the analysis of case studies in the United States. CMHC's general conclusion is that the method is successful, particularly when used in a mandatory fashion. The CMHC does not offer specific recommendations.
- In British Columbia, the Local Government Act enables B.C. municipalities to use inclusionary zoning policies, as well as to grant developmental costs recovery.
- Vancouver is exempt from the Local Government Act and has its own City Charter, which stipulates that "any development plan must include the housing policies of the Council respecting affordable housing rental housing and special needs housing."
- In Ontario, although there are no specific legislated provisions for inclusionary zoning, municipalities such as Toronto and Ottawa are making proactive municipal legislation to increase the level of affordable housing 20 to 25%.
- The Alberta municipalities of Banff and Canmore have begun legislative work on inclusionary zoning for affordable housing.
- Other jurisdictions in Alberta have been reluctant to move forward with inclusionary zoning legislation because specific powers for such have not been *clearly* legislated by the Municipal Government Act (MGA). As a result many municipalities fear legal action if challenged.

Benefits of inclusionary zoning

This measure has significant benefits to communities, owners, and tenants as inclusionary zoning:

- encourages the growth of affordable units in high-growth markets (St. Albert, 2005);
- is a “middle” ground in the affordable housing debate between public advocates and private developers (St. Albert, 2005);
- enables the reduction of urban sprawl (St. Albert, 2005);
- does not require any financial assistance from municipalities in most cases (St. Albert, 2005);
- encourages diversification of communities and reduces segregation and concentration (CMHC, 1999).
- is particularly of use to urban areas, and large city centers. It has been used successfully in various city centers such as Toronto and New York (CMHC, 1999), particularly when implemented alongside density bonuses in high density areas.

Possible issues with current developments

There is a lack of clarity as to whether the MGA needs to be amended to enable municipalities to implement inclusionary zoning for the creation of affordable housing.

- If the MGA needs amendment, this would be a lengthy and costly process.
- Mandatory programs are usually not attractive to the private sector as they perceive inclusionary zoning as an act which passes some of the cost of providing below-market value housing on to developers. However, voluntary programs are not preferred by non-profit public advocates, citing the reduced amount of affordable housing units created under such measures (St. Albert, 2005).
- A thorough investigation of how to implement such practices is critical, particularly to determine how to encourage the growth in both low-density (sub-urban) settings and high-density (downtown) settings.

Key recommendations

Inclusionary zoning is a tool that can be used to address the need for affordable housing. It should be incorporated as part of a comprehensive policy mix.

Poverty Reduction Initiative, United Way of Calgary & Area

- Support dialogue to clarify whether there is a need to amend the MGA to permit inclusionary zoning by working with municipalities and the Province of Alberta; encourage a timely solution.

City of Calgary

- Work with the Province and Alberta municipalities to clarify whether the MGA enables municipalities to use inclusionary zoning, both mandatory and voluntary, as an affordable housing tool, and promote amendments if necessary.
- Work with the Province and Alberta municipalities to amend the MGA to allow municipalities to increase the amount of municipal reserve required from new land developments from the existing 10% to 12%, if the additional 2% is dedicated to perpetually affordable and supported housing initiatives.
- Create an inclusionary zoning affordable housing initiative that does not rely on changes to the MGA by following the examples of the municipalities of Canmore and Banff. The municipalities have found a way to work within the current legislative framework of the MGA by creating exaction programs to create affordable housing.

Province of Alberta

- Clarify whether the MGA enables municipalities to use inclusionary zoning, both mandatory and voluntary, as an affordable housing tool, and amend if necessary.
- Work with municipalities to amend the MGA to allow municipalities to increase the amount of municipal reserve required from new land developments from the existing 10% to 12%, if the additional 2% is dedicated to perpetually affordable and supported housing initiatives.
- Create incentives that would give developers who adhere to a voluntary program of affordable housing creation, tax-relief and financial incentives in proportion to the development being created.
- Work with the Government of Canada toward the establishment of tax amendments favouring affordable housing.
- Enable municipalities to create tax and financial incentives to engage the private sector in affordable housing development. For example, affordable and supported housing initiatives can be facilitated by: elimination of development fee levies; fast tracking permits; and waiving permit fees, which the Province can subsidize municipalities to waive.

Government of Canada

- Establish tax amendments favouring affordable housing including but not limited to: the elimination of capital gains on donations of real estate to registered charities that provide perpetually affordable and supported housing; the encouragement of registered charities to participate in mixed-income housing projects where a maximum of 50% of all units can be market-value units to promote sustainability in mixed housing; and the elimination of GST on construction materials associated with affordable housing.

The Private Sector

- Determine what concessions both are willing to make on the basis of a voluntary inclusionary zoning program. What will it take for developers to accept and participate in a voluntary program of affordable housing creation? What points are “deal breakers”?
- Are there any partnerships with the private developer communities that would allow the private developer to utilize the charitable status of a non-profit, in return for the creation of affordable housing units?

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INTRODUCTION

Purpose

This paper outlines recent developments in Alberta regarding the creation of inclusionary zoning projects. It summarizes the relevant experiences of other provinces and municipalities. It makes recommendations to the three levels of government to increase the positive impact of inclusionary zoning for low-income Calgarians.

Objectives

To this end, this report will:

1. describe the Calgary context with respect to economic, planning, and social trends which have bearing on housing and the secondary market;
2. summarize other provinces' and municipalities' legislation and implementation experience with inclusionary zoning;
3. analyze the positive impacts and challenges posed by inclusionary zoning in the Calgary context with attention to affordable housing;
4. provide recommendations to increase the positive impact of inclusionary zoning legalization for low-income Calgarians to the three levels of government.

Methods

- Literature review of key documents
- Conversations with key informants at the City of Calgary, City of Vancouver, Province of Alberta Municipal Affairs and Province of British Columbia

The Calgary Context

Constant levels of poverty in the 2000s, high housing costs, low vacancy rates and a declining rental stock have combined to make affordable housing a pressing issue in Calgary.

- Homes experienced a 30% price appreciation in the first quarter of 2006 compared to a year ago (RBC Economics 2006: 2)
- 58,555 households are in need of affordable housing. According to the City of Calgary, Calgarians whose gross annual household income is less than \$38,000 *and* whose housing costs exceed 30% of their gross household income face serious housing affordability challenges. Of these, 34,650 (59%) are renter households (City of Calgary 2005a: 120)

(CONTINUED IN APPENDIX A)

THE LEGAL SITUATION

Currently the City of Calgary and the Alberta Urban Municipalities Association believe that the option of implementing inclusionary zoning policies in any Alberta jurisdiction is not available. This is because "in Alberta, there is no legislative authority for municipalities to require that a developer provide contributions toward affordable housing" (City of Calgary, 2004:40). It has been stated that before any action can be taken, an amendment to the Municipal Government Act (MGA) is required (St. Albert, 2005).

To this end the Alberta Urban Municipalities Association has agreed on a resolution to petition the province to change the Municipal Government Act (AUMA, 2006). However, other municipalities in Alberta have done some work on affordable housing using inclusionary

zoning. The towns of Canmore and Banff have bylaws dealing with the creation of affordable housing spaces (St. Albert, 2005).

The MGA does not prevent inclusionary zoning - although it doesn't specifically legislate it either (Section 6- 16-17 MGA). Thus, because of the possibility of legal action, many municipalities are hesitant to institute mandatory inclusionary zoning laws. Density bonuses (a subset of voluntary inclusionary zoning) for affordable housing are available now, and there is nothing to prevent cities from dealing and negotiating with developers to do this. Calgary and Edmonton have used this measure already.

RECENT DEVELOPMENTS

Federal

There are no inclusionary zoning programs in Canada equivalent to U.S. examples (CMHC, 1999) but municipalities in Toronto, Vancouver and Burnaby have successfully used variations of inclusionary zoning to rezone major private development sites (CMHC, 1999). Toronto has had success in its downtown area making use of density bonuses.

The Canada Mortgage and Housing Corporation (CMHC) investigated this issue thoroughly, examining case studies in the United States, and generally conclude that the method is successful, particularly when used in a mandatory fashion. This is because mandatory legislation firmly establishes a predictable amount of affordable housing, which can allow more coordination for families on a waiting list, and helps to curb urban "ghettos". But, the CMHC does not offer specific recommendations.

Provincial

In British Columbia, the Local Government Act enables B.C. municipalities to use inclusionary zoning policies, as well as enables them to grant developmental costs recovery. What this means is that British Columbia has specifically legislated the powers for these policies to the municipalities. Should the municipalities decide to go a number of different routes, then they also have legislated powers to extract a fee from developments in order to provide their own affordable housing programs.

Vancouver, which is exempt from the Local Government Act since it is a chartered city, has its own City Charter which stipulates that "any development plan must include the housing policies of the Council respecting affordable housing rental housing and special needs housing." Any existing housing may be designated as affordable housing "if the owners of the property consent to this designation" (St. Albert, 2005). The City of Vancouver legislated the creation of over 2,670 affordable housing units; 800 of these units have either been built or committed to be built (St. Albert, 2005). The goal is to dedicate 20% of available housing to affordable housing in major redevelopments.

In Ontario, although there are no specific legislated provisions for inclusionary zoning, municipalities such as Toronto and Ottawa are making proactive municipal legislation to increase the level of affordable housing to between 20% and 25%.

In Alberta, the municipalities of Banff and Canmore have begun legislative work on inclusionary zoning for affordable housing. The Land Use Bylaw in Banff works on the general principal of an exaction program, and was employed as a means of ensuring affordable and relatively spacious housing for new employees coming into town. All new developments must adhere to agreed upon dimensions, or pay fees to the town. The town has a housing corporation which develops housing that it sells below market value. The corporation receives monetary support from municipal appropriations. This was necessary in Banff which

sees an influx of workers seasonally, with more and more workers becoming permanent residents. Up to 50 new units have been created per year; because the housing is specifically developed by the city it has been able to bypass the ambiguity of the MGA, and thus does not greatly interfere with developers.

The Alberta Urban Municipality Association (AUMA)

Resolution c.ii.17 of the AUMA resolutions is intended to clear up the ambiguity of the aforementioned MGA, specifically regarding the powers necessary for implementing inclusionary zoning laws, citing the need as well as use of inclusionary zoning. This resolution was determined after several studies were conducted of local, provincial, national and in some cases international experiences in inclusionary zoning. (AUMA, 2006) Many municipalities in Alberta are ready to move forward with inclusionary zoning, but are waiting for an amendment to the MGA. This amendment constitutes a temporal challenge; it may take some time to be done.

AUMA RESOLUTION 2006.C.ii.17

CITY OF ST. ALBERT INCLUSIONARY ZONING FOR AFFORDABLE HOUSING

WHEREAS affordable housing continues to be a growing issue for Alberta municipalities;

AND WHEREAS municipalities are expected to contribute to the development of local affordable housing projects;

AND WHEREAS inclusionary zoning refers to guidelines in local land use regulations that require or encourage residential developments to include a certain percentage of affordable housing:

NOW THEREFORE BE IT RESOLVED THAT the Alberta Urban Municipalities Association request the Government of Alberta amend the *Municipal Government Act* to enable municipalities to impose inclusionary zoning on selected developments through their local land use bylaws.

(Source: AUMA, 2006)

Calgary

In Calgary, the municipal government has studied Ottawa's affordable housing initiatives, which includes inclusionary zoning. Due to the perceived illegality of implementing inclusionary zoning because of the MGA, the City has not taken any measures.

As a result of this and another study by St. Albert, the Alberta Urban Municipalities Association has adopted and passed a resolution to have the provincial government amend the MGA to give explicit inclusionary zoning powers (City of Calgary, 2004:40).

BENEFITS OF INCLUSIONARY ZONING

Numerous reports and city studies note that implementation of inclusionary zoning is an effective way of increasing the supply of affordable rental or purchase stock. The underlying assumption is that inclusionary zoning allows for the creation of more affordable housing units, without the need for government subsidies in the case of mandatory legislation. Such legislation has been found to be constitutional in both the United States and Canada (St. Albert, 2005).

There are significant benefits to inclusionary zoning for municipalities, communities, and tenants:

- It encourages the growth of affordable units in high-growth markets (St. Albert, 2005).
- It is a "middle" ground in the affordable housing debate between public advocates and private developers (St. Albert, 2005).
- It enables the reduction of urban sprawl (St. Albert, 2005).
- It does not require any financial assistance from municipalities, in the majority of cases (St. Albert, 2005).
- Other jurisdictions have had some success with voluntary inclusionary zoning with an increased number of concessions and financial support given to developers (CMHC, 1999).
- Density bonuses in the form of increased floor space are generally associated with downtown housing or intensely developed areas. It is a sort of voluntary inclusionary program, and has been used with measures of success in various city centers, such as Toronto and New York (CMHC, 1999).

ARISING ISSUES

- 1. Legality.** There is a lack of clarity regarding the need to amend the MGA to enable municipalities to implement inclusionary zoning for the creation of affordable housing. Furthermore the legality of proceeding without changes is questionable. Although exaction programs have worked thus far in Canmore and Banff, it is possible that a similar program in Calgary could be subject to legal challenges. Without an amendment to the MGA the legality of inclusionary zoning programs is ambiguous, yet if the MGA does need to be amended it would be a long and costly process.
- 2. Re-zoning barriers to inclusionary zoning.** Inclusionary zoning will most likely have the greatest impact in new developments, as re-zoning established developments will be difficult. Thus the impact that this tool can have is directly proportional to the amount of growth and new development taking place in both the downtown and residential environments. In light of the recent growth of most municipalities in Alberta, however, this may be a moot point for the time being.
- 3. Inclusionary zoning does not necessarily create affordable housing.** Affordable housing does make a difference, but in the light of some municipalities' growth, is it enough? Affordable housing may be 20 to 25% less than the market price, but the market price has grown by 30% since last year. So, even with inclusionary zoning, will this be enough to service low-income Calgarians? It is a start, perhaps, but may not be enough, as the staggering pace of the economic growth of the city would require that affordable housing be indexed in order for it to actually be affordable.

KEY COMPONENTS OF INCLUSIONARY ZONING PRACTICES			
Component	Description	Advantages	Challenges
Fair share principle	Redefines housing as a regional issue	Forces all municipalities in a region to provide a fair share of affordable housing	Must be implemented on the provincial level <i>or</i> require the cooperation of all municipalities
Defined proportions	Defines how much housing must be affordable relative to all units	Ensures minimum standards for affordable housing development	Developers must comply if voluntary
Developer compensation	Ways to compensate developers for additional costs	Increases probability of developer cooperation	May reduce city revenues or provoke community opposition to density bonuses
Affordability controls	Ensures housing units stay affordable over the long term	Ensures housing units remain affordable through initial and subsequent sales	May prevent households from capturing capital gains
Development controls	Ensures project and community quality standards	Stops developers from producing cheaper units through decreased design quality	Must control unit size, dispersal, appearance, timing, and amenities
Transfer/development credits	Commodifies affordable units into tradable transfer or development credits	Allow cities with insufficient units to buy credits from cities with excess units. Allows developers to build excess units at one site and fewer at another	Can lead to problems with geographic spread of affordable units

(Source: St. Albert, 2005)

RECOMMENDATIONS FOR IMPLEMENTATION

Inclusionary Zoning is a tool that can be used to address the need for affordable housing. It should be incorporated as part of a comprehensive policy mix. The Poverty Reduction initiative should therefore consider furthering the following recommendations to the three levels of government:

City of Calgary

- Work with the Province and Alberta municipalities to clarify whether the MGA enables municipalities to use inclusionary zoning, both mandatory and voluntary, as an affordable housing tool, and promote amendments if necessary.
- Work with the Province and Alberta municipalities to amend the MGA to allow municipalities to increase the amount of municipal reserve required from new land developments from the existing 10% to 12%, if the additional 2% is dedicated to perpetually affordable and supported housing initiatives.

- Create an inclusionary zoning affordable housing initiative that does not rely on changes to the MGA by following the examples of the municipalities of Canmore and Banff, which have found a way to work within the current legislative framework of the MGA by implementing exaction programs to create affordable housing.

Province of Alberta

- Clarify whether the MGA enables municipalities to use inclusionary zoning, both mandatory and voluntary, as an affordable housing tool, and amend if necessary.
- Work with municipalities to amend the MGA to allow municipalities to increase the amount of municipal reserve required from new land developments from the existing 10% to 12%, if the additional 2% is dedicated to perpetually affordable and supported housing initiatives.
- Create incentives that would give developers who adhere to a voluntary program of affordable housing creation, tax-relief and financial incentives in proportion to the development being created.
- Work with the Government of Canada towards the establishment of tax amendments favouring affordable housing.
- Enable municipalities to create tax and financial incentives to engage the private sector in affordable housing development. For example, affordable and supported housing initiatives can be facilitated by: elimination of development fee levies; fast tracking permits; and waiving permit fees, which the Province can subsidize municipalities to waive.

Government of Canada

- Establish tax amendments favouring affordable housing including but not limited to: the elimination of capital gains on donations of real estate to registered charities that provide perpetually affordable and supported housing; the encouragement of registered charities to participate in mixed income housing projects where a maximum of 50% of all units can be market units to promote sustainability in mixed housing; and the elimination of GST on construction materials associated with affordable housing.

The Private Sector

- Determine what concessions both are willing to make on the basis of a voluntary inclusionary zoning program. What will it take for developers to accept and participate in a voluntary program of affordable housing creation? What points are “deal breakers”?
- Are there any partnerships with the private developer communities that would allow the private developer to utilize the charitable status of the non-profit, in return for the creation of affordable housing units?



APPENDIX A:

BY THE NUMBERS: 2007 CALGARY HOUSING FACTS

DID YOU KNOW?

In 2006, a single person needed to earn a minimum of \$15 per hour to be able to afford a one-bedroom apartment in Calgary. Yet 103,500 Calgarians 25 years old or older were earning \$15 per hour or less in July of that year.

Sources:
Calgary Housing and Rental Authority
Minimum Housing Wage 2006;
Statistics Canada,
Labour Force Survey 2006

It's a public interest issue!

In 2005 and 2006, there were 1,900 print articles in Calgary papers alone covering the affordable housing and homelessness crises!

The Issue

Homelessness and a lack of affordable housing are increasing problems. Calgary is a national leader in terms of economic growth, yet our prosperity is being threatened by an affordable housing shortage.

Erosion of Affordable Housing

Increasing migration, low mortgage rates and economic growth coupled with rising labour and construction costs are sharply increasing the cost of housing

- In 2006, 25,794 more people moved into Calgary than moved out of Calgary; almost twice the growth rate of the previous year (CMHC Rental Market Report 2006).
- The average price of housing in December 2006 reached \$361,600 and has since continued to climb at a rate of approximately \$500 per day (Calgary Real Estate Board 2007 Housing Statistics).
- Despite skyrocketing prices, incomes only grew by 5% in 2006 (RBC Economics Housing Affordability Index December 2006).

Depleting Rental Stock

Lack of supply is driving up rents and dramatically decreasing affordability

- Calgary's apartment vacancy rate dropped from 1.6% in October 2005 to 0.5% in October 2006 (CMHC Rental Market Report 2006).
- Approximately 645 apartment units were available for rent in October 2006 (CMHC Rental Market Report 2006).
- As result of condo conversions, Calgary's rental apartment stock decreased by 1,083 units in 2006, reducing apartment stock availability by 2.6% from one year prior to 40,333 units (CMHC Rental Market Report 2006).
- New rental construction in 2006 has only amounted to two projects totaling 148 units (CMHC Rental Market Report 2006).

Increasing Homelessness

The erosion of housing affordability and the inability of lower-skilled wages to keep up with skyrocketing costs have led to increasing homelessness

- Approximately 58,555 households need affordable housing. 25% of these households are earning less than \$30,000 annually and are spending more than half of that income on housing. These families are considered to be at high risk for homelessness (Calgary Socio-Economic Outlook 2006).
- Almost 2,500 people are on Calgary Housing Company's waiting list for subsidized rent. Some will wait as long as 2 years (City of Calgary 2005).
- The City of Calgary's 2006 Count of Homeless Persons enumerated 3,436 homeless people – an increase of 32% from the 2004 count. Also:
 - the number of homeless families increased by 39%; and
 - the number of homeless children increased by 40%.
- A 2002 Calgary Homeless Foundation study found that 50.2% of the absolute homeless were working full time, part time or occasionally.

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