

Goodmans^{LLP} Update

Toronto Approves Inclusionary Zoning Program

On November 9, 2021, City of Toronto Council approved official plan and zoning by-law amendments to implement inclusionary zoning (IZ). The instruments were approved mostly in the form initially recommended by City staff as outlined in our October 14, 2021 Update, *Toronto Releases Draft Instruments to Implement Inclusionary Zoning*, subject only to minor modifications.

Core Components of the IZ Program Adopted as Proposed

Key elements of the program – including the geographic areas in which IZ will apply, and the rates used to determine the amount of affordable housing required – remain in the approved instruments in the form staff initially recommended. As outlined in more detail in our October 14, 2021 Update:

- IZ will apply in Protected Major Transit Station Areas (PMTSAs) that fall within one of the three IZ Market Areas shown in what will become Map 37 of the City's official plan.
- The quantity of affordable housing required will vary between 5% and 10%, depending on the IZ Market Area and whether the units will be provided as affordable rental or affordable ownership, with these rates increasing over time. Purpose-built rental units will have no IZ obligations until 2026.
- Affordable units are to be provided at a cost to occupants that is the lesser of 100% of average market rents across the City and a measure based on 30% of pre-tax monthly income for households within certain income percentiles.
- Affordable units delivered through IZ will be required to be maintained as affordable for 99 years.

The affordable housing requirements established through the IZ instruments will not be applied until the later of (i) September 18, 2022, and (ii) the date on which the Minister of Municipal Affairs and Housing (the Minister) approves a PMTSA encompassing the lands on which the project is proposed. For lands within Scarborough Centre, City Council directed that IZ would not apply until at least September 18, 2023 to provide additional time for the local land market to adjust.

In addition, the proposed transition provisions that exempt certain projects from IZ were approved, subject to minor modifications that staff recommended based on feedback from the development community and others. The modifications clarify that projects facilitated through a City-initiated by-law amendment rather than a privately-initiated one are exempt, provided other requirements are met, and that the key timing threshold to qualify for transition is based on the later of September 18, 2022 and approval of a PMTSA, as described above. As approved, the transition provisions exempt buildings for which:

- Complete applications for a zoning by-law amendment and site plan approval are filed on or before (i) September 18, 2022, or (ii) the Minister approves a PMTSA;
- A zoning by-law amendment came into force before the passing of a community benefits charge by-law and an agreement was executed in accordance with section 37 of the *Planning Act* on or before (i) September 18, 2022, or (ii) the Minister approves a PMTSA; or

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- A complete application for site plan approval was filed on or before (i) September 18, 2022, or (ii) the Minister approves a PMTSA.

Further Studies May Lead to Refinements

In addition to approving the IZ official plan and zoning by-law amendments, City Council provided a series of directions to staff to review various matters, which may result in refinements to the IZ program over time. For example, City Council directed staff to:

- Review the market impacts of IZ one year after implementation to consider matters such as the need for incentives, changes to the amount of affordable housing required, changes to the minimum development size threshold, and any other changes which may be necessary to ensure market stability and production of affordable units.
- Report back to City Council following further analysis of Little Jamaica, the Sheppard Subway Corridor, the Mount Dennis Area, the Weston Road and Lawrence Avenue West Area, the Marlee Ville Corridor and North York Centre to determine if additional areas should be made subject to IZ.

Next Steps

As noted above, the IZ instruments will not be applied until September 18, 2022 at the earliest, though landowners wishing to protect against the application of IZ must take certain steps in the interim to secure such protection.

We will continue to monitor the implementation of IZ in Toronto as it unfolds. In the meantime, for more information, please contact any member of our [Municipal, Planning and Property Tax Group](#).

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