

# Paper Money, Paper Homes: How the Financialization of Housing Ruined Housing Policy

A Comparative Analysis of Toronto's Inclusionary Zoning By-Law 941-2021 and  
New York City's Mandatory Inclusionary Housing Policy

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## ABSTRACT

There is a global housing affordability crisis; the cost of housing has skyrocketed at rates that far outpace real wages. Using a Marxist lens, I look at the dynamics of commodification and financialization in a capitalist land market. My thesis argues that the existence of a profit motive undermines the potential for affordability to be prioritized. Financialization specifically has entrenched and intensified this process of ‘housing-for-investment’ over ‘housing-for-shelter’. My thesis explores modern political solutions to this crisis, performing a comparative analysis of inclusionary zoning by-laws introduced in Toronto and New York City. This analysis dissects how capitalist-oriented housing affordability policies are structurally bound to the same dynamics of profit-over-people; thus, they can never produce affordable housing. Alternatively, I propose a series of non-reformist reforms and radical political approaches to decommodify housing and remove its tender from the private market altogether.

To My Zaidy Barney,  
---isn't it wonderful? the world is yours!---  
*may his memory be a blessing.*

And To My Zaidy,  
who will be remembered as every version of himself: the very best.  
we were all blessed to have been known and loved by you.

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# CHAPTER 1 - INTRODUCTION: A BRIEF OVERVIEW OF INCLUSIONARY ZONING

## 1.1 THE PRODUCTION OF UNAFFORDABLE HOUSING

The world is amidst a housing affordability crisis. Over half of Toronto's tenants are rent burdened, paying more than 30% of their pre-tax income on housing (Ono & Rajakumar, 2021). Corporate landlords are on the rise, with research showing that tenants living in highly financialized housing are likelier to face poor living conditions when compared to those who live in private accommodations, whether local or personally owned (Ferreira et al., 2022). Housing financialization, as defined by Haila, refers to the structural changes in the housing system that have led to land being treated purely as an "asset and object of speculative investment", rather than for its use as shelter (2015, p. 33). Housing has experienced numerous transformations in its function across modern human history. Originally enclosed and privatized for personal use, housing then became commodified for trading in the real estate market. Housing financialization specifically refers to the transformation of the relationship between housing and capital; the expansion of numerous financial institutions and credit-based systems around the housing market, scaffolding it into an infrastructure of investment and profit. Housing is unique in that there has always existed a tension between its 'use value' as a home, and its 'exchange value' as a commodity in the private market (Engels, 1872; Harvey, 1973; Marx, 1971). This thesis explores how the financialization of housing serves as a fundamental contradiction to the possibility of making housing truly affordable. The pursuit of capital extraction through housing subverts the ability to prioritize its function as shelter, creating conflicting incentive structures. In a capitalist system that prioritizes maximizing the extraction of profits, it is simultaneously impossible to provide goods and services for as cheap as possible unless those goods and services are removed from the financialized system. To explore the capacity for financialized systems to produce

housing affordability, this thesis will engage with a policy that arose within the pre-existing capitalist political framework to excavate its ability to produce housing affordability, and the potential political and structural challenges such policies face.

This thesis will explore the contours of space: how it is produced and what makes it unaffordable? It will then specifically explore political approaches to housing affordability, performing a comparative analysis on Toronto's Inclusionary Zoning Bylaw 941-2021 with the Mandatory Inclusionary Housing policy enacted in New York City (New York City Council, 2016; Toronto, 2019b). Inclusionary Zoning is a pro-development, supply-side policy that attempts to encourage the growth and construction of new affordable housing units with each new private property development. This thesis will engage with both the construction of this policy, as well as the capacity for such policies to meaningfully produce housing affordability on a broader scale. The goal of this thesis is to make work of the challenge posed by David Harvey in *Social Justice and the City*: that geographers ought not to merely posture about social problems, but to ask what there is to do about them, and what there is that can be done to make these problems "not true" (1973, p. 173). If housing is unaffordable, to even any segment of the population, and this unaffordability comes at the expense of basic shelter, lives, and livelihoods, is this how society ought to be constructed? And if not, how can we make housing truly affordable? Much like Friedrich Engels (1872), this thesis will argue for a conception of housing that is divorced from its monetary value; where personal financial assets alone do not dictate one's ability to access the necessity that is shelter.

## 1.2 A BRIEF HISTORY OF MODERN HOUSING: CAPITALISM, FINANCIALIZATION, AND THE PROFIT MOTIVE

The first section of this thesis will develop an understanding of modern housing systems under capitalism. Employing a Marxist framework, I will explore the evolution of housing towards a distinctly financialized system, denoting how the profit motive has resulted in a spatial network defined by how capital creates cleavages of race, ethnicity, and class to maximize land values. Drawing on scholars such as Neil Smith (1990, 1996) and Keeanga-Yamahtta Taylor (2019) I will first explain how racial capitalism produces space inequitably and unaffordably, highlighting the specific processes of gentrification, redlining, and blockbusting. Then, I will outline the histories of public housing in the United States and Canada to ground the context for the emergence of inclusionary zoning as a private-market, supply-side solution to the crisis of housing affordability. Finally, I explore inclusionary zoning as a policy, elaborating the contours of its political framework.

### **1.3 INCLUSIONARY ZONING BY-LAW 941-2021: AN INTRODUCTION**

In my second chapter I explore Toronto Inclusionary Zoning By-Law 941-2021 in depth. The function of this section is to dissect how politicians come to enact such legislation, and to break down its functional components to assess the policy's capacity for producing affordable housing. I first focus on city councillor Ana Bailão, who was responsible for both bringing the verbiage of inclusionary zoning to city council and for spearheading its drafting and construction in subsequent city council meetings (Toronto, 2016). I then trace the evolution of the policy over subsequent years to see how the policy changed responding to various actors; over the years the requirements became laxer while the benefits given to private developers increased, indicating the influence that capital exercises over the policymaking process (Toronto, 2019b).

This section includes a lengthy breakdown of the final policy itself, its components, its cost, and its projected efficacy (Toronto, 2019b). Each component is assessed for how it tracks

with the intended goals of producing housing affordability, analyzed from a Marxist lens. City councillors position the goal of inclusionary zoning as harnessing the power of the market to create increased affordable housing; a Marxist lens unpacks how this very concept is fundamentally flawed (Marx, 1967; Planning and Growth Management Committee, 2018; Planning and Housing Committee, 2019a, 2019b). Increased development without concordant policies that protect the existing housing stock, as noted by scholars such as Engels (1872), Smith (1979a) and Filip Stabrowski (2015), lead to gentrification and displacement. This means that on balance, inclusionary zoning is responsible for increasing unaffordable housing proportionately more than it increases the amount of affordable housing. A costing of inclusionary zoning policies also indicates how the notion that the market can be ‘harnessed’ to produce affordable housing misunderstands market dynamics. In a market (where profits are always required for development to occur and must be maximized), any policy that cuts into profits—such as requiring the development of less profitable, affordable units—is a cost that developers attempt to offload onto the government through tax cuts, subsidies, or onto neighbourhoods through up-zoning that can lead to the aforementioned gentrification (N. Barry Lyons Consulting Ltd., 2021).

Finally, this chapter explores community responses to inclusionary zoning, centering a variety of actors from various backgrounds: community activists, private developers, and local politicians (Layton, 2020; Right to Housing Toronto, 2020; Rockport Group, 2020; Tupe, 2020). I use this section as an opportunity to expand on how the private motivations of these actors play into their advocacy, and how the nominal inclusion of each actor in consultation is portrayed as equitable and equal inclusivity. Notably, however, only a select few perspectives made their way into the final version of the policy. Specifically, final iterations of Inclusionary Zoning By-Law 941-2021 focused on the concerns of those with capital, i.e., those who might contribute to the

actual construction and implementation of the policy. The voices of those affected by inclusionary zoning policies, such as residents of affordable housing, had a significantly reduced say in the contours of the policy itself (By-Law 941-2021, 2021). This serves as a severe limiting factor in the capacity for the policy to help the communities it intends to serve; instead, inclusionary zoning is drafted in the image of those who may benefit from its passing.

#### 1.4 A TALE OF TWO CITIES: A COMPARATIVE CASE STUDY OF INCLUSIONARY ZONING IN NEW YORK VS. TORONTO

To accurately identify the potential outcomes of inclusionary zoning, I performed a comparative analysis with New York's Mandatory Inclusionary Housing (MIH) policy passed in 2016 (*Mandatory Inclusionary Housing (MIH)*, 2016). Unlike Toronto's inclusionary zoning by-law, which was passed in November of 2021, the MIH policy has been in place long enough to study its effects. By September 2019, 38 developments had been committed to the provision of 2065 MIH units (Kober, 2020). I first outline the evolution of inclusionary zoning in the United States more generally, and then New York specifically to generate a historical context for the present policy. This lays the groundwork for how MIH came into existence: specifically, it is an expanded, larger-in-scale version of its predecessors, indicating a commitment to creating increased access to affordable housing. It also, however, indicates a routine commitment to supply-sided approaches to housing affordability that are fundamentally developer-oriented in nature. Each iteration of the policy falls victim to the same fundamental flaws of the policy itself: that increasing supply alone is insufficient if the majority of new supply is at market-rate, that an influx of new market-rate supply can have gentrifying effects if there is no concordant policy in place to protect pre-existing housing stock, and that the costs associated with providing affordable housing often end up being offloaded onto people or the government (which is to say people qua citizens

and taxpayers). In the case of New York City there is the additional conflict that redevelopment of units for inclusionary zoning often means the demolition of pre-existing housing stock that is already affordable and under rent-stabilization protections (Ullman et al., 2013). Thus, the new housing that goes up under the name of ‘affordability’ through inclusionary zoning policies is typically less affordable than the housing it destroyed. Finally, the cost of this ‘affordable’ housing is typically too expensive for the people it intends to serve. Private developers still require profits, even from affordable units. Even with affordable units geared to income, there is an incentive to set the ‘affordable’ rental income bands higher, so that higher rents can be charged. This means that the lowest income bands are left behind. Those who quite literally cannot afford to spend anything on housing have no options or alternatives; this will always be true in a financialized system.

## 1.5 RETURN TO RADICAL GEOGRAPHIES: AN ARGUMENT TOWARDS DECOMMODIFYING HOUSING

The main purpose of this thesis is to explore precisely how we can achieve affordable housing. Returning to the original challenge posed by David Harvey, I explore how it is that we can make the social problem of unaffordable housing “not true” (1973, p. 137). I argue that it is insufficient to have marginally cheaper housing and call that ‘affordable housing’. Rather, I define housing affordability as being achieved when cost is no longer a barrier to being able to access shelter. I define housing affordability as ensuring access to shelter as a basic, fundamental human right. There were 131 730 vacant homes in Toronto in 2021; in the same year, the city’s homeless population was 7347 (Punwasi, 2022; Toronto, 2021d). In this context, homelessness is a political choice. I define housing affordability as eradicating homelessness through redistributing housing and reconceptualizing housing provision. The final contention of my thesis is an exploration of the

kinds of policies that are required to make this vision a reality. Specifically, this thesis is an exploration of how society can divorce housing from exchange value to prioritize it for its use value. If it is the financialization of housing that is the basis of the contradiction that makes it impossible to make housing truly affordable, then this thesis contends that housing must not be financialized. There are many societies that have operated with decommodified or semi-decommodified housing systems even within capitalist contexts; examples range from the Paris Commune to the Soviet reclamation of housing stock, to collectivist communes such as Freetown Christiana (Christiania, 2023; Eichner, 2022; Turner, 1992). These are models to build on and implement with everything from the use of eminent domain to socialist revolution to how collectivist housing structures promoted cultures of community care. There are many policies that function in the interim to build towards maintaining the current housing stock as affordable and prevent housing costs from reaching untenable heights. I explore the interplay of rent control, vacancy control, and stronger tenant's rights as various non-reformist reforms that operate within the context of capitalism to mitigate the effects of capital on producing unaffordability (Advocacy Centre for Tenants Ontario, 2021; Canadian Centre for Housing Rights, 2022; *Where Will We Live?*, 2018).

Inclusionary Zoning is successful in its marketing, in the concept that it kills two birds with one stone—helping markets to thrive while aiding lower-income earners to access housing. It fails, however, in its execution. If we are to make housing truly affordable, we must return to Engel's original intuition surrounding the mechanics of capitalism itself: “the solution lies in the abolition of the capitalist mode of production and the appropriation of all the means of life and labour by the working class itself” (1872, p. 23). In advocating for affordable housing, I am specifically advocating for the ultimate goal of decommodified housing, as it is only when housing is

completely and ultimately divorced from the desire to profit from its existence that it can be distributed based on its ability to provide shelter. Thus, the solution to housing affordability lies in the abolition of the system that gives rise to its unaffordability: the system of capital. In particular, the solution to housing unaffordability is the abolition of the private property market.

## CHAPTER 2 - LITERATURE REVIEW: GENTRIFICATION, SPACE & THE UNAFFORDABLE PRODUCTION OF HOUSING

### 2.1 CAPITALISM AND SPACE

In his 1872 book, *The Housing Question*, Friedrich Engels (1872) outlined the plight of the working classes: dismal living conditions, inadequate housing, and cities constructed specifically to shut out the poor. The culprit, he claimed, was capital—the profit motive of the bourgeoisie had always and would always be prioritized in the construction of cities and spaces, slowly squeezing out the ability for the remaining ninety nine percent to fundamentally access something as basic as a place to live. The ugly living quarters of the working poor were a blight and an eyesore, conceived as a problem for capital to resolve through what he termed “Hausmann” policies of redevelopment (Engels, 1872, p. 68). A famous Parisian prefect, Hausmann was responsible for the grand redevelopment of his city in the 1850s and 1860s. Deemed by many the origin of gentrification, Hausmann’s policies were characterized by violently demolishing the city’s poor alleyways to make way for wide boulevards and expensive stores (Engels, 1872). The displacement of poverty was necessitated by the simultaneous capture of space with glistening streets and spacious apartments, ensnaring the wealth of its occupants and generating cycles of profit for its developers. No matter how hard capital tried, however, it was impossible to disappear an entire class of people. Engels described this phenomenon, something he wrote as being endemic to the capitalist process itself: “the result is everywhere the same: the scandalous alleys and lanes disappear to the accompaniment of lavish self-praise from the bourgeoisie on account of this tremendous success, but they appear again immediately somewhere else and often in the immediate neighbourhood” (1872, p. 68).

Thus, as long as capital dictated the construction of space and place, it has done so at the expense of those least capable of affording it. That is, from today back to when Engels (1872) first wrote *The Housing Question* and beyond, the commodification of housing and the cost it has imposed on people has always placed a disproportionate burden on the working classes, excluding entire groups of people from accessing something as basic as a place to call home. Over time this process has only worsened; the commodification of housing has prepared the ground for its transformation into financialization as developers and investors alike have built entire city skylines out of cheap land, preferable mortgage rates, and speculation. This process has resulted in a housing model that prioritizes housing for the sake of profits over the sake of shelter, creating an affordability crisis for those who cannot tap into the increasing rate of rising values of land (Stein, 2019). Attempts to solve this crisis through redevelopment, beautification, and restructuring of cities has never addressed the root cause of the problem: that money serves as a barrier to entry and will always do so as long as society is segregated along lines of class as hierarchy. As Engels writes at the end of his book, “as long as the capitalist mode of production continues to exist, it is folly to hope for an isolated solution to the housing question or of any other social question affecting the fate of the workers,” but rather, “the solution lies in the abolition of the capitalist mode of production” (1872, p. 71).

## 2.2 THE DYNAMICS OF LAND-RENT UNDER CAPITALISM

Neil Smith (1990) considered the dynamics elaborated in Engels’ *The Housing Question* (1872) as part of a reality intrinsic to capitalism: uneven development. For a number of reasons, capitalism can only develop through differentiated and unequal geographies. Uneven development is central to capitalism at all scales and can be driven by a multitude of forces ranging from imperialism at a world scale to inter-regional dynamics of industrial agglomeration and dispersal.

Smith (1990) suggests that land rent is the crucial force to understand uneven development at the scale of urban regions. Building upon David Harvey's (1982) work, Neil Smith (1990) thus transported Marxian debates about land-rent in agriculture to explain the role of urban real estate in shaping spatial development between districts and neighbourhoods. He specifically argued that gentrification (class-centred upgrading and displacement) is driven not primarily by the tastes of gentrifiers but by patterns of real estate (dis-)investment that are themselves tied to broader cycles of capital accumulation (Smith, 1990). The results on the ground are uneven, with gentrification being predicated on earlier rounds of disinvestment and, therefore, shifts in social, economic, and cultural geographies. As with uneven development more generally, Smith (1990) identified a see-saw pattern: beautification in one place causing for squalor to immediately reappear elsewhere. This occurs because of landed capital's drive to maximize its capacity to extract rent from investment in land (a peculiar type of commodity).

Engels' (1962) already noticed a spatial pattern to investment, highlighting the concentric circles of cities such as Manchester wherein the working poor lived in the urban core to minimize their distance to the point of production. By contrast, the wealthy elite lived on the outskirts of these towns—or in the suburbs—where the air was freshest. Harvey (1972), meanwhile, relied on Alonso and Muth's analysis of Von Thünen's theory of the urban land market: in a system of competitive bidding for land, those with the most capital would have the capacity to select the land of their preference, thus shaping the consequent spatial formations of cities. All of these conceptualizations of space, capital, and land point to the same conclusions: that capital is invested in land in order to maximize profits as land rent. For a number of reasons, the capacity to profit from land valorization is geographically varied for a wide variety of factors. Those factors may

range from the potential for development, the distance from the point of production to reproduction, and so on.

The key for Smith (1979b): the so-called rent gap. Investors gravitate to areas where the difference between existing land rents and potential land rent is greatest. Real estate disinvestment can thus prepare the ground for the next round of investment. Once that investment is made, capital is immobilized in its built form, so the land can no longer be redeveloped without negating the initial investment or destroying the avenue for accumulating profit. This capital remains immobilized until at least the initial investment has been returned. Then, built forms may undergo a period of decline—whether it be from new technological advances that these built forms lack, wear and tear, or a lack of physical maintenance and upkeep (Smith, 1979b). Meanwhile, land in other parts of the city are prime for capital investment, where the development of infrastructure can maximize the capture of surplus value. At this point, the spectre of devaluation returns and new rent gaps appear (Smith, 1990). In this way, capital cycles spatially through neighbourhoods—while one part of the city is experiencing disinvestment and decline, capital invests elsewhere. Eventually a space has undergone disinvestment for so long that the gap between the potential surplus value and the actual surplus value accrued is sufficiently large that capital reinvests, and redevelopment occurs—ushering in an era of gentrification (Smith, 1979a, 1979b).

### 2.3 DISINVESTMENT, DECLINE & GENTRIFICATION

When applied to the real estate market this spatial cycling of capital is shepherded by specific sets of policies that are fundamentally rooted in how capitalism weaponizes race and racism to maintain systems of dominance and subjugation. The injection of systems of speculation, credit, and finance have all scaffolded this process into a multi-billion-dollar industry that only

increases profits for capitalists, while worsening affordability for those most vulnerable to these racist and classist exclusionary policies. In the United States, where Smith (1979a, 1990) situates his work, access to the requisite capital to first invest in land and homeownership was distinctly cleaved along lines of not only class but also of race. Hundreds of years of slavery, legal discrimination, Jim-Crow-era segregation laws, and formalized socio-political and economic racism have led to a distinct wealth gap ensuring that homeownership, for the vast majority of American history, was a distinctly white pursuit (Taylor, 2019). In addition, African Americans were not even legally allowed to own land until 1866, upon the passage of the Civil Rights Act and the 14<sup>th</sup> Amendment (National Archives, 2021). Consequently, the primary landowning class was that of wealthy, white Americans. Black Americans, by contrast, were predominantly relegated to being tenants (Smith, 1979b; Taylor, 2019). As homes cycled through physical wear and tear, deterioration, and general decline, wealthy (or wealthier) white homeowners were invested in maintaining their properties as they were the primary residents and beneficiaries of a quality place to live. Those who occupied rental units, however, were at the whims of the landowning class: so long as units could continue to generate sufficient surplus value, the rational choice was to divest from these properties and invest in other regions where maximal surplus value could be accrued (Smith, 1979b). Only at the point that decline had worsened sufficiently that the gap between potential surplus value and actual surplus value was great enough—what Smith termed the ‘rent gap’—would the landowning class return to redevelop space, raising rents and displacing the working or non-working poor who occupied these homes (1979b, 1979a). This process disproportionately targeted the people of colour occupying these spaces who were evicted from the neighbourhoods that they had long called home. Pushed out of the communities where

they lived, it left them with little to no alternatives; this is how the mechanics of capital produces housing unaffordability in racialized as well as class-based ways.

#### 2.4 REDLINING, BLOCKBUSTING & THE DEATH OF THE AMERICAN DREAM

There was a simultaneously occurring process operating to ensure land as a means of capital gains for white Americans, at the expense of people of colour, Black Americans and the Indigenous peoples who were dispossessed from the land through colonization. Homeownership had always been entrenched in the American psyche as the nexus of the ‘American Dream’; in the wake of the New Deal, the Federal Housing Administration placed great emphasis on public investment into assisting Americans to achieve this as reality (Taylor, 2019). The Home Owners’ Loan Act was signed into law in 1933, with its purpose being to “provide emergency relief with respect to home mortgage indebtedness, to refinance home mortgages, to extend relief to the owners occupied by them and who are unable to amortize their debt elsewhere...” (Thompson, 2016, p. 1). Over the next several decades, however, Black Americans received only 2% of these federal loans (Almeida, 2021). The process of state disinvestment from Black people, Black neighbourhoods, and Black businesses came to be known as ‘redlining’: the act of intentionally underfunding and segregating Black populations in order to bleed these communities dry (Smith, 1979b; Taylor, 2019). In the see-saw of capital, this wealth was instead directly funnelled into white communities and neighbourhoods, where investment spurred relatively large economic growth and prosperity (Almeida, 2021). In this way, white wealth and success has always been built directly off the backs of theft from Black communities. In daily life, it is impossible to separate the racial from the economic, or the economic from the racial; the two, rather, should be seen as mutually constitutive elements from the same system, supporting one another’s maintenance and proliferation (Hall, 1978).

By the early 1970s, segregation had been legally overturned, and the United States government was keen to integrate neighbourhoods; housing policy was at the forefront of this mission (Hackworth, 2019). The FHA introduced a new loan program that would back borrowers with low or no credit, low or no employment, and that were living in particularly precarious conditions (Taylor, 2019). This policy in particular targeted Black renters who were living in deteriorated and abandoned conditions, and who longed for the homeownership that had long been made available to the white landowning class. Keeanga-Yamahtta Taylor explicates how the nature of these loans were incredibly predatory: “African American homebuyers were granted access to conventional real estate practices and mortgage financing, but on more expensive and comparatively unequal terms” (2019, p. 5). This, she called, “predatory inclusion” (Taylor, 2019, p. 5). In fact, “[b]lack women like Janice Johnson were desired customers *because* they were poor, desperate, and likely to fall behind on their payments” (Taylor, 2019, p. 5). Essentially, Black renters living in precarious conditions were predated upon for expensive, risky loans that they *could not afford* precisely *because* the lenders hoped that they would default, and the government would have to pay out. These FHA loans were never about providing homeownership or affordable housing to Black Americans; rather, it was about “facilitat[ing] the participation of broader networks of real estate operatives and lenders who circulated billions of new dollars throughout the urban housing market” (Taylor, 2019, p. 4).

The introduction of Black people to homeownership created a new avenue for capital, a means for banks and lenders to exploit and profit. It also provided a mechanism for the real estate industry and white homeowners to leverage the market towards their interests. Smith (1979b) denoted this dynamic in his explanation of blockbusting. Once home prices start to decline in a neighbourhood due to general deterioration, real estate agents could exploit general racist

sentiment and buy real estate cheaply, turn around, and sell it to Black families at inflated prices. In general, POC—and in particular Black people—both had to pay more for the same piece of real estate, as well as for the loans themselves. In addition, “the transformation in FHA policy did not immediately change the practices or the beliefs that motivated the practices within the real estate industry—or among agents within the FHA” (Taylor, 2019, p. 4). Consequently, many aspiring Black landowners were denied access to homes under a myriad of explanations that hid the truthful, racist explanation. This had the effect of relegating Black homeowners to the same series of deteriorated, undermaintained housing. Once these homes experienced sufficient decline, they went back on the market where social, political, and economic racism meant that real estate agents would undervalue and underpay for the remaining built form (Smith, 1979b). All of this served to make housing the least affordable to those most structurally locked out of access to capital, while reifying a multi-billion-dollar industry and its capacity to maximize the extraction of surplus value.

## 2.5 THE EMERGENCE OF PUBLIC HOUSING IN THE US

The conditions of housing affordability during this era necessitated mass investment into public, government-funded alternatives. Advocacy for public housing in the US took off after the Great Depression: worsening socioeconomic conditions left the country in disrepair. Mass socialist coalition building in places like New York City fought for increased labour rights, affordable housing, and broad-scale structural changes to governance that would better the lives of the American people. In this context, the New Deal was a vast concession to the revolutionary spirit of the time: on the one hand bringing about far reaching social, political, and economic change but totally dampening the radical spirit that had first generated this awakening. Encompassed within this legislation was the authorization for the Federal Administration of Public Works to build low-cost housing and to clear the so-called ‘slums’ that had accumulated over the past decade

(McDonald, 2011). The forthcoming years saw the expansion of publicly funded housing through the passage of the Wagner-Steagall Housing Act (1937), the Housing Act of 1949, and the Housing Act of 1968. Each of these successive acts introduced more public housing, establishing some 633 000 operational units of public housing by 1968 (McDonald, 2011). The Housing Act of 1968 created 1.5 million new units dedicated to low- and middle-income individuals and families (Henderson & Singer, 1985).

By January of 1973, however, Richard Nixon's government passed a moratorium on subsidized housing, signifying a shift in the federal government's conception of the problem of housing affordability (Fried, 1973). The 1973 Act gutted public agencies of crucial funding towards government-directed housing affordability solutions: public housing complexes were replaced with private-market oriented Section 8 vouchers, while rent stabilization and tenant protections were cut in favour of means-tested subsidies (Fried, 1973). After decades of disinvestment from public housing programs, the public was beginning to lose faith in the government as an effective actor in providing housing supply to vulnerable populations. Pruitt-Igoe, one of the country's most famous public housing developments, had infamously gone up in flames in 1972, with its demolition complete by 1976 after just two decades of operation (Freidrichs et al., 2011). Despite housing almost 3000 units for low-income families in the St. Louis area, the complex experienced disinvestment that left it with a soured reputation of crime, violence, and disrepair (Birmingham, 1999; Freidrichs et al., 2011). Its dramatic government-ordered collapse poisoned public faith in government constructed public housing, with several newspapers running headlines about the failures of this 'public experiment', culminating in its cover story "The Case History of a Housing Failure" in the New York Times (Times, 1970). It was precisely during this era that Nixon-style neoconservatism spread across the United States.

The backlash against the more liberal politics of Lyndon B. Johnson and John F. Kennedy led to a shift towards market-oriented solutions to social and economic woes of the era.

Another reason for the popularity of private-market affordable housing alternatives during this era was the desire to counteract what politicians saw as an additional failure of Pruitt-Igoe. Specifically, public housing complexes of this era had become synonymous with violence and crime, which were increasingly perceived as intrinsic traits of poverty (Birmingham, 1999; Freidrichs et al., 2011). Oscar Lewis, a geographer at the time, developed a theory on the culture of poverty calling it “a culture in the traditional anthropological sense [...] it provides human beings with a design for living” (1966, p. 19). Politicians and academics alike believed that there were certain sociocultural traits inherent to and passed on between the working classes that kept them in conditions of poverty, crime, and violence. Rather than seeing poverty as the material reality of a capitalist system reliant on the exploitation of workers in order to profit the capitalist class, conventional wisdom of this era reframed poverty as the fault of those who endured its hardships. Worse than this, because poverty was constructed as a culture, the stigmatized features of this culture—such as violence and crime—were now responsible for the social failings of society. Poor people themselves were to blame. The solution was therefore to break apart these enclaves of working-class folk. Conservative-era politicians believed placing poor people in wealthier neighbourhoods through private market subsidies and rezoning would give them access to a ‘better influence’, thus decreasing crime and solving the supposed social ills of poverty (Freidrichs et al., 2011; Orlebeke, 2000).

## 2.6 PUBLIC HOUSING IN CANADA

Much like American public housing, the overarching narrative running through Canadian public housing history is the glorification and entrenchment of homeownership as the end goal.

This goal has been pursued by dispossessing Indigenous people from their land, commodifying land as alienable private property, and selectively segregating cities along racialized lines in ways broadly similar but not identical with the American experience. In 1935 under Prime Minister Bennett, The Dominion Housing Act was Canada's first major push towards improving housing affordability for its population; it provided \$10 million in mortgage assistance primarily to middle-income Canadians who, at the end of the Great Depression, were looking to invest in homeownership (Begin, 1999). The Act was critiqued for failing to address the needs of low-income and rural Canadians who, despite government assistance, still could not afford these costly loans. In response, the National Housing Act was passed in 1938 which allowed the government to provide loans to local housing authorities in order to cover construction costs (Bacher, 1993). In exchange, these housing authorities could not charge tenants more than 20% of their aggregate income (Bacher, 1993). Over the decades, this act was amended on several occasions; the overbearing norm was that any provision of public or affordable housing should not outcompete the private market, which was thought to be better capable of creating, providing, and maintaining sufficient housing infrastructure (Begin, 1999).

Throughout this time, housing policy was under the purview of the federal government, who were largely politically shielded from the local activism of aggrieved tenants and the working poor (Hackworth & Moriah, 2006; Mah & Hackworth, 2011). Increasingly dissatisfied with the lack of affordable housing units in their cities and towns, activists instead turned to their City Councils to push for reform from the bottom up. Toronto reformers put pressure on the City Council in the 1940's to support a massive public housing development at Regent Park, winning approval amidst one of the tightest fiscal years (Bacher, 1993). Unanimous city-wide support soon turned the pressure upwards, flipping the then-Prime Minister Louis St. Laurent, and ensuring that

the development was eventually constructed. After this time, public housing developments were largely concentrated in what is now the City of Toronto, such as St. James Town and Flemingdon Park. These complexes faced opposition, however: the mass apartment-style complexes were criticized for being ugly, taking up too much space, and blocking out the sun (Bacher, 1993).

As Canada's immigration policy changed in 1967 and the universal point system was adopted, more immigrants of colour began to move into cities (Government of Canada, 2003). These public housing complexes increasingly became associated with race as much as they were with class (Brail & Kumar, 2017). Narratives changed from focusing on the physical architecture of the buildings to racist characterizations of public housing and crime (Bacher, 1993; Brail & Kumar, 2017; Hackworth & Moriah, 2006). There was growing opposition to public housing, and a latent political belief in both the power of the private market as a provider of affordable housing solutions, and in homeownership as the preferable outcome. Public housing complexes, as a site of primarily rentership, were viewed unfavourably in this context. In 1993 the Federal government absolved itself of the responsibility to provide affordable housing to its citizens, choosing instead to download this matter to the provinces (Hackworth & Moriah, 2006). In Ontario, social housing was further transferred to the individual purview of municipalities; the concurrent funding largely did not follow. Consequently, municipalities were left with a massive mandate to ensure affordable and accessible housing to their populations, without any adequate resources with which to provide it. Different municipalities adjusted differentially, shifting budgets to squeeze dollars for government assisted housing affordability measures. Particularly in large metropolitan areas like Toronto, the demand for affordable housing far surpassed the public budgets available (Zhang, 2020). Consequently, a political shift occurred, and external actors—in this case, the private market—were sought out to secure crucially needed affordable housing.

## 2.7 A QUICK INTRODUCTION TO INCLUSIONARY ZONING

In the shift from public to private-market solutions to housing affordability, one policy that has emerged across North America is inclusionary zoning. This policy is the focus of this thesis, and I will articulate its nature here. Inclusionary Zoning is a form of zoning by-law that affects the type and amount of housing that developers can build. In essence, whenever new private construction is developed, a certain percentage of the units built are set aside to be rented or sold at pre-determined ‘affordable’ rates (Toronto, 2019c). By nature, this policy is incredibly variable: cities have the authority to determine how many units must be set aside as affordable, what the level of affordability must be, and where this policy may be applied. The policy may be mandatory or voluntary. In exchange for enforcing or asking for compliance with this policy, cities may provide incentives to developers (Stabrowski, 2015). These may range from allowing developers to build residential units in areas that were previously only zoned for commercial use (this is commonly referred to as re-zoning), allowing developers to build larger developments than the site was originally slated for (up-zoning), or providing tax breaks and government funding (N. Barry Lyons Consulting Ltd., 2021). To date, inclusionary zoning has been implemented in many cities across North America, including Montreal, Seattle, and Washington, DC (Ono & Rajakumar, 2021). More recently, inclusionary zoning has been implemented in both Toronto and New York City; the largest metropolitan areas of their respective countries, this thesis will focus on the formulation and implementation of each of these policies while performing a comparative analysis (City of Toronto By-Law 941-2021, 2021; *Mandatory Inclusionary Housing (MIH)*, 2016).

## CHAPTER 3 - BUILDING AN AFFORDABLE TORONTO: INCLUSIONARY ZONING IN PRACTICE

### 3.1 TORONTO IN CRISIS: A BRIEF LOOK AT THE CITY'S STATE OF HOUSING AFFORDABILITY

From the perspective of many inhabitants, Toronto has a housing affordability crisis. This much can be seen by the tented encampments razed by police raids while gleaming glass and concrete are erected, funded by seemingly endless supplies of capital and investment (Casey, 2022). Toronto is a city of construction: there are more tower cranes across its boroughs than any other city in North America, reflecting the city's dedication to growth and development (Equipment Journal, 2023). This development, however, is also emblematic of the relationship between land and capital, and how these forces have converged to transform Toronto's landscape. The financialization of housing has led to a booming industry of soaring real-estate values leveraged by the private industry and corporate investors for record-breaking profits (Stein, 2019). The lost voices in this story, however, are those who depend on housing for its shelter: those who are now locked out of access to the housing market and are left with a city built for the rich, where many of its people are in fact poor. Toronto is in crisis, and its residents are bearing the consequences. Put simply, the city has become increasingly unaffordable to those who call it home.

Since 1975, home prices have outpaced income growth by 2.28 times—in fact, home price growth from 2020 to 2021 rose at a rate 10.5 times faster than disposable income (Punwasi, 2022). Wages are stagnating while housing prices skyrocket; recently, the average detached home price in Toronto's metropolitan centre crossed the seven-figure threshold, while the median household wage rested at \$85 000 (Katawazi et al., 2022). This situation is even more precarious for renters, who in 2016 comprised 47% of the city's households (Ono & Rajakumar, 2021). Renters typically earn substantially less than homeowners. While the average household income for homeowners in

2020 was \$102 306, it was only \$50 374 for renters (Ono & Rajakumar, 2021). Meanwhile, renters experience similar levels of inflation as homeowners: purpose-built rentals increased in cost by 24%, averaging \$1538 per month. Private market condominium rentals experienced a similar incline with a 17% rise to reach an average monthly rent of \$2323 (Ono & Rajakumar, 2021). The result of this is a city where renters can no longer afford their units. The Inclusionary Zoning Assessment Report on Housing Need and Demand Analysis (hereon ‘The Report’) found that one fifth of renters are renting units that contain insufficient numbers of bedrooms for the number of occupants (Ono & Rajakumar, 2021). In an attempt to curtail the affordability crisis, renters resign themselves to unlivable conditions; units are degrading to ever more precarious, neglected conditions, while renters themselves are relegated to less and less square footage of living space, while costs continue to nevertheless increase. Consequently, The Report (Ono & Rajakumar, 2021) found that 23% of renters are paying more than 50% of their income on housing—almost double that of owners—a number that has grown by 21% over the last 10 years.

The Canada Mortgage and Housing Corporation (CMHC) (2018) defines ‘affordable’ housing as costing up to 30% of a household’s pre-tax income; this positions nearly a quarter of the city’s renters—who make up nearly half of the city’s residents—firmly outside of accessing adequate and affordable housing. Notably, the existence of the CMHC definition on housing affordability presumes a concluded debate: that 30% of a household’s pre-tax income is an inherently reasonable, and thus, affordable, sum to allocate towards housing. This cannot and should not be taken unquestioningly. Rather, this definition is a normative stance, that assumes a few things to be true. First, it assumes that all residents have a constant source of income, from which subtracting 30% is theoretically possible. This definition therefore excludes those who are either chronically unemployed, underemployed, or working part time. This particularly impacts

disabled individuals, who may be unable to seek employment. This is also exacerbated during recessions, where unemployment is higher and employment difficult to secure. A lack of a steady source of revenue should not preclude individuals from affordable housing. Precarious social groups are in fact the most in need of affordable housing and a stable place to call home. Affordable housing goals should include solutions for all vulnerable populations on a long-term basis, and such a definition inherently excludes the most vulnerable population; thus, it is structurally insufficient.

Beyond this measure, it is also a flat and inflexible definition that is unresponsive to changing living conditions. While 30% of a household's pre-tax income may be feasible if other living expenses are currently at a certain, specific level of affordability, it is non-responsive to increases in cost of living during periods of inflation or cost of living crises. If, for example, the cost of groceries, education, public transportation, gas, and other basic necessities increase substantially over a period of time, 30% of a household's income towards housing may no longer be 'as affordable' as it once was. Finally, having a flattened perspective of imposing 30% of a household's pre-tax income as a metric of affordability across all households mimics a regressive taxation system. That is to say, while both a low- and high-income family would be paying the same percentage of their income towards housing, 30% of a low-income family's budget impacts their absolute value of money more. The remaining 70% of money is less to spend towards the basic necessities of living, while the remaining 70% of a high-income family is substantially higher, and can more easily cover the costs of groceries, school, clothing, and the other daily costs of living. Yet, even with the CMHC's definition on affordability, Toronto remains a city and place where most have yet to reach this minimum standard of living (Ono & Rajakumar, 2021). The sum total of this is that whether residents are a renter or a homeowner, Toronto has increasingly become

an unaffordable place to live; rents continue to rise, unchecked, and housing prices only continue to outpace wages, making them less and less affordable to the aspiring homeowner. In response to this, city council's mandate has been to both increase and proactively create housing affordability across the city, using the CMHC's (2018) framework on housing affordability in an attempt to reclaim Toronto as a city that all of its residents can comfortably call (affordably) home.

### 3.2 CONSTRUCTING TORONTO'S HOUSING PROBLEM: A STORY OF SUPPLY & DEMAND

In order to solve this crisis, the City Council must first understand what, precisely, is causing the housing market to spiral so seemingly out of control. Broadly speaking, city councillors as a body politic have conceptualized this problem as a lack of (market) supply (Bailão, 2016; Ono & Rajakumar, 2021). The CMHC, serving as Canada's national housing agency, is responsible for producing the national housing literature unpacking the scope and scale of available housing. Using its framework, it divides the private market housing stock into two main categories: purpose-built rental housing and condo units (CMHC, 2023). While there are also basement units and shared accommodations, purpose-built rental housing and condo units form the bulk of Toronto's housing stock and are also the primary form of new development. Thus, they are both the focus of public policy development, and this thesis. When introducing new policy on the municipal level, city council requires assessment reports outlining background detail of the issue of concern: in this case, The Report (Ono & Rajakumar, 2021) was commissioned, and concluded that housing stock was limited in a few key manners.

First, market economists promote the logic that the typical sign of a healthy rental market is a vacancy rate of approximately 3% (Ono & Rajakumar, 2021). This indicates that there are sufficient units for unit choice amongst tenants, that there are enough vacant units for tenants to move around, and that there are not too many free units that the market is performing poorly. In

the case of Toronto, vacancy rates typically sit closer to 1 percent. While vacancy rates hit 3.7% in 2020 at the start of the COVID pandemic, they were at 1.5% for purpose-built rentals and 1.0% for condo rentals in 2019, both of which are more reflective of typical rates for the market (Ono & Rajakumar, 2021). This has been interpreted as a lack of sufficient supply—despite, notably, the fact that vacancies still exist (Planning and Housing Committee, 2019a, 2019b). The normative claim that this thesis will build towards is that in a private market, it is necessary for vacancy rates to exist in order for sufficient movement in the market to generate competition, allowing renters to negotiate fairer terms that alleviate high rental prices. However, this system means that private units will always sit vacant while there are people in need of housing—such as houseless individuals—living without, as well as people paying more for the housing that they're in than they can afford. In a system where housing is distributed based on need as opposed to access to capital, there is no need for any vacancy at all. Rather, all units can be distributed, free from the profit motive. Specifically, this is conceptualized in a decommodified system administered by communities, municipalities, or higher forms of government. The contours of such policies are explored in the conclusion of this thesis. However, the normative stance remains vital at this point: that it does not have to be the case that there be a 3% vacancy rate—translated to thousands of empty units—in order for housing to be affordable. This type of policy only ever means that housing stock sits empty that people in need could occupy.

The second feature from The Report that indicates a lack of supply is that the stock of affordable purpose-built rentals is shrinking: from 2016 to 2020 the number of units with rents between 81-100% of average market rate (AMR) decreased by 33% and 20% respectively (Ono & Rajakumar, 2021). During the same period, units with above mid-range rents increased by 17%, while little new purpose-built rental housing was built (Ono & Rajakumar, 2021). The conclusion

is that the most affordable type of rental housing is becoming less and less available to the rental population, and where and when it does exist, it is becoming increasingly more expensive. This is occurring at the same time as The Report highlights the third feature of insufficient supply: the majority of building starts over the past five years have been private-market condominium rentals. Condo rentals on the private market are the most expensive type of rental housing; in 2020 the average rent across all unit types for condos was \$2323, while it was \$1538 for purpose-built rentals (Ono & Rajakumar, 2021). Thus, as condominiums continue to become the predominant form of housing built across the cityscape, housing will increase in unaffordability for the average renter. This paints a dire picture of disappearing affordable purpose-built rental housing while condominiums take over as the dominant building type forming Toronto's urban landscape. The situation is no different for Toronto's homeowners: in June of 2022, the CMHC (2022) released its own report on housing supply that claimed that in order to reach 'housing affordability' by 2030, 3.5 million additional homes would have to be constructed on top of the already expected 2.3 million increase in housing stock.

Thus, across these reports a narrative emerges that both in Toronto specifically and across Canada as a whole, there is insufficient housing to adequately shelter the population. This rise in demand over time drives up the cost of both rents and homes, making the city an increasingly unaffordable place to live. At the core of this problem is a mismatch in the type of housing being built, with a disproportionate number of condo housing starts. This means that the most expensive type of housing is taking over as the most popular style of built form, contributing disproportionately to affordability crises for vulnerable, low-income families. The final conclusions that these reports draw, however, is that at the root of these crises is a fundamental problem in the lack of supply. Essentially, these reports posit, if there was simply more housing—

regardless of the form of housing—costs would be driven down, and all housing would be made more affordable to the city’s residents. Thus, solutions initiated at the political level prioritize a framework that centres introducing new housing into the mix through a variety of incentive structures.

### 3.3 SYSTEM AS SOLUTION? THE EMERGENCE OF INCLUSIONARY ZONING IN TORONTO CITY COUNCIL

City council has taken a multi-pronged approach to the housing affordability crisis, combining numerous policies to protect the city’s existing housing stock and encourage the growth and development of new affordable housing units. Amongst these measures are an action plan in response to COVID-19 to create 3000 permanent, affordable homes, a housing first approach to homelessness, and housing task forces to identify crisis points for new and emerging issues in housing affordability (City of Toronto, 2019). The focus of this thesis, however, is the city’s introduction of the 2021 inclusionary zoning by-law, a supply-side policy geared towards leveraging private market development to encourage the construction of affordable housing units. It has never been the stated goal of city council for this by-law to serve as a total and complete solution to housing affordability; thus, critiques of this policy should not be read in this context. Rather, inclusionary zoning serves as a case study for how capitalist solutions to the housing affordability crisis—which are fundamentally caused by capitalist mechanisms—are ill-equipped. This is an important distinction for much of my thesis that is to follow. For this section, however, I will flesh out the contours of the inclusionary zoning by-law itself, and how it operates within the Toronto housing landscape. This is done on the understanding that this policy works, in reality, in tandem with numerous other policies to improve housing affordability for the city’s residents. The core critique of this thesis remains, however, that this policy, and all of its siblings—whether

alone or together—are not only insufficient at producing housing affordability, but in reifying private property and the positive feedback loop of financialized housing, worsen its availability.

Inclusionary zoning was first introduced to Toronto City Council Members as a political solution and policy measure through a staff report by councilor Ana Bailão on August 9, 2016 (Bailão, 2016). The report was commissioned as a response to Bill 7, commonly referred to as the Affordable Housing Act, which gave municipalities the power to require affordable housing units in new developments (Ballard, 2016). This directive mirrored the functionality of inclusionary zoning, birthing the first iteration of this policy within city council. As a policy, inclusionary zoning is incredibly variable. The city defines it as “a land use planning policy tool to create mixed-income developments in areas of the city where the market has not provided for a mix of housing prices and rents on its own” (Toronto, 2019c). Thus, its core and only stipulation is to introduce affordable housing into what would otherwise be already occurring new development. What, precisely, that affordability is or looks like is highly variable across space and place. It is up to individual municipalities to dictate the levels of affordability, how many affordable units, which regions are governed by this policy, whether developers receive any incentives for developing affordable units, and whether there is the option to opt out of creating affordable housing. These characteristics all map the contours of what inevitably shape the final policy.

When inclusionary zoning was first introduced by Bailão (2016) in 2016, she stressed the importance of maintaining flexibility in the policy to adapt to local needs. The elegance of inclusionary zoning, Bailão (2016) wrote, was in its ability to leverage the pre-existing growth of the Toronto housing market. In particular, she noted the 160 000 residential homes that had been completed over the past 10 years, with 118 600 more currently approved and in the development pipeline; this served as evidence of the potential for the Toronto real estate market to subsume the

costs of an inclusionary zoning policy (Bailão, 2016). It is of crucial importance that it was Bailão specifically heading up these successive subcommittees on inclusionary zoning. The capacity for effective policymaking is often shaped by the perspectives, experiences, and personal biases of those responsible for its passage. Throughout her tenure as a city councilor, Bailão had a voting track record that matched that of then-Mayor John Tory by nearly 90% (Urban Policy Lab, 2018). In his time in office pre-scandal, Tory’s politics were most commonly associated with stagnating property taxes, cutting social services, and increasing the police budget (Roy, 2023; Scibetta, 2023). Contextually, this reframes Bailão as a similarly oriented politician whose goals when drafting an inclusionary zoning policy may be less concerned with increasing affordability than, for example, the economic wellbeing of the elite. This was thrown into further relief when, in the spring of 2023, Bailão entered the mayoral by-election. Not only was Bailão’s campaign backed by John Tory, but her housing platform once again signified allegiance to the supply-side governance of his era (Bailão, 2023; Powers, 2023). The majority of her housing promises centered around development, including a pledge to “[l]ead a Mayor’s initiative on residential intensification to develop incentives and launch new policies to support the delivery of 285,000 new homes by 2031” (Bailão, 2023, p. 2). While her platform also included demand side initiatives—such as eviction prevention and freezing the demolition of pre-existing affordable units—each of these measures were temporary, as opposed to the permanent nature of her construction-centric platform (Bailão, 2023). These personal tendencies bleed into the professional development of policymaking, shaping the contours of the housing policy debate long before Bailão ever ran for mayoral office.

As part of her initial report on inclusionary zoning back in 2016, Bailão (2016) recommended enabling cash-in-lieu payments and the provision of off-site homes in limited and

defined circumstances, such as for luxury buildings with high operating costs or small buildings with financial challenges. It is notable, then, that from its first iteration, Toronto's inclusionary zoning policy prioritized the functioning of capital over the sheltering of low-income residents. The spectre of inclusionary zoning policy cutting into the profits of luxury, high-end buildings immediately generated questions (projected in effect from the perspective of the city's elites) about the viability of affordable units and their 'suitable' location. Thus, in this first construction of the by-law, luxury and capital were prioritized over housing affordability. Even in instances where cash-in-lieu payments were considered for smaller buildings that generate smaller amounts of rent, a legal loophole emerged for developers to intentionally build smaller developments to reduce contributions to the IZ policy while maximizing any government subsidies that emerge from this IZ program. Even without theoretical government subsidies, inclusionary zoning often requires or at least encourages the rezoning and up-zoning of projects, neighbourhoods, or even whole cities. This process manages the desire for new development by either the developers who have signed off on providing affordable housing units, or the city councillors who desired those units in the first place. This loophole now allows developers of small buildings to benefit from these rezonings without paying into the proverbial pot by providing tangible housing units. While cash-in-lieu payments are theoretically a net good, they are rarely sufficient to finance actual rental units. Also, the timeline of converting cash to an actual place to live is long, arduous, and often filled with bureaucracy.

### **3.4 INCLUSIONARY ZONING BY-LAW 941-2021: THE FINAL POLICY**

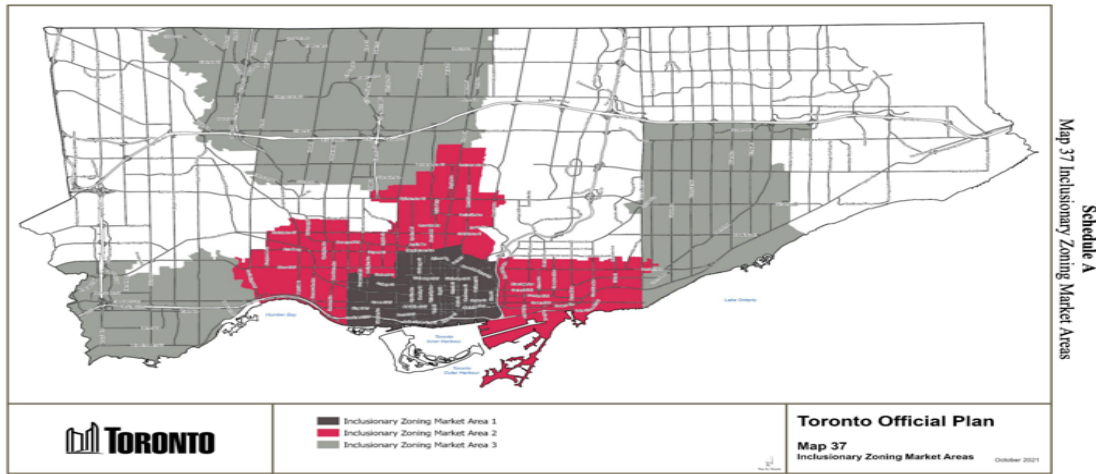
This, however, was only an initial report on an initial response to the introduction of the affordable housing act, and certainly not the final say in how city council constructed the inclusionary zoning bylaw. By its final iteration, Inclusionary Zoning By-law 941-2021 (hereon,

“the by-law”) had evolved and refined itself considerably (By-Law 941-2021, 2021). Its key terms are laid out as follows. For rental units, the by-law defined affordability as either less than or equal to 100% average market rent (AMR), or 30% of a household’s pre-tax income. Affordable housing units would be reserved for households within specific income bands. Studio units, for example, are reserved for those in the 50th percentile or below of income earners, while 1–3-bedroom units are geared towards those in the 60th percentile and below of income earners. Affordability is structured differently for ownership units; affordability itself is defined purely as 30% of a household’s pre-tax income and is calculated based on the mortgage principal and interest on a 25-year amortization, 10% down payment, and the mortgage rate for a conventional 5-year mortgage, as well as monthly property taxes and standard condo fees. Ownership units use a similar structure of reserving affordable units for households within certain income bands; studio units require households to be within the 30th income percentile and below, with increasing income bands of 10% at a time up to 3-bedroom units being reserved for owners in the 60th percentile of income earners and below (By-Law 941-2021, 2021).

Based on these differential definitions it becomes clear that structurally, the by-law prioritizes ownership affordability, almost to the exclusion of rentership affordability—though theoretically the two functions are almost unlinked in a development market. Lower income earners are given more opportunities based on income band prioritization to gain entry access through ownership. Thus, this is a policy that reifies homeownership as the ultimate goal, and private property as an inherent quality of shelter in our housing system. No such approach to housing policy would ever be able to imagine a vision of housing for the sake of shelter, rather than housing for its use as a tool of investment, or private pride and ego. The logic of capitalism is baked into the structure and prioritizations of this policy, and thus makes clear in its working

Figure 1

Map 37 Inclusionary Zoning Market Areas



By Toronto, 2021c

how the city conceptualizes both the problem of housing affordability, and its priorities in its solution. This is not a policy that prioritizes getting shelter to those who can least afford it; the lowest income earners that are within that 30th percentile of income earners or lower are the least likely group to have the kind of funds to secure a 10% down payment, regardless of whether the subsequent unit is more affordable in perpetuity after it has been secured.

This policy does not just differentiate by income band and affordability, it also segments the city geographically. The majority of Toronto is split into three distinct regions: Inclusionary Zoning Market Area 1, Inclusionary Zoning Market Area 2, and Inclusionary Zoning Market Area 3 (By-Law 941-2021, 2021). Each of these regions has different levels of affordability requirements imposed on them based on its relative strength of market. Stronger markets more capable of subsuming the ‘cost’ of affordable housing have stronger, stricter requirements, while weaker markets have lower expectations of producing housing affordability. Even within specific zones there is some flexibility. In IZ1, for example, purpose-built rental buildings have no

minimum requirement for affordable housing units. For ownership buildings—i.e., condos—however, a minimum of 7% of the total gross floor area must be dedicated to affordable housing units. This number jumps to 10% when it changes to affordable ownership housing (By-Law 941-

Figure 2

EFFECTIVE SEPTEMBER 18, 2022 TO DECEMBER 31, 2024

	<b>Purpose-built rental housing building</b>	<b>Ownership housing building</b>	
	GFA requirement for affordable rental housing units	GFA requirement for affordable rental housing units	GFA requirement for affordable ownership housing units
Inclusionary Zoning Area IZ1	0 percent	7 percent	10 percent
Inclusionary Zoning Area IZ2	0 percent	6 percent	8 percent
Inclusionary Zoning Area IZ3	0 percent	5 percent	7 percent

By Toronto, 2021a

2021, 2021). The variable nature of this policy can be read as an active incentive by the government to encourage greater construction of rental properties, which have a lower percentage requirement for affordable housing units. Essentially, the government wants to encourage the

construction of rentals as they are generally the most affordable form of housing to the city’s most vulnerable population (Planning and Growth Management Committee, 2018; Planning and Housing Committee, 2019a, 2019b). Reducing the imposition of affordable housing requirements on this type of construction increases the likelihood that developers will opt to build rental developments, as opposed to developments with greater housing affordability requirements. These looser regulations maximize the amount of market rate units’ developers can build. In the case where a developer opts into building rental housing instead of ownership, the result is increasing profits, by maximizing market-rate units, while simultaneously driving up the absolute stock of affordable rental units. Toronto City Council would likely see this as precisely the mechanism that makes inclusionary zoning so successful. Read more cynically, however, there are progressively the lowest amount of housing affordability requirements for the cheapest—and thus most affordable—forms of housing. Thus, this policy skews towards helping the populations who need it the least. The 7% of gross floor area requirement for ownership buildings is insufficient to tackle the housing affordability crisis, and 0% of gross floor area in purpose-built rentals means that as

rents continue to rise, even the city's most affordable form of housing will be out of reach for Toronto's precarious and low-income renters (By-Law 941-2021, 2021).

Heeding Bailão's (2016) initial calls for flexibility in inclusionary zoning, the by-law is not only variable across definitions of affordability, designation of income band, regions of affordability, and imposed levels of affordability. In addition, the by-law also includes a staggered timeline for its implementation (By-Law 941-2021, 2021). This allows for a phase-in of affordable units across the next decade, theoretically allowing for a softer absorption of costs associated with inclusionary zoning by developers, who are given sufficient time to react to the policy and reallocate budgets accordingly. At the first phase of its implementation, from September 18, 2022, to December 31, 2024, there are no requirements for affordable housing units in purpose-built rental buildings across all three IZ zones. The maximum amount of affordable housing is in affordable ownership units in IZ1, which requires 10% of gross floor area to be reserved for affordable units. By January 1st of 2030, the absolute maximum level of affordability across all unit types and in all regions that inclusionary zoning will ever reach is in IZ1, wherein private ownership housing units are expected to have 22% of gross floor area dedicated to affordable housing. In this same period, purpose-built rental housing buildings in IZ3 still have no requirement for building any affordable housing whatsoever. This means that the furthest extent that inclusionary zoning can take the construction of affordable housing is to 22% of gross floor area, only for ownership, and only in condo buildings—the most expensive form of housing out of the three types of housing covered by the by-law (By-Law 941-2021, 2021). This is woefully insufficient to produce meaningful levels of housing affordability both relative to the scale of those under and unhoused in Toronto under City Council's own guidelines and estimates, as well as

under the normative framework I adopt that no person should go unhoused in a city that has sufficient resources and capacity to house them.

There are a few crucial points here that will go underdeveloped due to lack of space, but that can and should be picked up on and explored further in other literature. First, Toronto owns a significant amount of housing and land (Toronto, 2017). This both can and should be repurposed to house the city’s unhoused population. In a city council meeting it was addressed that the city council might pursue the goal of developing some lands with the hopes of achieving 20% affordability for the units constructed (Planning and Housing Committee, 2019a). This is absurd; any government constructed housing both can and should be 100% affordable. Second, there are currently thousands of vacant units sitting empty while unhoused people suffer in the cold on the streets (Ono & Rajakumar, 2021). A city government concerned

Figure 3

with the state of housing and homelessness first would act with those two pieces of knowledge in hand, rather than prioritizing the profits of private developers who already have evaluations in the millions to billions of dollars. Third, the scale of

EFFECTIVE JANUARY 1, 2030

	<b>Purpose-built rental housing building</b>	<b>Ownership housing building</b>	
	GFA requirement for affordable rental housing units	GFA requirement for affordable rental housing units	GFA requirement for affordable ownership housing units
Inclusionary Zoning Area IZ1	5 percent	16 percent	22 percent
Inclusionary Zoning Area IZ2	3 percent	12 percent	17 percent
Inclusionary Zoning Area IZ3	0 percent	8 percent	11 percent

By Toronto, 2021b

under and unhoused people in Toronto is much higher than the capacity for 7-22% of gross floor area to accommodate. These crises will only worsen as housing prices rise, as they have always done, and will continue to do. Thus, by its very structure this policy is incapable of generating high levels of affordability. This does not mean that the ‘problem’ is ‘solved’ by increasing the percentage of affordable units in an inclusionary zoning policy: setting aside greater percentages of affordable units is more expensive and could disincentivize developers from even constructing the necessary units. Using city funding, tax cuts, or other incentives to counteract these added costs

are an ineffective use of resources, as they divert tools away from more comprehensive policies such as social housing—which is discussed in more detail in the conclusion.

### 3.5 INCLUSIONARY ZONING: ASSESSING THE SCOPE FOR AFFORDABLE HOUSING PRODUCTION

The problems with Inclusionary Zoning run deeper than just the extent of affordability, or the definition of affordability itself; rather, they are prominent in every element of this policy’s directive. For example, when affordable housing units are sold, clause (A) indicates that the city should receive no more than 20% of the net proceeds, equivalent to no more than 2% of the sale price (By-Law 941-2021, 2021). This is for the purposes of administration fees alone. However, in clause (B) it states that when units are sold at market price, the city should instead receive 50% of the net proceeds (By-Law 941-2021, 2021). Residents should not be using affordable housing as an opportunity to enter the financialized housing market for investment, buying at affordable rates and then upselling at market rates to turn a tidy profit. The city cut is measly relative to both what it could and should be. If this is the route city council wants to take towards affordability—reifying the financialized housing system—it should at least be recapturing its investment to put back towards affordable housing.

Additionally, there are substantial exemptions in the by-law that both impose higher costs on the city where and when development occurs and make it easier for developers to capitalize on rezoning and up-zoning. This gives developers increased leeway for development, while finding loopholes to evade building affordable units. In particular, the by-law allows exemptions for developments containing fewer than 100 dwelling units and 8000 square metres of gross floor area; this means that unless a development is a skyscraper, it is likely capable of qualifying for an exemption, and will not contribute to the city’s affordable housing landscape (By-Law 941-2021, 2021). The buildings that do not fall under these exemptions and are required to build affordable

housing, however, are no better. These large skyscrapers, with their significant concessions from city government in terms of rezoning and up-zoning, contribute increasingly larger amounts of residential housing to neighbourhoods and cities. By definition, the vast majority of this construction is at market—as opposed to affordable—rates, meaning that the general trend of this development is to increase housing prices in neighbourhoods. Given how development contributes to gentrification by attracting businesses, increasing foot traffic, and making neighbourhoods generally more ‘attractive’ by the metrics of capital, inclusionary zoning would function as a gentrifying agent instead of producing housing affordability. Thus, development would create more, not less unaffordability. Thus, inclusionary zoning creates two options: either small buildings that do not produce any affordable housing units at all, or large buildings that create affordable housing units at the cost of having an overall gentrifying effect on the city, displacing its residents and worsening available affordable housing.

On the whole, then, this policy is structured such that it prioritizes affordability variably. Affordability itself is weighted more heavily for ownership and in condo buildings; these are the most inaccessible and expensive forms of housing and should thus be deprioritized in making housing more affordable and accessible. The by-law is also constructed variably across space and time, increasing in its measures the stronger the market is, and the further along the decade it gets. The policy itself is successful in harnessing pre-existing patterns of development to introduce new affordable housing to the mix; it is questionable, however, whether that method will be successful in producing genuinely affordable housing for the city of Toronto.

The Toronto Inclusionary Zoning policy is oriented structurally towards the priorities of private developers. The financial feasibility of providing affordable housing has been prioritized, often to the direct exclusion of actually producing the affordable housing on which the policy is

based. This references back to the original and conceptual flaw with inclusionary zoning as a policy: the interests of those incentivized to provide affordable housing are diametrically opposed to those in dire need of its shelter. That is to say the imperative for profit undermines, and ultimately conflicts with the ability to provide cheap shelter. Thus, throughout the process of forming this policy, its cost has remained at the forefront of its inception, shaping the continual process of making and remaking city policy to the benefit of private developers. The process of doing so has involved costing out the financial implications of inclusionary zoning on the market, and consequently mitigating any possible negative impacts it may have both on the market and on any financial investors, ostensibly in the name of encouraging increased development and subsequently the provision of affordable housing.

### 3.6 COSTING INCLUSIONARY ZONING: IS THE POLICY AFFORDABLE, AND TO WHOM?

In the spring of 2019, Toronto City Council commissioned and received a report by N. Barry Lyon Consultants (2021), or NBLC, a private consultancy firm specializing in housing, community renewal, development feasibility, and real estate strategy in order to take on this task. NBLC's report was responsible for estimating the financial impacts of introducing an inclusionary zoning by-law across the various regions of Toronto and using these outcomes to generate predictions for various forms of an inclusionary zoning by-law that could yield the best-use and highest yield of affordable housing units. In order to measure the theoretical costs imposed by housing affordability associated with inclusionary zoning, NBLC referred to a land valuation metric known as 'residual land value', or RLV (N. Barry Lyons Consulting Ltd., 2021). Residual land value is a framework used to determine whether it is profitable for land to be developed and is calculated by subtracting a project's costs and developer's profits from the projected revenue from a development.

In this valuation, project revenue is determined by the anticipated sale of homes, parking features, storage units, commercial rent, and any other features of profit that can be derived from the redevelopment of a space. The relatively fixed costs associated with a project are subdivided into two categories: hard construction costs, and soft development costs. Hard construction costs are typically considered fixed, and refer to building materials, site preparation, landscaping, labour, and other building development related costs. Soft development costs refer to consultant teams, project marketing costs, and legal fees, as well as any costs associated with government, legal, and political fees, such as by-law charges, development application fees, and more. While the former portion of these fees are typically fixed, any fees associated with the government can be variable dependent on the government's desire for development to occur. If a project is currently deemed non-viable due to the cost of development outweighing potential profits, but the government believes that the development will be beneficial for any array of reasons—the addition of new housing, new jobs due to the retail space on the ground floor, revitalizing the neighbourhood, etc.—the government may waive certain fees, thus driving down the costs associated with the project. The final 'cost' associated with projects are the developers' set aside rate for themselves. Developers are themselves commanding of a specific salary, and projects are non-viable if they do not pull in sufficient revenue to cover the value of skill and labour that developers put in.

Thus, using the equation that  $RLV = \text{Project Revenue} - \text{Project Costs} - \text{Developer Profit}$ , projects are deemed financially viable only when RLV is greater than or equal to the asking price of the land in the market. If the land value in the market is higher than the RLV, the costs associated with the project become too great, and redevelopment is no longer a financially viable choice. Using this metric, NBLC (2021) devised a model to establish the extent to which the introduction of inclusionary zoning policies might impact a development's RLV, and consequently reduce the

viability of redevelopment. To create this model, the report made a few key assumptions: first, it set the affordable housing rate introduced in this theoretical inclusionary zoning policy at \$1372 per month, which assumed 100% AMR. Second, it estimated hard construction costs using the Altus Construction Cost Guide from 2019, using the midpoints for any cost ranges. It incorporated any current property taxes, planning application fees, and development charges, as well as soft costs such as consultants, project management, legal teams, insurance, and marketing fees. For financing, the model assumed that the developer could borrow 75% of construction costs at 5.0% per annum (N. Barry Lyons Consulting Ltd., 2021).

The results of the report found that, on average, the impact of providing 20% of added density in affordable housing reduced the RLV by an average of \$17 per square foot in the scenarios tested. At its worst, it reduced RLV by \$45 in the Downtown core, while it only reduced RLV by \$5 per square foot in Etobicoke Centre. In most cases, these reductions in RLV still resulted in higher land values than the current as-of-right value of the property (N. Barry Lyons Consulting Ltd., 2021). That is to say that while inclusionary zoning impeded redevelopment's ability to yield the highest possible value per square foot, it still improved the value of land per square foot relative to the development site's current use. In high growth areas, inclusionary zoning policies were found to be feasible—feasibility in this case was defined as instances where the RLV of the redevelopment opportunity on the site exceeded the as-of-right value by 10%.

Notably, however, using RLV as a metric assumes that current property owners will only sell if they can maximize profitability under present conditions; however, if inclusionary zoning becomes law, and this supposedly depresses all land valuation, then all property owners experience a universal devaluation of land. Thus, land is universally worth slightly less than it used to be and buying or selling it must be made based on those new calculations. Property owners may sell land

for a variety of reasons: needing capital as opposed to land, having no value for the land as is, not wanting to time the market, believing the market is capped. The reality in this context is that land would be bought and sold based on these new valuations, in this newly created market context of universally depressed land values, likely at the same rate it is currently bought and sold. Politically eradicating the alternatives forces the market to adapt.

Compared to relatively unimpacted high growth areas, low growth areas—as well as all rental housing scenarios in general—showed signs of the inclusionary zoning policy impacting viability of redevelopment. The report noted that historically, and in its many iterations adopted across the United States, increased density was used as a cost offset when implementing inclusionary zoning (N. Barry Lyons Consulting Ltd., 2021; Ullman et al., 2013). Essentially, the notion behind this policy measure is that there is a lower profit yield for affordable housing units—which lowers the overall potential for profitability—while the costs for construction remain the same. This dynamic is what makes inclusionary zoning as a policy expensive for developers. However, many of the costs for development remain fixed as the size of the development grows. For example, the costs of applications, marketing, legal teams, land, and more are all fixed relative to the project itself and do not grow as the project does. The additional building materials and labour costs are minimal relative to the additional profits from extra market rate units. Thus, when drafting the model for this report, NBLC (2021) used increased density and up-zoning as an assumption for a potential policy implementation to offset the cost of affordable housing during redevelopment. Interestingly, they found that in no scenario did this added density completely offset the cost of affordable housing requirements.

This means a few things: first, it shows that affordable housing through the private market is an inherently expensive structure that will never truly be the ‘win-win’ Toronto city councillors

envision. Rather, if the priority remains for affordable housing to not impede the financial bottom line of private developers, city councilors will always be pressured to make concessions. If up-zoning itself is not sufficient to offset these costs this policy may turn into a constant cycle of siphoning city funding towards private developers to appease the imperative for profit. This will always be the case so long as private profits are remotely prioritized in the conversation around housing affordability. It may also mean that ever more up-zoning is approved in the hopes that the outcomes determined in this report are purely because *not enough* up-zoning was allowed. In this instance, more increased density has the capacity to gentrify to even greater extents: specifically, at the split rates between market and affordable rental housing of roughly 90% to 10%, far more unaffordable housing is being produced than affordable. If this happens at increasingly larger scales, this has the potential to spiral the housing-as-investment market, particularly in a rental city that has recently had its rent control lifted on buildings constructed after November 18, 2018 (Canadian Centre for Housing Rights, 2022).

There is a danger, then, in taking the findings of this study as gospel. Its conclusions, however, have informed much of the technical terms of the final version of the by-law. Based on the findings of this report, and its insistence that inclusionary zoning would have a definite and negative effect on project viability, NBLC (2021) recommended a few key political frameworks. First, it was recommended that the policy be implemented differentially along different geographic regions and in different market types. Strong market areas more capable of absorbing the decreased RLV were recommended to bear the brunt of inclusionary zoning policies, while weak market areas were recommended to have little to no inclusionary zoning, as it would discourage redevelopment and the contribution of new housing (N. Barry Lyons Consulting Ltd., 2021). This continues to proliferate the notion of supply as a fundamental tenet of the problem of housing

affordability: that increasing supply in and of itself is more important to creating affordability than actively enforcing affordable units themselves. Second, it was recommended that the policy be implemented in phases to give the private market a chance to prepare for the change in land valuation. The report itself did not actually back up this stance—there is insufficient evidence that time alone aids in counteracting the remainder of the report’s critiques of how inclusionary zoning affects RLV (N. Barry Lyons Consulting Ltd., 2021). Ostensibly, then, a phase-in period serves only to allow developers to continue to build market-rate units throughout the phase-in period, delaying the point at which these depressed land valuations will hit.

Third, NBLC (2021) recommended reducing inclusionary zoning requirements for purpose-built rental units. The logic behind this is that purpose-built rental units already struggle financially more than private-ownership condominiums to secure feasible development. Private-ownership buildings are able to procure pre-build investments from future owners to ensure the funds to develop, while purpose-built rentals cannot. Additionally, because purpose-built rentals demand lower prices, RLV is typically lower and the margin for developer viability is smaller. Thus, the costs associated with inclusionary zoning is likelier to have a larger impact on the potential viability of a purpose-built rental project. The report concludes that if city council wants to encourage the continued development of these buildings, enforcing units may only serve to decrease their viability, consequently eradicating them from the city’s landscape (N. Barry Lyons Consulting Ltd., 2021). Notably, however, this is a structural flaw to a financialized housing system: that only the most profitable forms of housing can compete for land, meaning that only the most expensive forms of housing can be built is an indictment of a system that is built for profits, not people (Harvey, 1972). This erases the landscape for affordable housing to be built in general, regardless of specific policy type, as more affordable housing can never compete in a

system determined by financial viability. Affordable housing will always be less financially viable than forms of housing that can demand higher and higher rents or ownership prices (Stein, 2019). Over time, as the financialized housing industry continues to scaffold itself into ever more sophisticated infrastructure, real estate will only continue to become more expensive, land will only continue to increase in value, and the cheapest forms of buildings will eventually always be unviable to build in general. This leads to an outcome where if we become reliant on inclusionary zoning as the outcome for affordable housing policy—based on its current structure and formulation—we are left with a market-affordable housing split of 80-90% untenable, highly unaffordable, gentrifying units relative to a measly 10-20% ‘affordable’ units that are often still out of reach for society’s most vulnerable (Stabrowski, 2015).

There are, however, two key improvements from the modeling used in NBLC’s (2021) report to the final implementation of the 2021 by-law. Both of these improvements were advocated for by local housing groups and advocates throughout the informed feedback process, which took place over the course of multiple years as the city refined the policy (Right to Housing Toronto, 2020). The first of the changes that were made from the model used by NBLC (2021) to the final form of the by-law (City of Toronto By-Law 941-2021, 2021) was that rather than affordability rates being based on the supposed density increase that often coincides with inclusionary zoning policies, affordability rates are instead tied to the gross floor area of the building as a whole. This ensures a greater net amount of housing affordability and means that affordability occurs even where and when density increases do not happen. The second change is that affordable rent is defined as the lesser of 100% AMR or 30% of a household’s pre-tax income, rather than solely 100% AMR (City of Toronto By-Law 941-2021, 2021). This particularly helps households living below the median wage, for whom 30% of their pre-tax income ties affordability to their standard

of living as opposed to a societal standard of living well outside of their reach. There remain potent critiques of this measure of affordability, as stated earlier in this section—not least of which is the extent to which 30% of pre-tax income is unaffordable to those who have no income—however, this is nonetheless an improvement over original iterations of the policy. These crucial changes to the final form of the policy occurred due to tireless advocacy by informed local housing groups advocating for the betterment of affordability for those most in need of its enactment. Throughout the process of forming Inclusionary Zoning By-law 941-2021, various organizations have played a crucial process both in forming the contours of this policy, as well as shaping the city’s relationship with the very people who will implement it, construct it, and inhabit the units (City of Toronto By-Law 941-2021, 2021).

### 3.7 COMMUNITY RESPONSE

Toronto City Council has relied on involvement from community stakeholders throughout the entire process of creating the by-law; it has done so to ensure that the policy reflects the needs of the community without undermining what is feasible to contribute for developers, builders, and others responsible for producing the affordable housing. Since 2018, the city council has engaged in various forms of community engagement to discern various group’s priorities when envisioning inclusionary zoning in the context of Toronto real estate, which has in turn formed a major basis for how the by-law has evolved. This has involved a multi-pronged process of outreach, surveys, presentations, workshops, and community meetings, as well as inviting community responses that were read and incorporated into committee meetings throughout the by-law revision process (Toronto, 2019a). Community-wide engagement first began in earnest with a city-wide consultation process initiated through social media marketing and email campaigns (Dillon Consulting, 2019). To initiate this process, an inclusionary zoning-specific website was created to

inform the public about the specifics of inclusionary zoning as a policy, as well as providing the resources to direct interested community members on where and how to get involved with responding to the construction of the by-law (Toronto, 2019c, 2019b).

City council team members produced a variety of social media content to generate interest in the future by-law, creating an Instagram video that garnered 979 views and a YouTube video that generated 514 views, highlighting the possibilities of inclusionary zoning in Toronto. Alongside these efforts, a hashtag was created, #InclusionaryZoningTO, with which 10 tweets, 4

Figure 4  
*Inclusionary Zoning Campaign*



By Dillon Consulting, 2023

Facebook posts, and 6 Instagram posts were sent out (Dillon Consulting, 2019). In a city that at the time had a population of just under 3 million people, these numbers are incredibly paltry; this is a policy that would be affecting millions yet was only reaching hundreds. The purpose of community engagement and outreach is to increase the democratic potential for shaping

public policy, engaging the public in how the city polity wants to be governed by and for themselves. This is simply not possible when the people have no way of knowing that policies that will affect their everyday lives and way of living are being introduced and debated right under their noses. As elected officials representing the public, it is the job and responsibility of councillors to put more active effort into increasing outreach to engage the public for the sake of better public policy. Better public policy, in this instance, is defined as public policy that is more reflective of the wants and needs of the very people it governs.

In response to the interest generated through city outreach efforts, 15 stakeholder meetings were held with over 265 participants, and over 80 attendees joined 4 public meetings. These meetings were advertised through email, the City of Toronto website, Facebook, bus shelter ads, word of mouth, and stakeholder networks (Dillon Consulting, 2019). In addition to the public and stakeholder meetings, approximately 200 people attended a city staff presentation at the University of Toronto’s Affordable Housing Conference (Dillon Consulting, 2019). In response to these measures, the city received 21 written submissions, including 18 at the Planning and Housing Committee hosted later on May 28 in 2019 (Planning and Housing Committee, 2019a). In addition, there were 475 respondents to the online survey disseminated (Dillon Consulting, 2019).

The survey responses shared a few key overwhelming responses. First, respondents insisted that inclusionary zoning should be mandatory across the entire city, but that its requirements should differ along market lines—i.e., stronger markets should have higher requirements, while weaker markets should have lower requirements. Second, there were concerns that inclusionary zoning units would cost more to build than what developers were willing to pay for land; the assumption was that this may lead to decreased development (Dillon Consulting, 2019). Both of these conclusions fell in line with the 2019 report released by NBLC (2021). The by-law later addressed these by forming inclusionary zoning requirements based on its three zones, IZ1, IZ2, and IZ3, as well as mitigating costs for development by providing various incentives to developers (City of Toronto By-Law 941-2021, 2021). Respondents were also, on the whole, overwhelmingly empathetic to the needs of affordable housing dwellers as well as the average Toronto city resident. Specifically, there were calls for an eventual inclusionary zoning policy to either “mitigate or address the displacement impacts of development” (Dillon Consulting, 2019, p. 6). Such language never materialized in the final by-law, however. In fact, a common theme throughout the

community engagement response is that the majority of responses more empathetic to the needs of affordable unit dwellers did not get folded into the literature of the final inclusionary zoning by-law, while any feedback that addressed concerns on the development side did appear in some shape or form (City of Toronto By-Law 941-2021, 2021; Dillon Consulting, 2019).

The one pro-affordability stance that was adopted was a near universal support for longer affordability periods. Most respondents advocated for a 99-year period or permanent affordability as “the only way to ensure IZ has time to become effective” (Dillon Consulting, 2019, p. 7). Many others were concerned that a “shorter affordability period would result in the affordability problem being passed on to the next generation” (Dillon Consulting, 2019, p. 7). Encouraging inclusionary zoning in Neighbourhood Improvement Areas with a focus on criteria that encourages “a need for housing, not just whether it will bring in profit” is almost directly the reverse of what appears in the final policy (Dillon Consulting, 2019, p. 7). Another prominent ask was for inclusionary zoning to be a multi-pronged policy that considers the residual effects of building affordable housing. Specifically, one group contends “for low/moderate income people who move to IZ units in affluent areas, we have to make these neighbourhoods suitable, welcoming, and affordable for all members of the community - consider food costs, affordable retail, social supports, access to transit, community centre, social groups, etc.” (Dillon Consulting, 2019, p. 7). Not only is this language completely lacking in the final language of the by-law, but there are also no efforts by city council to prevent the previously outlined potential gentrifying effects of inclusionary zoning in its current iteration (City of Toronto By-Law 941-2021, 2021; Planning and Housing Committee, 2019a, 2019b). This means that inclusionary zoning does not only have the capacity to shepherd low-income individuals into high-income neighbourhoods where the daily cost of living far exceeds their budgets. It may also gentrify pre-existing neighbourhoods, encouraging

the transformation from, for example, lower-priced grocery stores to its higher-cost counterparts all across the city and making this a universal problem for low- to mid-income residents.

This policy cannot catch the logistical fallout from any potential problems it creates. City council at no point acknowledges what any of these externalities may be (Planning and Growth Management Committee, 2018; Planning and Housing Committee, 2019a, 2019b). This makes the city ill-equipped to even contend with these problems in other legislation, or other forms, leaving city residents exposed to the whims of a market. When it came to ownership units, as opposed to the primary focus on rental units, the main concern outlined by survey respondents was that units should be sold at an affordable price when changing hands to the new owner (Dillon Consulting, 2019). As is the case with most other affordability-centric community responses, this too is not folded into the language of the final by-law: pursuant to clause (B) in the by-law, affordable owners can sell affordable units at market rate, albeit with a higher percentage of net proceeds going to the city. (City of Toronto By-Law 941-2021, 2021) The problem with this is that it fails to ensure that a higher net number of affordable units remain in the housing stock, which should be the primary focus of this policy.

Of the respondents, 60% were renters, 48% paid more than 30% of their pre-tax income on housing costs, and 34% said that they were not aware of any City of Toronto related housing initiatives (Dillon Consulting, 2019). This tells us that this group of respondents are statistically directly impacted by the creation of this inclusionary zoning by-law, and as a result invested in producing a policy that benefits these communities in an equitable manner. It is an indictment, therefore, that the precise group of people that most benefits from these policies had barely heard of these initiatives. This indicates that the city failed to perform proper outreach to its constituents,

and especially to the people who would most benefit from its policies. It is crucial to involve these voices in the creation of such policy.

On the heels of the city-wide consultation and community engagement forum initiated across 2018, the Toronto City Council accepted feedback in November of 2019 at its Planning and Housing Committee (Planning and Housing Committee, 2019b). This served as a crucial juncture. The NBLC report on the financial impacts of inclusionary zoning had just come out. Bill 108 was about to receive royal assent, changing where the city could enforce new affordable housing. The introduction of HousingTO 2020-2030 set new parameters for the goals of housing affordability across the decade (City of Toronto, 2019; N. Barry Lyons Consulting Ltd., 2021). Some of the biggest changes to the by-law at this point were to change the level of affordability from 100% AMR to the cheaper of either 100% AMR or 30% of a household’s pre-tax income (based on Action 52 of the HousingTO plan) and to lengthen the duration of affordability to 99 years (City of Toronto, 2019; City of Toronto By-Law 941-2021, 2021). During the planning committee meeting, several key stakeholders submitted responses to city councilors. I will focus on responses by four organizations: a housing affordability advocacy collective, a land developer, a Toronto City Councilor, and a development and builder’s organization.

**3.71 COMMUNITY RESPONSE: RIGHT TO HOUSING TORONTO**

The first respondent was Right to Housing Toronto, which described itself as “a coalition of organizations and individuals working to support the implementation of the human right to housing by the City of Toronto” (Right to Housing Toronto, 2020, p. 1). The collective is composed of the Centre for Equality Rights in Accommodation (CERA), Maytree, Advocacy Centre for Tenants in Ontario (ACTO), Federation Metro Tenant Associations, and the Association of Community Organizations for Reform Now (ACORN). The group wrote a letter to City Council

expressing a mixed, though broadly disappointed response to the revisions and general framework of the city’s inclusionary zoning by-law (Right to Housing Toronto, 2020). In general, the group welcomed the by-law’s new 99-year affordability period, the proposed income-based definition of affordable housing, the use of incentives only in circumstances where additional or deeper affordability units would be offered, and the application of set-aside rates based on gross floor area as opposed to density uplift. The policy as a whole, however, they felt fell short of its intended goals of providing more affordable housing units to the city’s vulnerable populations. First, they expressed concern with the “miniscule set-aside of 5 to 10 percent, and only in developments with at least 100 units” (Right to Housing Toronto, 2020, p. 2). The city’s own analysis—from the recently published NBLC report—relied on a calculation of a 20% set aside rate, indicating that higher rates of affordable units were viable (N. Barry Lyons Consulting Ltd., 2021). Additionally, they referenced an analysis conducted by Steve Pomeroy (2019) that found that some strong market regions could even accommodate set aside rates as high as 30%. Second, they wrote that “the trouble is, this report’s definition of viability is determined by investor profits. An approach centered in human rights would instead prioritize accomplishing the maximum possible affordable housing in each area across the city” (Right to Housing Toronto, 2020, p. 2). Thus, according to Right to Housing Toronto, the fundamental framework adopted by Toronto City Council was setting this policy up for failure: by calculating the inclusionary zoning policy based on how affordable it was to investors, the city council was artificially limiting the capacity for affordable units to be constructed (Right to Housing Toronto, 2020).

### 3.72 COMMUNITY RESPONSE: ROCKPORT GROUP

Rockport Group (2020), a City of Toronto land developer, was focused instead on the interests of developers of private retirement homes. This letter highlighted the harms of uniformly applying policy to all actors across all situations when, in fact, many situations are unique in such

a way that policy is misidentified and misapplied. While focusing on retirement homes specifically, it is important to note that Rockport Group's concern was not for the welfare of retirees, but rather for those involved specifically in the development of these retirement homes (Rockport Group, 2020). Essentially, they outlined, retirement residence costs are variable monthly costs that can depend upon the needs of the residents. These needs are liable to change and can range from meal services to social programming and specialized medical care. "Retirement residences", the letter explained, "are operating service businesses in a residential like building" (Rockport Group, 2020, p. 2). Consequently, with inclusionary zoning now basing itself on a monthly income, "the policy is inappropriate to be brought to bear to retirement residences" (Rockport Group, 2020, p. 1). Rockport Group argued that while it might be easy for a regular condominium to calculate the cost of doing business, it is impossible for a retirement residence to do so; thus, inclusionary zoning does not make sense in this context (Rockport Group, 2020).

Ostensibly, however, the variable nature of expenses is something that exists as part of its typical business model in the status quo. Somehow, however, retirement homes manage this under market rates in the present day; there is nothing unique about affordability that changes this relationship. Retirees also suffer from the stress of unaffordable housing and may even be particularly vulnerable due to a lack of income source. They should not be exempt from the protections that Toronto city council has to offer. Regardless, in the final language of the by-law, retirement homes are amongst a grouping of buildings that are exempt from housing affordability requirements. Without concurrent legislation that provides increased government provided or subsidized retirement options, this serves to leave behind retirement age residents, who are often society's most vulnerable. This is a fundamental flaw of this policy.

### 3.73 COMMUNITY RESPONSE: CITY COUNCILOR MIKE LAYTON

City Councilor Mike Layton, the representative for University Rosedale, also wrote to Toronto city council to emphasize the flaws with the state of the by-law at this iteration (Layton, 2020). While he was generally pleased with the existence of inclusionary zoning as a policy, and the capacity for increased housing affordability, he critiqued the policy for not going far enough. Referencing the Montreal iteration of inclusionary zoning, he noted that set aside rates had thus far reached 30% in the city proper and were set to reach 40% by the beginning of 2021. Fundamentally he supported the existence of inclusionary zoning, writing “short of significant intergovernmental investment in affordable housing, IZ is Toronto’s best chance to finally build the units desperately needed by our low- and moderate-income residents” (Layton, 2020, p. 1). This indicates defeatism. That a member of government admits a lack of capacity for intergovernmental investment illustrates either a shocking lack of alternatives, or a sparsely imaginative government cutting themselves off to the detriment of the people they service. Layton suggested that Recommendation 2 be modified to include:

“...options to increase the percentage of housing that would be secured as affordable rental or affordable ownership housing with options that would achieve a range of 10-30% of residential gross floor area for new condominium developments and 5-20% of residential gross floor area for new purpose-built rental developments” (Layton, 2020, p. 2).

Consequently, Layton’s (2020) functional push towards inclusionary zoning was through the lens that it operated as the best alternative to anything bolder and more imaginative.

### 3.74 COMMUNITY RESPONSE: BILD

BILD, by contrast, had the opposite issue with the updates to the by-law: rather, they argued, too much was being expected of the private industry in providing affordable housing units. The Building Industry and Land Development Association, or BILD, is an organization with more

than 1500 member companies that describes itself as the voice of land development, home building, and professional renovation industry in the GTA (Tupe, 2020). The core argument of its letter to city council was that the inclusionary zoning by-law “falls short”; it did so, the letter argued, in three key ways (Tupe, 2020, p. 1). First, the by-law failed to consider COVID-19 and the “cumulative effects of all other growth-related contributions” (Tupe, 2020, p. 1). It is true that NBLC had not – and, given the timing of the report, could not have - considered the full cost of materials, labour, transportation, and more since the onset of the COVID-19 pandemic. It is crucial to incorporate the adjusted fixed costs of doing business to recalculate if inclusionary zoning is still viable across all regions.

The second critique lobbied by BILD was that the new definition of affordability and the adjusted affordability period changed, once again, the financial viability of development. Specifically, the new definition had the capacity to reduce “qualifying rents by up to 60%”, which would have a “significant negative impact on development proformas” (Tupe, 2020, p. 2). The third problem raised by BILD were the lack of incentives, which they claimed, “flies in the face of a partnership model”. Other North-American cities, they argued, were provided with incentives such as “density bonusing, reduced parking requirements, municipal tax waivers and municipal land as an offset” (Tupe, 2020, pp. 2, 3). In the final iteration of the by-law, affordable housing units are not required to be provided with any parking (City of Toronto By-Law 941-2021, 2021, p. 941). This is a clear example of Toronto city council conceding to the demands of industry; similar concessions were not made to housing affordability advocates during the community engagement process, indicating the prioritization of developer interests at this stage.

The final critique levied by BILD is more ideological in nature: “fundamentally,” they claimed, “it should be the purview of the government to fund and oversee affordable housing, and

not the private sector to solely be accountable for the fact that income levels have not been able to keep pace with housing costs” (Tupe, 2020, p. 2). When originally pitched by Toronto City Council, inclusionary zoning was termed a ‘win-win’ for its ability to harness the market to create affordable housing units. It seems, instead, that inclusionary zoning is a lose-lose proposition. Private industry is angry at the lost revenue (N. Barry Lyons Consulting Ltd., 2021; Tupe, 2020). Affordable housing advocates are unsatisfied because the profits of private developers are prioritized over affordable housing (Right to Housing Toronto, 2020). Profit and affordable housing, as such, are like repelling magnet poles.

## CHAPTER 4 - NEW YORK AND INCLUSIONARY ZONING: A COMPARATIVE CASE STUDY OF POLITICAL POTENTIALITIES

### 4.1 THE HISTORY OF INCLUSIONARY ZONING IN AMERICA

The history of inclusionary zoning diverges across borders. The policy arose in Canada predominantly to combat the pressures of downloading housing governance (Hackworth & Moriah, 2006). By contrast, inclusionary zoning in the United States emerged as a measure against racist and classist policies (Mah & Hackworth, 2011). Specifically, inclusionary zoning came to prominence against a backdrop of widespread exclusionary zoning—such as redlining—that for decades had barred racial and ethnic minorities from residing in wealthy, white neighbourhoods where resources were concentrated and investment prioritized (Hill & Hill, 2015; Mah & Hackworth, 2011). These practices expanded over time, with exclusionary zoning going on to specify lot and building sizes as well as development parameters that prohibited the construction of new multi-family or low-income housing (Hill & Hill, 2015). For almost a century, these policies were intentionally crafted to exclude minority, immigrant, and low-income residents from residing in and forming communities. It is estimated that to this day nearly 80% of jurisdictions across the States still have and continue to enact exclusionary zoning ordinances (Hill & Hill, 2015). In order to combat the effects of exclusionary zoning practices, city councilors drafted inclusionary zoning as a measure to increase the social and economic health and wellbeing of neighbourhoods.

The earliest inclusionary zoning policy in the United States was enacted in Montgomery County, Maryland in 1974 to hasten re-integration in the wake of Jim Crow-era segregation laws. Inclusionary zoning at this time was seen as a critical tool in reversing the geographic segregation enforced by redlining while encouraging the economic and social equality that politicians and

economists alike believed would occur with the intermixing of people from various racial, ethnic, and class backgrounds (Hill & Hill, 2015). At the time, New York City was in the midst of its bankruptcy crisis, which leveled the city's finances and diverted all resources away from social welfare and towards recuperating capital and refinancing the local economy (Stein, 2019). The city experienced a political turn of severe austerity, with cuts to education, transit, and housing. As a result, its first inclusionary zoning ordinance, known as the Inclusionary Housing Program (IHP), was not passed until over a decade later, in 1987. This policy allowed for new residential developments to be constructed with greater density in exchange for creating and/or maintaining affordable housing. In general, new housing developments were allowed 3.5 square feet of additional floor area for each square foot of affordable housing constructed. This translated roughly to a 20% density uplift in exchange for less than 5% in an affordable housing set aside rate. It also meant that the density of housing was permitted to increase at 3.5x the rate of the provision of affordable housing (Hill & Hill, 2015).

Aside from the 5% of affordable housing, all new construction would be offered at market rate. Thus, inclusionary zoning was responsible for providing proportionally more unaffordable, market rate housing than the affordable housing the policy was designed after. If the primary function of the program was to provide increased affordable housing, then inclusionary zoning was designed to fail. If, however, the primary goal of the program was not to produce affordable housing but rather to integrate city neighbourhoods it still remains unclear if inclusionary zoning was the best suited policy. At the time of its original enactment the program was voluntary, had low requirements for affordable set aside rates, and was only applicable in select neighbourhoods (Hill & Hill, 2015). This produces a scenario where the desired capacity to integrate neighbourhoods is structurally limited by the very scope and nature of the policy.

## 4.2 FROM IHP TO VIH: THE EVOLUTION OF INCLUSIONARY ZONING IN NEW YORK CITY

Since 1987, the IHP has undergone several revisions; economic conditions have demanded changes as the cost of living and housing have increased, making the city more unaffordable to its population than ever. In response to this, the second pillar of IHP, the Specified Designated Growth Areas, was enacted in 2005 (Hill & Hill, 2015). It is at this point that it became clear that inclusionary zoning, regardless of its initial formation, was no longer strictly about generating socioeconomic mix in neighbourhoods. Rather, inclusionary zoning became an explicit tool in the attempt to improve access of affordable housing. In this component of the IHP, specified areas were identified and mapped for additional density bonuses. These areas were granted a 33% density increase in exchange for a set aside rate of 20% of the total units as affordable housing.

This second component of the IHP was part of then-Mayor Bloomberg's aggressive redevelopment initiative that included more than two dozen area-specific plans in all five boroughs. Popularly referred to as Voluntary Inclusionary Housing (VIH), Bloomberg's administration was responsible for 115 rezoning plans covering 40% of New York City's land (Hill & Hill, 2015; New York, 2015). Bloomberg sought to fundamentally re-envision how housing was produced and provided across New York's five boroughs, totally upending the system of zoning and construction under the ideology that more housing is necessarily better. Bloomberg's vision of affordability, however, was fundamentally constrained by an over-reliance on the private market. Re-writing the maps of what could be constructed and where in order to increase the housing supply, Bloomberg's main focus was to boost the role of private developers. VIH was responsible for producing even less affordable housing than intended, however: a 2013 report found that between 2005 and 2013, VIH had produced 2769 affordable units within 41 projects (Ullman et al., 2013). While this was a higher rate than the original IHP—which had only produced

1753 units in 60 projects across its 25 years from 1987 to 2013—VIH affordable units only accounted for 12.8% of the market rate units built under VIH, and only 1.7% of the 160 000 total market rate units built under the Bloomberg Administration. Furthermore, the VIH units did not come close to replacing the estimated 8500 rent regulated units lost to the market each year from 2002 to 2011 (Ullman et al., 2013).

#### 4.3 VIH: INCREASE IN AFFORDABLE HOUSING OR HARBINGER OF GENTRIFICATION?

Proponents of the policy in NYC argue that the expanded scope of the policy from a 20% density uplift to a 33% density uplift in designated areas translated into an increase in the number of developers that opted into inclusionary zoning programs, which in turn expanded the supply of affordable housing units created (Kober, 2020; Ullman et al., 2013). Additionally, the total number of units constructed across this time period increased as well; free-market economists who believe that housing price is determined purely by supply saw this as another win for housing affordability. Within this economic framework, theorists posit that a greater supply in housing stock leads to a decline in overall housing prices, increasing the housing affordability of market rate rentals for all tenants and buyers (Stacy et al., 2023). This trickle-down theory of housing economics, however, ignores the complex interplay of housing dynamics and the gentrifying effects of development. Additionally, housing statistics across New York City show that the year-to-year cost of rent in the city has only ever gone down during the COVID-19 pandemic, when the city's population left in droves (Kirsch, 2020). At every other point in the city's history, save for great recessions and depressions, rents have consistently risen—regardless of increase or decrease in supply, vacancy rates, or virtually every other indicator of availability and quality of housing (Santarelli, 2023). This means that the construction of new housing does not only increase the housing supply, but it also provides new opportunities for capital investment by landlords to extract rent and gentrify.

Beyond the direct increases in housing stock that an expanded inclusionary zoning policy provides, however, these reports reveal two key damning pieces of evidence (Schuetz et al., 2011; Ullman et al., 2013). The first is that only a fraction of the housing constructed is actually set aside as affordable housing. In this case, less than a fifth of the housing constructed under the policy was set aside as affordable; this alone was insufficient to house the city's rising housing insecure population. Moreover, the scope of the policy only went so far as to account for a fraction of the total housing units built under the Bloomberg administration, meaning that even as the policy itself expanded, it was still vastly outcompeted by the construction of market rate construction. In this larger context, affordable housing accounted for less than 2% of all new builds (Ullman et al., 2013).

These negative effects of inclusionary zoning are exacerbated in practice. When density uplifts are granted, developers typically demolish pre-existing housing to clear way for larger developments (Stabrowski, 2015). This means that in order for affordable housing to be constructed, pre-existing housing stock must first be destroyed. This is especially true in New York, where the vast majority of land has already been developed. In the case of VIH, inclusionary zoning developments have led to the demolition of a housing stock that was already affordable, and affordable in perpetuity. Most of the buildings slated for demolition were under the city's rent stabilization guidelines, which covers any construction from February 1<sup>st</sup>, 1947, to December 31<sup>st</sup>, 1973 (New York State, 2023). Rent stabilization has served as a crucial housing affordability measure to ensure that housing costs remain largely stable, with no large rent increases that push out long-term tenants and contribute to rapidly rising housing costs. Not only does it help to maintain lower housing costs, but it also contributes to housing security and stability for tenants. While many inclusionary housing developments guarantee affordable housing for the first 25 years

of operation, beyond that point rents are free to increase at the discretion of the property management (*Mandatory Inclusionary Housing (MIH)*, 2016). As a result, the affordability of the total housing stock decreases over time.

Finally, VIH is reliant on developer construction, which depends on the profitability of each endeavour. Since the inception of the policy, fewer VIH buildings have been constructed than rent stabilized units have been lost to demolition. This indicates that the incentive to build is low, likely because the cost to build is too high (the cost analysis of development is explored later in this chapter). In general, the conversion of inclusionary zoning into a mandatory policy has further increased the reliance on private developers. Consequently, the overall availability of affordable options is lower now, 8 years into the VIH program, than it was before the policy was enacted. Thus, inclusionary zoning works against some of the city's pre-existing policies for providing and ensuring housing security while failing to work in tandem with other housing affordability approaches. In doing so, the city has lost more affordable housing options than it has gained.

#### 4.4 TURNING VOLUNTARY TO MANDATORY: SAME POLICY, EXPANDED SCOPE

By the end of Mayor Bloomberg's term, housing insecurity was on the rise: an increase in cost of living, depressed wages, and climbing rents had combined to drive up the proportion of residents living with housing precarity. 270 000 people were still on the waiting list for public housing, and housing lotteries for private affordable units were drawing unsustainably large applicant pools (New York City Council, 2016). The lottery for 59 Frost Street in Williamsburg accepted more than 80 000 applications for a mere 38 affordable units. New York City's population had risen by over 1 million people since 1990, and VIH had not produced the levels of housing affordability it had sought to create (New York City Council, 2016). Thus, when Mayor de Blasio was elected, part of his platform ensured a commitment to improving the landscape of housing

affordability. As part of this commitment, de Blasio’s office promised to expand the scope of inclusionary zoning—despite the fact that for the past 30 years this policy had failed to achieve its intended results. VIH would be transformed into mandatory inclusionary housing (MIH) in March of 2016, under the assumption that the failures of inclusionary zoning were not structural or endemic but due to its lack of enforceability and scale (*Mandatory Inclusionary Housing (MIH)*, 2016). As others before him, de Blasio theorized that more market housing would solve the problem of housing affordability, and enforcing more affordable housing through mandatory measures would finally solve the issue of rising costs and lack of affordability. When inclusionary zoning was a voluntary program, developers could choose to opt into the provision of affordable housing units—which would only ever occur in the rare circumstances when it was either financially viable or beneficial for the developers to do so (Ullman et al., 2013). Making this program mandatory would ensure that all new developers had to participate, removing unequal incentive structures, and prioritizing the provision of affordable housing across the board.

#### 4.5 DEFINING MIH

The final version of MIH that was passed in the City Council involved a tiered, structured format that prioritized flexibility for developers in deciding which form of affordability to opt into, offering developers four different ‘options’. Option 1 states that 25% of the housing must be affordable, on average, to the households making 60% of Area Median Income (AMI), or around \$47 000 a year for a household of three (*Mandatory Inclusionary Housing (MIH)*, 2016). In addition, 10% of the housing must be affordable to households making an average of 40% of AMI. Option 2 requires that 30% of housing must be affordable, on average, to households making 80% of AMI, or around \$62 000 per year for a household of three. The Workforce Option has a requirement of 30% of housing being affordable, on average, to households making 115% of AMI,

or around \$93 000 a year for a household of three. Within this, 5% must be set aside for households at 70% AMI, and another 5% set aside for households with 90% AMI. Finally, the Deep Affordability Option requires that 20% of housing must be affordable, on average, to households making 40% of AMI, or around \$31 000 a year for a household of three. Both the Workforce and

Figure 5

	Affordable housing set-aside	Area Median Income (AMI)	Maximum annual income (example for family of three)
1	25%	60% (on average)	\$47,000 (on average)
2	with 10% required at 30%	40%	\$31,000
		80% (on average)	\$62,000 (on average)

The City Planning Commission and the City Council may also add one or both of two other options:

	Affordable housing set-aside	Area Median Income (AMI)	Maximum annual income (example for family of three)
3*	20%	40% (on average)	\$31,000 (on average)
4**	30%	115% (on average)	\$89,000 (on average)
	with 5% required at	70%	\$54,000
	with 5% required at	90%	\$70,000

\*This option cannot be used with subsidy unless more affordable housing is provided.

\*\*This option cannot be used with subsidy.

By Housing New York, 2019

(MIH), 2016).

the Deep Affordability Options can only be mapped in conjunction with one of the other options, and no public funding is permitted for the Workforce Option, nor is it available in Manhattan Community Boards 1-8 (Mandatory Inclusionary Housing

The New York Department of Housing Preservation and Development (HPD) lays out guidelines for rents for each income bracket, with an affordable 2-bedroom apartment at 40% AMI being set at \$775/month, while an affordable 2-bedroom apartment at 80% AMI is \$1550/month (Mandatory Inclusionary Housing (MIH), 2016). MIH is not being implemented across all five boroughs; rather, it is targeting lower-income areas where the city believes developers would not otherwise develop affordable housing. The neighbourhoods being targeted for implementation are East New York in Brooklyn, Inwood and East Harlem in Manhattan, Flushing West and LIC in Queens, Jerome Avenue corridor in the Bronx, and Bay Street in Staten Island. Furthermore, this policy does not apply to buildings with 10 or fewer apartments. Mid-size buildings with 11-25 units can opt into paying into a fund instead of building affordable apartments. This fund will go

directly towards the development and preservation of affordable housing within the local community district or within a half-mile radius (*Mandatory Inclusionary Housing (MIH)*, 2016).

#### 4.6 MIH VS. INCLUSIONARY ZONING BY-LAW 941-2021: A COMPARISON

These policy parameters are distinctly different from those set in Toronto's Inclusionary Zoning By-Law 941-2021. First, Toronto's By-Law is enacted across most of Toronto, with differences across different regions in terms of the percentage of affordable housing that must be provided (City of Toronto By-Law 941-2021, 2021). This was done in order to combat the financial challenges associated with providing affordable housing in lower income areas that yield lower market rents. In New York, by comparison, the policy itself has a smaller scope, in that it is only enacted in certain neighbourhoods, but each of these neighbourhoods are provided identical 'options' for affordability set aside rates regardless of their respective market strengths (*Mandatory Inclusionary Housing (MIH)*, 2016). The specific neighbourhoods selected were all in the lower-income tiers which on the one hand ensures that affordable housing is built in the areas most in need but may disincentivize development altogether.

The second key difference is building size at which exemptions are granted. In Toronto's bylaw, new-builds with under 100 units can opt out of providing affordable housing, whereas in New York this option is only provided to construction projects with under 10 units (City of Toronto By-Law 941-2021, 2021, p. 941; *Mandatory Inclusionary Housing (MIH)*, 2016). This is a marked difference, and either speaks to the difference in expectation of the number of affordable housing units provided by private developers, or the difference in scale of development that occurs between the two cities. The average size of residential building construction in 2020 in New York was 4.1 floors; in fact, there were 1349 filings for developments with 1-4 stories (Ogorodnikov, 2021). By contrast, there were only 423 filings for all buildings over 5 stories. This number plummets to a

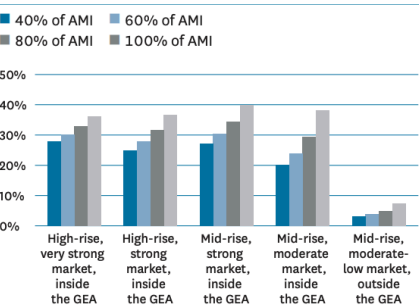
measly 5 buildings with over 40 stories, or what are generally considered ‘skyscrapers’ (Ogorodnikov, 2021). In comparison, in Toronto, 6 out of every 10 units built are in a high-rise (Toronto, 2015a). Thus, it appears that both policies are adapting to their respective scales of development. Both policies are structured not to maximize the construction of more affordable housing units.

In absolute terms, New York’s policy is more stringent. Its size thresholds are lower and when it does provide a cash-in-lieu program, it directly ties the funding to the specific community where the development that opted out was set to operate (*Mandatory Inclusionary Housing (MIH)*, 2016). Thus, if any building opts out of constructing affordable housing, that neighbourhood still directly benefits from investment into affordable housing. By comparison, Toronto’s by-law provides vague language on its cash-in-lieu program that does not specify where the accumulated money will go, on what timeline it will be invested, or in which ways (City of Toronto By-Law 941-2021, 2021; *Mandatory Inclusionary Housing (MIH)*, 2016).

4.7 COSTING MIH: WHERE DOES THE MONEY COME FROM?

There remained, however, questions about the viability of New York’s project, much in

Figure 6  
*Potential affordable set-aside for property tax-exempt development following a 33 percent zoning increase by construction and market type and by level of affordability.*



By Furman Center, 2015b

the same vein as there have been with Toronto’s by-law.

The New York University Furman Center (2015a), a research institute dedicated to housing, neighbourhoods, and urban policy conducted a financial analysis of the viability of mandatory housing, “Creating Affordable Housing Out of Thin Air”, in order to assess the likelihood of affordable housing development and provision as a result of the policy’s introduction. The report modeled the

economic capacity for inclusionary zoning to create affordable housing, as well as the threshold it would take for developers to continue constructing with this added cost to building and maintaining their projects. The report found that a mandatory inclusionary zoning program, when tied to increased zoning density and in high-rent neighbourhoods, had the potential to spur the development of affordable units (Furman Center, 2015a). In neighbourhoods with lower rents, however, adding zoning density was found to be unlikely to produce new affordable housing—at least not without additional subsidies or incentives (Furman Center, 2015a). One such incentive is the 421-a property tax exemption: this tax abatement program typically provides developers who produce new residential units with 3 years of tax exemption during the construction process, as well as anywhere between 10 to 25 years tax freedom thereafter (Housing Preservation & Development, 2023). This provision was found to increase the likelihood of encouraging the development of affordable housing units. In areas with high rents, however, the increased density alone was found to be enough in many cases to overcome the cost of the additional affordable housing. For additional zoning density to have sufficient value to cross-subsidize affordable units, the revenue from the additional floor area had to at the very least provide a return on the construction costs a developer would incur during build time. Additionally, rents must be high enough to generate a return on the entire project’s development costs in order to justify construction in the first place (Furman Center, 2015a).

The Furman Centre (2015a) calculated that in order for these projects to be financially viable, rents must exceed \$61 per rentable square

**Table 1: Current market rent (per rentable square foot per year) required to generate minimum financial return, by building type, affordable set-aside, and property tax status**

	100% Market-Rate Building		20% Affordable* Building
	A	B	C
	Full Property Taxes	No Property Taxes	No Property Taxes
High-rise construction***	\$61 (\$3,600 for a 1BR unit**)	\$39 (\$2,400 for a 1BR unit**)	\$45 (\$2,700 for a 1BR unit**)
Mid-rise construction	\$54 (\$3,200 for a 1BR unit**)	\$33 (\$2,000 for a 1BR unit**)	\$38 (\$2,300 for a 1BR unit**)

\*Affordable to households earning 60 percent of AMI, \*\*Approximate rent for a one-bedroom unit of 720 square feet, \*\*\* Outside of Manhattan

By Furman Center, 2015b

foot per year for a high-rise project when the project is subject to the city's full property tax, and \$54 per rentable square foot per year for a mid-rise project. This translates to roughly \$3600 and \$3200 respectively for a one-bedroom apartment, which would require a two-person household to have incomes of 220% and 190% of AMI in turn. In order to provide a return on land costs, the rents would have to be even higher (Furman Center, 2015a). Many parts of the city are unable to demand these rents; hence, construction is unviable and does not occur. These rents are also blatantly unaffordable, and thus when the provision of affordable housing is imposed the lost revenue from each unit rented out at below market rates eats into the profits projected by developers—which are necessary for the project to be considered viable (New York, 2015). It is for this reason that both density uplift and incentives such as the 421-a tax cut are considered by New York city councilors and private developers alike to be necessary to ensure the private provision of affordable housing (*Mandatory Inclusionary Housing (MIH)*, 2016).

This report reveals a few key findings. First, the reliance on density uplifts to make projects financially viable means that the majority of new housing built is at market rate, hastening the pace at which the value of housing rises and gentrifying neighbourhoods. New York City Planning Commissioner Amanda Burden spoke about this in August of 2013 when she said:

I had believed that if we kept building in that manner and increasing out housing supply [...] that prices would go down. We had every year almost 30,000 permits for housing, and we built a tremendous amount of housing, including affordable housing, either through incentives or through government funds. And the price of housing didn't go down at all [...] What we haven't figured out is the question of gentrification. I have never, since I had this job, come up with a satisfactory answer of how to make sure everyone benefits.

Amanda Burden, New York City Planning Commissioner, 10 August 2013  
(Goodyear, 2013)

In fact, this was a phenomenon that Filip Stabrowski (2015) had observed over the course of the city's VIH policy. Since the North Brooklyn waterfront was rezoned from industrial to residential use, the overwhelming trend was that of local residents being pushed out of their lifelong neighbourhood, and this despite the introduction of affordable housing through projects such as 30 Kent Street (Londono, 2021). The Hispanic population had decreased by 22%, the total foreign-born population had decreased by over 10%, and the median rent burdens for low-income tenants had increased by 6%. Tenant organizers in the area reported an increase in illegal evictions, landlord harassment, rent overcharge cases, and landlords withdrawing their apartments from rent stabilization (Stabrowski, 2015). While these changes occurred under VIH, with MIH targeting lower-income areas it stands to reason that the gentrifying qualities of inclusionary zoning will have similar outcomes, with the scale of these effects matching the scale of the policies' reach. In this way, the measures of the 'successes' of inclusionary zoning will directly match the scale at which it gentrifies and displaces the neighbourhood's pre-existing residents, many of whom are precisely the people this policy claims to help.

The second problem exposed by the Furman Center's report is the reliance on city incentives for the policy to even be feasible. The city has finite resources that should be carefully allocated. Because the majority of units are constructed at market rate and their construction may result in the negative consequences outlined above, taxpayer dollars are going to this particularly poorly constructed policy instead of, for example, public housing or more effective affordable housing measures. Finally, the report reveals that the vast majority of units—those that are rented out at market rate—will have to be rented out at exorbitant fees in order to satisfy the profit

motivated bottom lines of these developers. This means that for those who do not qualify for affordable housing, and for the majority of residents who will be occupying these new builds, there is an expectation that occupants will be able to meet the 190-220% AMI market rents. This means that, in general, the majority of the city's residents are being abandoned in the fight for housing affordability. While it is understandable that the city is focusing on procuring housing affordability for the city's most vulnerable populations, the implication here is that the city's remaining 80% or so of the population will simply have to suffer from a lack of affordable options. As the city's political response to housing affordability, inclusionary zoning is a deeply insufficient measure.

New York City Council, however, conceptualizes the fight for housing affordability much in the same way as Toronto City Council: as a battle for supply. With the influx of residents, it is necessary for more housing to be built, and inclusionary zoning is a tool to ensure that when housing is built, some of it is affordable. MIH alone has been responsible for 38 developments (and 2065 affordable housing units) as of September 2019; these numbers outpace the rate of development from VIH, which in turn outpaced the rate of development for IHP (Kober, 2020). With the goal of City Council being increased development, the policy could be seen as a success. Insofar as increased development destroys rent-stabilized buildings and gentrifies, the policy appears as a failure: it undermines affordability (Stabrowski, 2015).

#### 4.8 MLK PLAZA: A CASE STUDY OF MIH IN ACTION

MLK Plaza is a 12-story building located at 869 E. 147th St. and brands itself as providing affordable housing to New Yorkers across a range of income levels (Housing Development Corporation, 2019). Spearheaded by Radson Development, the project was completed in 2018 and designed in partnership with Magnusson Architecture & Planning (Magnusson Architecture & Planning PC, 2017). Included in the development are 25 studio units, 57 one-bedroom, 60 two-bedroom, and 24 three-bedroom apartments. 33 of its units are set aside for formerly homeless households (Housing Development Corporation, 2019). The building also includes a 722 square foot community room, a green roof, and was built under the ethos that “affordable housing shouldn’t be low-quality housing” (Magnusson Architecture & Planning PC, 2017, p. 2).

Figure 7

*MLK Plaza – Side View*



By Giblon, 2022f

The project was jointly funded under HPD and HDC’s Extremely Low and Low-Income

Figure 8

*MLK Plaza – Front View*



By Giblon, 2022e

Affordability Program (ELLA), HPD’s Our Space Initiative, private benefactors, and financiers. Specifically, the project reported receiving \$27.72 million in tax exempt bonds, \$10.86 million in corporate subsidy, \$12.53 million in HPD funded subsidy, and \$6.6 million under the OurSpace Initiative to fund the units for formerly homeless individuals. Bronx Borough President Ruben Diaz Jr. and former City Council Speaker Melissa Mark Viverito donated \$500 000 each for a combined \$1 million. Finally, HSBC served as a tax credit investor and

Raymond James Financial as the tax credit syndicator; together investing more than \$22 million in MLK Plaza (Housing Development Corporation, 2019). In total, the project cost \$63.71 million, of which Radson Development invested only \$22 million, receiving the rest in exemptions, direct government investment, or the private investment of local residents invested in the process and provision of affordable housing.

Figure 9

MLK Plaza – Far View



By Giblon, 2022d

This means that the government—and therefore by extension taxpayers—are the primary financiers of MIH developments while 100% of the profits accrued from rents go to the developers and management team. Consequently, the city and its residents are footing the bill of private developers under the guise of a housing affordability policy. Instead of providing a much-needed program to alleviate

Figure 10

MLK Plaza - Neighbourhood



By Giblon, 2022c

housing insecurity that plagues hundreds of thousands of city residents, this policy is providing developers with the opportunity to offload expensive building costs onto the city while they alone get to reap the profits from development. This is made worse in the context of MLK Plaza, where the building is specifically registered as part of ELLA, a program designed for low and extremely low-income residents. Despite this, the building still has 2-bedroom units advertised and listed for \$1795 per month, not including electricity (Osgood, 2021). Residents would need to make close to \$70

000 per year for that rent to be affordable, according to HPD guidelines; this falls in the AMI of around 90% (*Mandatory Inclusionary Housing (MIH)*, 2016). The building also advertises that in order to qualify for these 2-bedroom units, residents must have a minimum income ranging from \$63 532 for a household of 2 up to \$131 230 for a four-person household. These are AMIs of roughly 80% to 160% (Osgood, 2021). Low income, which is the income bracket the building was intended to serve, is defined as being at or below 50% AMI, and would translate to a household income of roughly \$31 080. An affordable two-bedroom at this income range would be listed at roughly \$775 per month. Extremely low-income, the other group intended to be serviced by this building, is defined as at or below 30% AMI (*Mandatory Inclusionary Housing (MIH)*, 2016). MIH does not even include 30% as an income bracket amongst any of its options in its policy. No developer will ever be required to provide housing for residents at 30% AMI, yet developers are able to qualify for funding from the city under the ELLA program in these residents' name. Consequently, the apartments being funded by the city under the guise of 'affordability' are not actually affordable to the population they are intended to serve. Rather, the city is spending tens of millions of dollars on a private development charging rents unaffordable to the inhabitants they are intended to serve, building 167 private units at the cost of taxpayers.

#### 4.9 30 KENT STREET: HOW VIH PRODUCED AFFORDABLE HOUSING, A COMPARATIVE CASE STUDY

Halfway across the city, in one of Brooklyn’s wealthiest and most quickly gentrifying neighbourhoods of Greenpoint, resides a shining star of inclusionary zoning. 30 Kent Street,

Figure 12

30 Kent Exterior



By Giblon, 2022a

developed under the voluntary inclusionary housing policy, is an example of an affordable housing development that was constructed under the exact conditions city councillors are trying to alleviate. The average cost of rent for a 2 bedroom in

Greenpoint is \$4500, which

would require an annual salary of \$178 600 (or an AMI of over 200%) in order

for it to be considered

affordable (*Mandatory Inclusionary Housing (MIH)*, 2016; Zumper, 2023b). Inclusionary zoning policies are geared to income, not to area rents; thus, affordable rents are set the same in Greenpoint as they would be in Mott Haven. This means that

the gap between market rents and affordable rents in Greenpoint are much higher than they are in Mott Haven, and enforced affordability is much more effective at depressing the cost of housing.

2-bedroom units at 30 Kent Street are marketed to income earners in the 80% and 130% AMI brackets, with rents costing \$1862 and \$3235 for each income bracket respectively (Housing

Connect, 2021). Consequently, income earners in the 80% AMI bracket are paying around \$65 extra per month compared to those living at MLK plaza, who are paying \$1795 for similarly sized

units (Osgood, 2021). Comparatively, market rate renters in Mott Haven, where MLK plaza is located, pay an average of \$2756 per month (Zumper, 2023a). Thus, MLK plaza effectively

Figure 11

30 Kent View



By Giblon, 2022b

reduces rent by just shy of 35% for low-income earners, while 30 Kent Street reduces rent by over 58%. By this metric, inclusionary zoning in high-income, wealthy, excessively rent-burdened areas is more successful in depressing rent costs for its affordable units.

However, 30 Kent Street is still, in absolute terms, more expensive per month than MLK plaza. Not only for those in the 130% AMI bracket, to whom a substantial portion of the affordable units are marketed, but also to those in the 80% AMI bracket—an extra \$65 per month is an incredibly material cost to low-income earners that can be the difference between dinner on the table, medicine, or a necessary doctor’s visit. People who need affordable housing do not assess the money that exits their bank account every month based on how much it is relative to those who are paying market rates—they assess it based on whether it is sufficient to meet needs. Additionally, 30 Kent Street provided demonstrably fewer units than MLK plaza. While MLK plaza was an entirely affordable development, 30 Kent Street only set aside a selection of affordable units for which potential residents had to enter a ‘housing lottery’ (Londono, 2021). In this way, something as necessary and vital as shelter becomes a game of chance, based entirely in luck. Lotteries are an indictment of the hopeless condition of capitalism. For many, the only chance to escape cruel economic conditions is to play a get-rich-quick scheme of luck and chance. There is something fundamentally flawed in a system where the only possibility for success is to defeat the infinitesimal odds and win while millions remain entrapped.

#### 4.10 MIH: A STRUCTURAL, CRITICAL ANALYSIS

Much like Toronto’s inclusionary zoning by-law, mandatory inclusionary housing and its earlier iterations are fundamentally flawed. As a policy originally intended to counteract exclusionary zoning which enforced racial and class-based segregation, inclusionary zoning attempts to solve too many problems and is inept at solving any of them (Hill & Hill, 2015). The

policy is too reliant on the market to reverse the effects of Jim Crow-era segregation. The market, as earlier analyzed, is not a race-blind tool: rather, it has always relied on race and racism to maximize capital accumulation for some at the expense of all others. In this way, inclusionary zoning mirrors the process of predatory inclusion that Taylor (2019) denoted in *Race for Profit*. Essentially, while inclusionary zoning makes the transformation from legal exclusion to nominal inclusion, it does so through the use of private market measures that predate upon the very people this policy claims to serve. In the case of predatory inclusion, the FHA-backed bank loans were structured to entrap poor Black families into poverty while providing wealthy white lenders and landowners guaranteed returns on investment (Taylor, 2019). In the case of inclusionary zoning, the ‘inclusion’ of POC and Black families in this ‘affordable’ housing pushes pre-existing racialized communities out of gentrifying neighbourhoods, fails to provide resources for low-income families in these newly capital-intensive areas, and the actual rates of affordability are at the whims of developers whose priorities are to maximize profits (Stabrowski, 2015). Inclusion, in this context, is a farce.

Critically, the reliance on private developers means that development only ever occurs when it is profitable to do so; this is most often the case either in expensive neighbourhoods where non-affordable units can command higher rents, or when sizeable city incentives are provided (Furman Center, 2015a). In the first instance, these are precisely the neighbourhoods where it is hardest for poor and low-income residents to exist, as the surrounding grocery stores, shops, and doctors are also more expensive. As is the case in 30 Kent Street, even in expensive neighbourhoods developers will offset costs by providing fewer affordable units and increasing prices in the market-rate units (Londono, 2021) as well as in the surrounding neighbourhood (Schuetz et al., 2011; Stabrowski, 2015). Where cities subsidize the construction of these

developments, it makes the provision of inclusionary zoning excessively expensive while the profits are retained solely by private developers. Two thirds of MLK plaza was funded by the city. Constructing public housing in its place with the same or similar resources could have given the City the power to set truly affordable rents to any income bracket (Housing Development Corporation, 2019).

Inclusionary zoning tries to do too much. It attempts to capitalize on market forces to introduce housing affordability. However, as The Furman Center (2015a) reports, market conditions are not strong enough to produce the intended results: instead we are left with a policy that is a drain on public resources, does not provide sufficient affordable housing, demolishes much of the affordable housing that already exists, and puts money in the pockets of developers to actively gentrify neighbourhoods and make the cost of living more expensive, on balance, for the people who live there. These are fundamental properties of the policy itself, and they are not rectified by how it has evolved over the decades in New York City, or the way it has been enacted in Toronto. As a structurally pro-capitalist policy, inclusionary zoning fails to create sufficient or functional affordable housing.

## CHAPTER 5 - CONCLUSION: WHERE TO FROM HERE?

### ON BUILDING BETTER, AFFORDABLE, ACCESSIBLE FUTURES

#### 5.1 WHAT MAKES HOUSING AFFORDABLE? TOWARDS A JUST CITY

I argue that housing is not affordable until there are no financial barriers to its access. Shelter is a necessity. Any society that places a dollar value on housing is therefore taking the stance that those without the means to afford it are therefore undeserving of access to society, or even life itself. This is both fundamentally unjust and in direct opposition to Henri Lefebvre's (1972) notion of the 'Right to the City': that all people deserve equal, equitable, and democratic rights to the spaces and places that form our cities and neighbourhoods. I ground my pursuit of housing affordability in this framework, conceptualizing housing as a social right for all that is a necessary precondition to democratic participation in society. In his seminal book *Le Droit à la Ville*, Lefebvre (1972) noted how the city had increasingly become a space co-opted by commodification and capitalism; the effects of this are that the citizenry become alienated from participating in urban life. The physical and financial barriers produced by the inability to secure housing when one does not possess the wealth or resources necessary to rent or own privatized housing lead to several social, political, and economic forms of exclusion. A lack of housing in this context becomes social, political, and economic death—a political choice and an act of class violence. It is through this system that those who benefit from generational wealth and the spoils of its excess maintain hierarchical and hegemonic privilege at the expense of those without a home. From this lens I argue that housing for all is not only just, but also necessary to create a functioning society—one that is inclusive to all, one that is truly democratic, and one that abolishes systems of domination and subjugation that continually perpetuate violence and exclusion.

Authors ranging from Harvey (2008) to Marcuse (2009), Castells (1983), and Iveson (2013) echo this call for the ‘right to the city’, sharing in the vision for a democratic urban life in the pursuit of social justice—much in the name of Harvey’s famous book *Social Justice and the City*. Harvey conceptualized this right to the city as “the freedom to make and remake our cities and ourselves”, claiming it to be “one of the most precious yet neglected of our human rights” (2008, p. 23). To secure this right, he argued, it is necessary to obtain “greater democratic control over the production and utilization of the surplus”; in the realm of housing, then, the surplus both refers to the surplus value of property and to the surplus of units themselves (Harvey, 2008, p. 37). Marcuse (2009), added to the collective call for the building of ‘Cities for People, Not for Profit’, centering a notion of the idea that housing should be maintained for its use value as opposed to its exchange value. Purcell (2014), by contrast, argued for a radical form of democracy exercised by inhabitants, a rather open-ended claim. Consistent amongst all of these authors, however, is the notion that the city must be return to the citizenry in order to democratize access and make the city affordable and accessible for all.

## 5.2 NON-REFORMIST REFORMS: A STOPGAP TO STOP CAPITAL FLOW

In order to transition towards a just city that is inclusive and accessible for all, the flow of capital from those who rent to those who own property must be stemmed. This is necessary to begin the process of redistributing wealth such that all members of society may equally and equitably participate in society and its institutions, precisely as conceptualized in Lefebvre’s (1972) work. This is merely a step in a series of measures that contributes towards the ultimate goal of divorcing capital itself from the provision of housing and shelter. Breaking the link between the owning class and its monopoly over capital, however, makes it easier to create short-term affordability as well as transition to long-term decommodification. One of the most common

policy measures of this nature is rent control, which serves to limit the extent to which landlords can raise the rent on a unit from one year to the next. Ontario has a rent control policy in the Residential Tenancies Act (RTA) which sets the maximum limits by which landlords can increase rents each year according to the Ontario Consumer Price Index (CPI) (Canadian Centre for Housing Rights, 2022). Policies of this nature provide security and stability to renters, ensuring that given life circumstances remain relatively similar from one year to the next renters will be able to afford to stay in the same place. It prevents land price speculation from dramatically increasing rents and pushing out long-term residents, and it also has the possibility to push back against the gentrifying effects of development. However, a revision to the RTA has allowed new units that were not used for residential purposes prior to November 15, 2018, to be free from rent control legislation (Canadian Centre for Housing Rights, 2022). This has had the effect of driving up the housing costs of all new-builds, and skyrocketing the housing costs of older apartments when they re-enter the housing market.

This is where a second policy, vacancy control, becomes important. Rent control helps to keep rent in check while the same renters reside in a building. However, as soon as a renter moves out and the unit hits the market landlords are free to set prices at whatever they wish. Consequently, the effects of gentrification, land speculation, and the increasing rate at which real estate is used as a vehicle for investment all converge to drive up housing costs. This also incentivizes landlords to evict long-term tenants in order to massively increase rent (Ramiller, 2022). Vacancy control is a policy that would operate similarly to rent control but would apply across renters and vacancy. In essence, landlords would be bound to the same limits in increasing the rent on units, regardless of whether the unit was occupied or unoccupied. As soon as one tenant moves out, landlords can no longer freely hike up rents to match the newly speculated market rates; rather, vacancy controls

keep rents with the pace of the consumer price index (Advocacy Centre for Tenants Ontario, 2021). The province had existing vacancy control regulations in 1996, but disposed of them under the rationale that vacancy decontrol would incentivize developers to build more purpose-built rentals. Yet, ACTO found that “[o]n average since 1996 (until 2016), Ontario has only built 3,452 new rental units yearly” (2021, p. 2). Once again, the notion that increased supply yields better access to housing and housing affordability has, in effect, been disastrous for the actual affordability of housing. The intended supply never materialized. The existing housing supply, free from vacancy control, has had the capacity to jump dramatically as real estate becomes an increasing vehicle for investment and speculation. In the time since vacancy decontrol was first passed, housing has only gone up in price, and affordability has dramatically waned.

Finally, the province could enforce stronger protections for renters. During the COVID-19 pandemic, emergency measures were put in place to ensure that renters could not be evicted regardless of the non-payment of rent (CMHC, 2020). These measures were enacted under the recognition that many people were out of work through no fault or consequence of their own, and that shelter was a fundamental necessity that would benefit all. As public policy around the pandemic has waned, and the government shifted towards the political attitude that COVID-19 is ‘over’, these protections have been removed (Canada, 2020; Delaire, 2021). Notably, people are in no less need of housing now than they were during the pandemic, and many have not recovered from the job loss that occurred due to the pandemic’s onset. Many policies of this nature have sprung up during times of great societal duress, when conditions were so poor that strong social security nets were drawn up either to stave off social revolution—such as was the case with the New Deal—or they were directly the result of such revolutionary vision and action itself (McDonald, 2011). In the case of preventing the eviction of tenants, the policy draws its roots from

some of history's most radical socialist organizing, appearing in the Paris Commune in 1871, where “[a]t the Commune Council’s second meeting, on March 29, it prohibited both evictions for nonpayment of rent and the sale of goods held at the national pawnshop, the Mont de Piété” (Eichner, 2022, p. 43). It is clear that when society is in its most dire circumstances, there is a capacity to rally for more aggressive, socialist-oriented policy. These basic needs, however, do not change when circumstances change. After the violent dissolution of the Paris Commune, Parisians were poor as ever, and still required radical social assistance in the form of eviction protections and rent aid (Bell, 2022; Eichner, 2022). In the case of the COVID-19 pandemic, the government changing its stance and governance on the pandemic itself does not change its citizenry’s material conditions: people are still out of work, housing costs have still risen, and there is still a viral pandemic passing through the nation (Canada, 2020; Toronto, 2015b). These policies are still necessary, and we have in fact proved them to be possible. At this point, then, it becomes about fighting for their implementation.

### 5.3 EXPROPRIATION AND CONTROL: RE-ENVISIONING HOUSING IN A FINANCIALIZED SYSTEM

Policies that curtail the expenses imposed on renters are not, however, the political endgame in creating affordable housing; they merely serve as a non-reformist reform that enforces measures of affordability. This keeps housing that is currently within the financialized system more attainable along the fight to dismantle the financialized system itself. From here, policy may transition towards stronger measures that begin to reclaim private property. One such example was the Berlin referendum on so-called ‘mega landlords’, which called into question whether the government ought to seize property from corporate owners with more than 3000 units and socialize what was anticipated to be 240 000 apartments (Vrantsis, 2021). Crafted by the Expropriate Deutsche Wohnen campaign—named after the city’s largest corporate landlord—the vote passed

in a 51-49 percent split, with a margin of more than 50 000 voters (Braneck, 2022). Berlin’s mayor, the SPD’s Franziska Giffey, had spoken out against expropriation before the election, and the terms of the referendum were non-binding—making its implementation difficult. Many Berliners, however, see expropriation as the only possible solution to “reduce speculation, enshrine housing as a public good, and keep housing costs manageable” (Braneck, 2022, p. 3). The referendum provides a clear pathway towards how cities experiencing similar cost-of-living crises may begin the transfer of wealth. While the government in this case is acting as an active hindrance to the will of the people, an engaged body politic has the capacity to push for creative and justice-centric solutions that divert the flow of capital away from the corporate elite and into the hands of the people. This is precisely the mechanism David Harvey (1972) illustrated when he wrote of democratizing the city through democratizing its surplus: the people should have democratic control over the excesses of housing, redistributing it as a public good in the form of affordable housing. Private actors do not inherently have the right to speculate and drive-up housing costs in the search for profits off the backs of people affording a place to live; communities have the right to fight back.

Once land itself has been reclaimed, there are several scholars whose work interrogates how housing can be governed in an affordable and accessible manner. Susannah Bunce (2020) explores one such iteration of this in her literature on community land trusts in London and Toronto; these land trusts provide the opportunity for community scale, democratically owned decommodified or remedially commodified forms of housing. In both cities these land trusts are examples of spaces that have been reclaimed from the city—albeit it through financial means—that have then served as spaces for locals to exist free from the confines or constraints of the barriers to access that capital entails (Bunce, 2020). Community land trusts (CLTs) are often a

microcosm of the politics that a larger scale decommodification of housing could be. CLTs are community-based and thus enforce a politics of mutual accountability, ensure free and equitable access for all residents, and have a core physical structure that provides shelter (Community Network Community Land Trust, 2023). While CLTs work to decommodify land, whether or not they decommodify housing is specific to the individual operations of each land trust; structurally, however, CLTs provide the scale, systems, and networks to implement decommodified and affordable housing through their organizations. CLTs can operate on a variety of scales, representing anywhere from neighbourhoods to cities or regions, and operate on the principle of providing affordable housing in perpetuity. The Canadian Network Community Land Trust (2023) operates CLTs across the country, following guiding principles of accountability, transparency, equity, inclusivity and truth and reconciliation. CLTs operate within a private, financialized housing market but offer a microcosm of how housing can function in a decommodified system and provide a perpetually affordable alternative in the intermediate for those in desperate need (Community Network Community Land Trust, 2023). In this way, CLTs are crucial affordable housing both in the practical affordability they provide, and in the imaginary vision for the scaling of decommodification they inspire.

#### 5.4 DECOMMODIFYING HOUSING: IMAGINING A NON-FINANCIALIZED FUTURE

So far, I have elucidated a path towards moderating the flow of capital towards the landowning class, maintaining greater levels of affordability within a private, financialized system. With an emboldened working class, these policies can be enacted simultaneously with the transition of property from private to public through the use of expropriation and eminent domain and administered in the model of CLTs. Returning to my original claim, however, housing is not truly affordable until it is ultimately divorced from any and all financial barriers. Thus, so long as

there remains a private market for the sale and procurement of land and shelter, there will always be a barrier to accessing the basic necessity that is shelter. These barriers must be abolished in order to create a just society, in order to provide all citizenry with the right to the city, and in order to create truly affordable housing. While in his later works Harvey (1972, 2008) focuses on the social democratic approach of democratizing the surplus, returning to his original entanglements with Von Thünen provides a much more radical approach on how precisely housing might be made affordable and accessible in a just city.

Harvey (1972) returns to the original mechanism of the urban land market theory, explaining how competitive bidding for land and its roots in the capitalist imperative for profit and extraction of surplus value led to inequitable spatial distributions. He then makes the simple, yet radical claim that we must make the Von Thünen model “not true”—that is, “if we eliminate this mechanism, we will presumably eliminate the result” (Harvey, 1972, p. 8). The alternative that Harvey (1972) provides is a socially controlled urban land market cohabitating with socialized control of the housing sector. Engels (1872, 1962) provides a similar approach, ruminating on the disappearance and reappearance of deteriorated alleyways in the Manchester city-centre. The reason that the beautification of squalor never works is because it does nothing to remove the core relations that produced its deterioration in the first place. In Engels’ words, “as long as the capitalist mode of production continues to exist, it is folly to hope for an isolated solution to the housing question [...] the solution lies in the abolition of the capitalist mode of production” (1872, p. 47). Thus, the only way to ensure that spatial inequality does not form—producing space in manners that inherently creates housing inequality which necessitates the unaffordability and inaccessibility outlined earlier—is to abolish the mechanism that gives rise to these spatial formations in the first place. In Harvey’s (1972) framing this is achieved through specifically abolishing capitalist land

markets; in Engel's (1872) framing, this is achieved through abolishing the entire system of capitalism itself. Regardless of the stage at which capitalism as a mode of production is removed from the structure of housing, it is clear that so long as capital frames the conditions for housing, housing will always inherently produce itself as unaffordable and inaccessible.

The task of abolishing capitalism is no small feat. Thus, measures that mitigate the forces of capital to produce affordability within the status quo are important. What is potentially even more important at this point, however, is the capacity to radically imagine such a decommodified future and collectively work towards a post-capitalist society. Ultimately, this is how I hope to meet the original challenge posed by David Harvey in his 1972 paper on Revolutionary and Counterrevolutionary Theory: that we as radical geographers ought not to just sit and posture about theory but attempt to change the world (Harvey, 1972).

One such vision for a decommodified future exists in Freetown Christiania. Located in Copenhagen, Denmark, Freetown Christiania is an oppositional community of approximately 900 residents occupying 85 acres (Verco, 2018). The community originally sprung up as a square in the abandoned Bådsmandsstræde barracks in 1969 and has since served as a self-governing society oriented around the principles of community, collectivism, and democracy. In Freetown Christiania, housing is not treated as a commodity—there is no buying, selling, or trading of homes or land and the “accumulation of housing or land for profit making is not possible” (Verco, 2018, p. 104). In fact, “opposition to marketisation and ownership of homes must be understood as a core value in Christiania’s housing practice” (Verco, 2018, p. 104). The process for allocating housing is based on a system of allocating the right resident for the right home; this is determined by social conditions, such as the number of applications and the composition of the family relative to the size and quality of the home, employment at Christiania, and any other transparent and factual

allocation criteria (Christiania, 2023). The goal of this is to ensure that housing is allocated based on need, as opposed to access to capital. Consequently, Verco notes, “without the obligation to engage in full-time work to afford housing, residents are then more free to choose to orientate their life around the community” (2018, p. 105). Additionally, as Catteneo and Gavalda (2010) highlight, being freed from full-time work can reduce consumption and energy use, making Freetown Christiania more sustainable and ecologically efficient. Even the community’s commitment to reuse building materials is in part a product of being developed outside of a profit-oriented system (Mollerup et al., 2005). By contrast, private developers often prioritize materials and builds that decrease costs regardless of the impact on the environment, resulting in serious amounts of environmental hazard and waste (Winstead, 2021).

Freetown Christiania provides a model for imagining housing whereby the people or the government—or a combination of both—are responsible for the provision of social, freely available housing on the basis of need as opposed to profits. Soviet-era housing provides a context in which this plays out on a larger scale: the government owns and operates public housing that it distributes to families based on size, accessibility, and location needs. In the Soviet Union, housing in cities belonged to the government and was distributed by municipal authorities or government departments in a system whereby each person was entitled to a certain number of square metres (Turner, 1992). Some countries within the Soviet Union operated housing through a co-operative or workers’ co-op form; in every case and in every place, however, the goal remained to “ensure a sufficient construction of dwellings under the auspices of the state, thus banning private construction, or at least reducing the allocation of resources for private production” (Turner, 1992, p. 2). A truly accessible future, from this perspective, is one where housing is the responsibility of the people and the State, and the private market plays no role in dictating the access of everyday

people to life's basic necessities. On a practical level, this can play out as the cost of housing being folded into tax dollars, much like any universal social service. A modified version of this is one wherein the government provides housing and sets rent at the cost of operations so that it is both affordable to occupants and the government. In either scenario, housing is far more affordable to those desperately in need when the incentives of the housing provider are based on helping those in need as opposed to deriving the maximum amount of profit.

This form of social housing does not just exist within socialist countries; rather, it is possible for housing to be socialized even within a capitalist economy. This is one of the crucial distinctions between Engels (1872) and Harvey (1972): that to produce affordable housing, Engels (1872) argues that capitalism itself must be abolished, whereas Harvey (1972) theorizes that it is the capitalist urban land market—and its subsequent application to real estate and housing—which produces unaffordability. If Harvey (1972) is to be believed, then affordable and public housing can successfully exist in capitalist contexts. Politically, this would look like dramatically expanding state funding for the public and social provision of housing. Rather than offloading the provision of affordable housing to private actors, the government—at municipal, provincial, or federal levels—would be responsible for funding, administering, building, and maintaining housing that would exist at pre-determined affordable levels (Bacher, 1993; Brail & Kumar, 2017). Unlike the private market, the government is not incentivized by maximizing profits. Rather, governments are theoretically motivated to provide adequate goods and services to its people in order to sufficiently service the public, meet demand, and increase quality of life (Harvey, 1973). Consequently, affordability rates could be set to, for example, cover the maintenance costs of social housing programs—rather than in the status quo where they are often set to maximize developer yield. In fact, many public programs in capitalist countries currently run at a loss,

prioritizing the provision of public goods while recuperating costs through levying taxes; public housing could operate through a similar scheme (Canadian Institute for Health Information, 2022). Throughout Canada and the United States' history there has been significant investment in public housing: from Regent's Park in Toronto to Pruitt Igoe in the US (Brail & Kumar, 2017; Freidrichs et al., 2011). The latent knowledge of best practices, architecture, and administration all exist. What remains is the political drive to reinvest in public goods.

## 5.5 CONCLUSION: FINAL NOTES ON INCLUSIONARY ZONING AND AFFORDABLE HOUSING

A future with affordable housing is possible. There are numerous non-reformist reforms to re-envision the very relationship between land, ownership, and capital. On one end of the spectrum towards creating a decommodified future exist non-reformist reforms, such as reintroducing and enforcing rent caps, vacancy control, and stronger tenant protections. Beyond these policies are measures that begin to nationalize or socialize private property, such as exercising eminent domain or introducing public housing on government-owned land. Community Land Trusts may provide an alternative by taking land out of real estate markets and choosing to offer non-financialized housing alternatives. Finally, one can imagine divorcing housing from the capitalist system by decommodifying it so that housing is not bought and sold in a private market but is rather treated as a public good. It is clear, however, that inclusionary zoning is not capable of producing any of these policies and futures. Rather, inclusionary zoning is a misguided policy that operates within capitalist logics and frameworks. Inclusionary zoning attempts to create housing affordability from the very same market responsible for producing unaffordability in the first place. That which creates the problem is incapable of forming its solution. In the case of inclusionary zoning, pro-development policies will only encourage gentrification, construction that prioritizes market-rate units, and 'affordability' that is not truly affordable. Ultimately, Inclusionary Zoning By-Law 941-

2021 and MIH differ in detail but are fundamentally the same: they are policies that justify giving handouts to private developers under the guise of ‘affordability’ and prevent the real work of creating true housing affordability.

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