

Seeking Feedback on Municipal Rental Replacement By-Laws

Submission to the Ontario Ministry of Municipal
Affairs and Housing

December 8, 2022

Ministry of Municipal Affairs and Housing
777 Bay Street
Toronto, Ontario, M7A 2J3

Dear Minister of Municipal Affairs, Steve Clark,

Re: Seeking Feedback on Municipal Rental Replacement By-Laws

The Canadian Centre for Housing Rights (CCHR) is Canada's leading non-profit organization working to advance the right to adequate housing. For 35 years, we have worked tirelessly at the intersection of human rights and housing, providing free services to renters facing evictions and human rights violations to remain housed, providing education and training about housing rights across Canada, and advancing rights-based housing policy through research, policy development, advocacy, and litigation.

We are writing to provide feedback on a proposed regulation that would expand the Ontario Government's purview to limit or impose conditions on municipal powers to regulate the demolition and conversion of residential rental properties through rental replacement policies and by-laws. Rental replacement policies provide municipalities with an important policy tool to preserve the stock of affordable rental housing that is at risk of loss due to demolition or conversion. Ontario's older purpose-built rental stock, which constitutes the majority of the province's "naturally occurring" affordable rental housing, is at risk of being demolished and/or converted into more profitable housing options such as new rental housing or condominiums. Data indicates that Ontario is losing up to 20,000 "naturally occurring" affordable rental units each year.¹

Rental replacement policies also serve the vital function of protecting renter households from displacement from their homes and communities. Renter households across Ontario are facing a rental housing affordability crisis. The 2021 Census data indicates that renters are almost twice as likely as homeowners to live in unaffordable housing, an issue impacting nearly one out of three (30%) renter households in the province. Many of these renter households are living on lower incomes, forced to make difficult decisions between paying rent and other essential costs like food and childcare. Many have to move away from their communities and places of employment in order to access more affordable housing. Paired with the impact of COVID-19, the housing affordability crisis has precipitated outmigration from major urban centres, putting pressure on the rental housing supply across the province and driving up rents. Sudbury, for example, reported an overall vacancy rate of 1.8% in 2022, the lowest vacancy rate in 10 years.²

¹ <https://www.newmarkettoday.ca/local-news/you-cant-build-enough-affordable-housing-to-outpace-erosion-of-existing-units-housing-expert-says-5080204#:~:text=Each%20year%20in%20Canada%2C%2064%2C000,four%20are%20lost%2C%20he%20added.>

² <https://assets.cmhc-schl.gc.ca/sites/cmhc/professional/housing-markets-data-and-research/market-reports/rental-market-report/rental-market-report-2021-en.pdf?rev=a5a0eaac-6f70-4058-8aa3-e6d307685910>

Summary of Feedback

Pursuant to Bill 23, the province is seeking feedback on a proposed regulation that it suggests will “standardize the rules and requirements municipalities may include in their (rental replacement) bylaws”, with the objective to encourage the construction and revitalization of the housing supply. CCHR is deeply concerned by proposed limitations on municipalities’ authority to develop rental replacement policies through this regulation. Doing so would destabilize the housing of households living in affordable purpose-built rentals in the immediate term, increasing their risk of eviction, displacement and even homelessness. Drawing on expertise and good practices from around the province, CCHR is proposing the following two recommendations to the province as it develops the regulation:

1. The regulation should empower municipalities to develop rental replacement policies based on local conditions and evidence-based studies to balance the preservation of existing rental housing with encouraging new supply.
2. The regulation should allow municipalities to encourage fair and reasonable intensification that protects renters from displacement and facilitates the inclusive growth of communities.

Our recommendations adopt a rights-based approach, which prioritizes solutions for those in the greatest need, promotes collaboration and meaningful engagement with municipalities and communities, and advocates for the government to maximize available resources and investments to formulate lasting housing solutions. We urge the province to consider our recommendations in light of its commitment to addressing the housing affordability crisis and increasing access to housing for all of Ontario’s renters. Doing so is essential to advancing Canada’s overall commitment to implement the right to adequate housing.

Our Recommendations

- 1. The regulation should empower municipalities to develop rental replacement policies based on local conditions and evidence-based studies to balance the preservation of existing rental housing with encouraging new supply.**

CCHR recommends that the province retain municipal authority and flexibility to regulate the demolition and conversion of rental housing in line with local contexts. Doing so will allow municipalities to adopt policy approaches that respond to local conditions and balance the objectives of protecting existing rental housing without discouraging new supply. Increasing housing supply will be counterproductive if an equal or greater number of units of housing, especially affordable housing units, are lost at the same time.

Currently, two municipalities in Ontario have developed rental replacement by-laws: the City of Toronto³ and the City of Mississauga.⁴ Toronto’s rental replacement by-law prohibits the demolition or conversion of six or more rental units, unless they are replaced with the same

³ https://www.toronto.ca/legdocs/municode/1184_667.pdf

⁴ [Rental Housing Protection By-law 0121-2018 \(mississauga.ca\)](https://www.mississauga.ca/legdocs/municode/0121-2018.pdf)

number, size and type of units. Existing renters are guaranteed the right to return to a replacement unit at a similar rent and they are compensated for the temporary displacement. Mississauga's rental replacement by-law similarly requires the replacement of rental units undergoing demolition or conversion unless the units are renting at 1.75 times above average market rent or the city's vacancy rate is above three per cent. Both Hamilton and Burlington have included frameworks to limit the demolition or conversion of rental units in their respective Official Plans^{5,6} and the City of Ottawa has been developing a rental replacement policy based on good practices established by the City of Toronto.⁷

While the details and application of rental replacement policies differ in line with local conditions and priorities, these municipalities have recognized that rental replacement policies are an effective tool to preserve their affordable rental housing stock, an essential component of their response to the housing affordability crisis. This is supported by evidence from the City of Toronto. Since implementing a rental replacement policy, the City has successfully preserved over 4,000 rental units. In the first 7 months of 2022 alone, the policy secured commitments from developers under 28 development applications to replace rental units at the same size and price in rental buildings impacted by redevelopment. Requirements for affordable units to be replaced with units at similar rents after redevelopment has meant that over half of the buildings covered by Toronto's policy have remained affordable for many renter households living on lower incomes. Guarantees for renters to return to their homes after they temporarily move out during redevelopment ensure they are protected from displacement, and that they remain part of their communities and close to their places of employment, schools and the services they depend on.

In addition, the available data does not suggest that rental replacement policies have acted as a deterrent to the development of new housing. In Toronto, where the policy has been in place for over a decade, thousands of condominium units have been built across the city. The City of Vancouver has also adopted a rental replacement policy. Data from the City of Vancouver suggests that, even with a strict one-to-one rental replacement policy, Vancouver has seen a significant growth in its supply of rental housing. In 2021, rental housing starts in Vancouver comprised 50% of all housing starts, the same year the City's most stringent rental replacement policy came into effect.⁸

Furthermore, the data does not show that rental replacement policies have the effect of disincentivizing investment in the maintenance of existing rental units. Nonetheless, CCHR encourages the province to consider a range of tools to ensure that rental housing remains in a state of good repair. This could include encouraging municipalities to proactively enforce property standards, as well as supporting municipalities to leverage federal investments in capital repairs and retrofitting of aging rental buildings.

It is important that municipalities have the authority to maintain existing rental replacement policies and develop new rental replacement policies that are tailored to local housing

⁵ [uhop-volume1-chapterb-communities-feb2021.pdf \(hamilton.ca\)](#)

⁶ [Official Plan \(burlington.ca\)](#)

⁷ [City Council - June 22, 2022 \(escribemeetings.com\)](#)

⁸ [Microsoft Word - 2.10 Demolitions - new format.docx \(metrovancouver.org\)](#)

challenges and economic conditions developed through evidence-based studies. Restricting municipalities' flexibility in this regard or imposing a standardized policy framework across the province will constrain local governments' capacity to develop sound and contextually relevant policies. This will ultimately weaken the ability of municipal governments to preserve their existing affordable rental housing. If the province moves to limit the types of requirements municipalities can set, it should focus on ensuring that rental replacement policies are effectively preserving the affordability of replaced rental housing and protecting renters in the greatest housing need, on a priority basis. For example, regulations could restrict municipalities from enacting rental replacement policies that do not require affordable rental housing to be replaced at a similar affordable rent or require them to prioritize neighbourhoods and buildings with a high concentration of renters living on lower incomes.

CCHR strongly urges the province to avoid imposing any restrictions on rental replacement policies developed by municipalities through proposed regulations, allowing local governments to develop policies based on local context, expertise and evidence-based studies.

2. The regulation should allow municipalities to encourage fair and reasonable intensification that protects renters from displacement and facilitates the inclusive growth of communities.

Regulations should continue to allow municipalities to develop rental replacement policies that balance the important priority of protecting renter households from displacement, and the priority of encouraging inclusive growth and intensification. The rental replacement policies currently in place in some municipalities in Ontario have been successful in striking this balance.

As municipalities across Ontario promote intensification to support their growing populations, which is also an objective of Bill 23, existing affordable rental housing in these towns and cities will be increasingly at risk of demolition and conversion into condominiums. Local governments should have at their disposal all available policy tools to preserve their existing affordable housing and prevent the displacement of renters.

In addition, these rental replacement policies address a critical weakness of the Residential Tenancies Act (RTA). While the RTA includes provisions to maintain housing security of renters who vacate a unit for extensive renovations by guaranteeing a right to return, no such provisions are in place for renters impacted by the demolition or conversion of a rental unit. Instead, the RTA allows a landlord to serve a notice to end a tenancy if they intend to demolish a rental unit. There is no requirement for them to ensure renters' right to return to a suitable and affordable replacement unit. As a result, renters are forced to find new rental housing, with few affordable rental units available in the private rental market. Notably, while the average rent for a one-bedroom in an older purpose-built rental unit in Toronto is \$1,343 per month, which is affordable to a household with an annual income of around \$54,000⁹, the average asking rent for a one-bedroom apartment in Toronto (i.e. asking amount for units currently on the market) is \$2,478 which would only be affordable to a household with an annual income of around \$99,120.

⁹ Calculated using the definition that measures housing affordability as 30% of household income.

Without a rental replacement policy, the households who live in these existing rental units – many of whom are seniors and lone parent families – will risk displacement and worse yet, eviction into homelessness. This is a threat to both the housing stability of individual households and to the cohesion of our communities.

Efforts to increase housing supply alone will not meet urgent and immediate needs of renters for affordable housing, especially if cities across the province are unable to preserve their existing affordable housing and prevent the displacement of lower income renters. The data shows that the market alone will not create rental housing that is affordable to households living on low- to moderate-incomes. This type of affordable housing will only be created through significant investment from all levels of government, costs which are ultimately borne by taxpayers. For example, in 2022, the City of Toronto contributed \$78.5 million in capital funds and forgone revenues (i.e. waived development charges, fees and property taxes) to create 919 new affordable rental units, in addition to a significant contribution from the federal government. Moreover, significant investments are required by all levels of government to support an individual or household experiencing homelessness within the emergency shelter system – a real risk for displaced renters in tight housing markets. A 2017 report found that, on average, governments spend \$53,144 per year on shelter and health services for one person experiencing homelessness. Removing or restricting current or future rental replacement policies will not only destabilize housing for renters in the immediate term, but it will also increase costs for all levels of government in the longer term, diverting taxpayer dollars. Restricting rental replacement policies does not make financial sense.

In conclusion, we strongly urge the government to consider these recommendations in the development of the proposed regulations. Removing municipal authority and flexibility to articulate strong rental replacement policies that reflect local conditions will significantly curtail Ontario's ability to preserve its vital affordable housing stock and to protect renters from displacement from their communities. This would ultimately be a counterproductive step backwards in the implementation of the right to housing.

Thank you for your consideration of our recommendations. CCHR welcomes the opportunity to provide our housing expertise and welcomes further consultations to ensure that Ontario renters can live in secure, adequate and affordable homes

Sincerely,



Bahar Shadpour
Director of Policy and Communications
Canadian Centre for Housing Rights (CCHR)