

Density bonus policy in the city of Toronto: analysis and recommendations for change

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A number of major cities in North America including New York and Chicago have implemented density bonus policies. This group includes Canadian cities such as Vancouver and Toronto. The application in Toronto, and the surrounding jurisdictions in Ontario are applied under Section 37 of the Ontario Planning Act. The longest running and greatest number of applications have been undertaken in the city of Toronto. More recently surrounding jurisdictions such as Vaughan, Burlington and Oakville have adopted Section 37 policy applications.

Basically in both Toronto and Vancouver increased density is granted in exchange for contributions to community amenities. The contribution by the developer is either made in cash or on an “in kind” basis. In both cities there is a list of community amenities for which the contribution may be requested. One of the key items on the list is affordable housing. In the Toronto context it is the local ward councillor who plays a key role in both identifying the community benefits for which the contribution is to be made as well as the quantum to be requested. Furthermore, the councillor plays a role in the negotiations. If the developer is unsatisfied with the contribution required, they have the right to appeal to a quasi-judicial body known as the Ontario Municipal Board.

The approach applied in Toronto has been controversial in terms of equity and transparency. This has also led to concerns about how the policy may be applied in the surrounding jurisdictions. This in part has led to a Provincial government review of the application of this tool along, with a review of other exactions including Parkland dedication and development charges (impact fees).

The approach used in Vancouver and other British Columbia municipalities may be used as an alternative approach that is applied under a different legislative

framework. Concerns have been raised in those jurisdictions about the practice and application of their system density bonusing known as Community Amenity Agreements. However, they have some rules and practices in place that appear to be an improvement over the Ontario applications.

The objective of this paper is to analyze the application of density bonuses in the City of Toronto in terms of equity, transparency and accountability in order to provide recommendations for changes that should be made to the current legislation and Provincial policy structure. An analysis will be undertaken of select wards in the city of Toronto in order to compare the application and outcomes of the use of the policy.

The analysis is based on the information that has been collected regarding all the section 37 agreements (density bonuses) that have been undertaken between 2000 and 2013. Despite the guidelines provided for the application of this policy in the City of Toronto, there are significant variations in the application as they are negotiated agreements with the local ward councillor playing a major role in the negotiations.

Based on the analysis of these applications in terms of equity, transparency and accountability, recommendations will be made regarding how the legislation and perhaps the city guidelines should be changed to improve the application of the density bonus policy. These recommendations will also be informed by practice in other North American jurisdictions including the Canadian applications in other Ontario jurisdictions and in Vancouver as well as other British Columbia jurisdictions.

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