



2008 Special Assignment on Affordable Housing

Analysis and Recommendations

Prepared by: Alberta Urban
Municipalities Association

Adopted by the AUMA Convention:
October 2, 2008



ANALYSIS AND RECOMMENDATIONS

BACKGROUND

In February, 2008, the AUMA Board approved "Affordable Housing" as a Board Special Assignment and Mayor Ron Casey of Canmore was appointed as the Chair. The Board noted that: "the general purpose of each special assignment is to develop an advocacy position paper for consideration at the 2008 Convention".

Each Special Assignment Chair was charged with the following:

- draft a member-consulted paper by June 30
- work to identify the current government position
- prepare a policy paper for Convention
- conduct at least one workshop with Association members
- provide a progress report to the regional meetings in 2008
- provide regular progress reports to the Board and maintain liaison with the Standing Committee Chair

MANDATE:

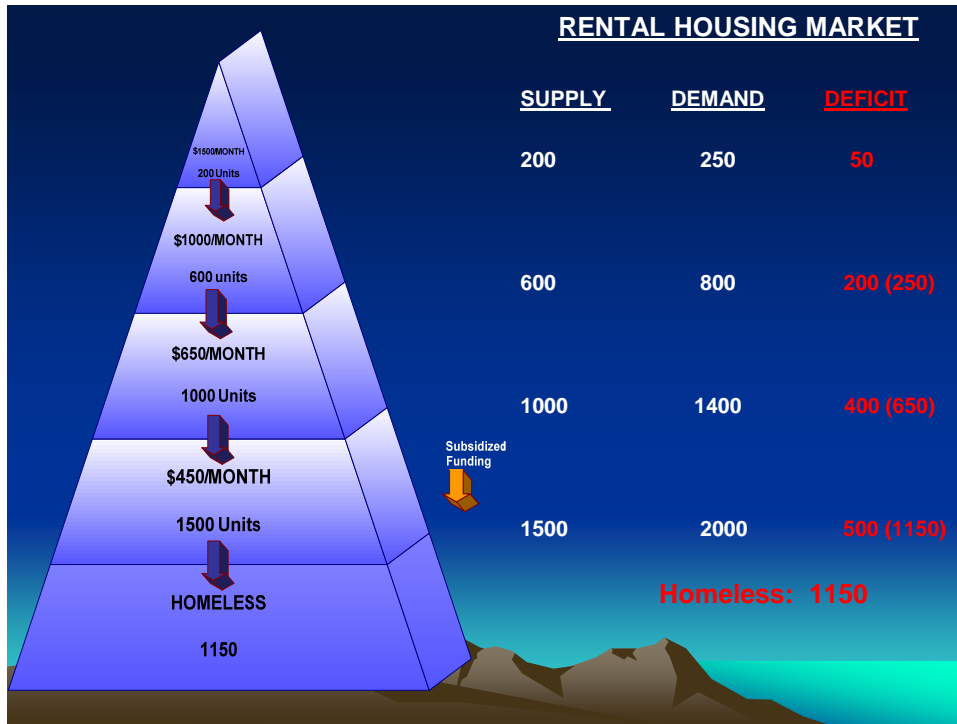
The established mandate of the Chair of the Special Assignment on Affordable Housing was to prepare a policy paper for Convention outlining what effective strategies AUMA members can use to increase the number of rental accommodations available in the mid-range of affordability within their communities.

OUTLINE OF THE ISSUE AND STRATEGY:

For the most part, municipal strategies around affordable housing over the years have centred on trying to obtain more funding from the other orders of government to pay for subsidized housing, and/or to increase homeless shelters.

These strategies, while important, could be augmented by more emphasis being placed on a review of how to increase and retain more mid-range rental stock by engaging the private sector.

The problem in reality can be demonstrated by reference to Figure 1 below:



What happens in this figure (using hypothetical rent levels for purposes of illustration) is those at the top of the rent pyramid are able to secure housing because of their financial abilities; indeed, home ownership is likely a realistic option.

However, even in this top category (\$1500 per month), there is both a current shortfall of rental units, and an increasing annual shortfall, as a result of population growth and/or the “condominimization” of current stock.

Thus, for example, if there were 200 units in this top category, and all existing units were occupied, and at year end an increase in population required another 50 units, that shortfall cascades downward into the next rent category, so that individuals who could pay \$1500 a month, obtain units in the next lower category—perhaps by offering more rent, better security deposits, better references etc. This in turn exacerbates the shortfall already existing in the next lower category. And, so it goes from level to level, until those displaced from the \$450 level have no one to displace, and find themselves in the situation of being homeless, or with their family in a shelter.

As one can see, adding subsidy dollars alone to the pyramid cannot solve the problem when the chronic shortage continues to exist. Further, the building of more shelters does not on its own provide a solution to the greater problem of lack of

housing stock—especially in the area of most demand—those in the centre who perhaps can pay \$650 or \$1000 per month.

It is proposed that the real answer to affordable housing does not simply lie with government, except in a role to facilitate or enable action by the private and non-profit sectors. While overall responsibility for affordable housing, and its related issue of homelessness, clearly remains with the Federal and Provincial Governments, municipalities could also, with the right tools in place, be an effective resource in the effort to create a fertile environment in which rental housing built by others might flourish.

AUMA has made several presentations to Government in recent times regarding the issue of affordable housing and homelessness in general. The Government has responded and has gathered feedback, authored studies, provided funding, and committed to working to solve the problems of homelessness and affordable housing.

In its 2007 report, the Minister's Task Force on Affordable Housing, which also had received a presentation from AUMA, noted as follows:

- *In light of future growth projections, the need was stressed everywhere for a longer term plan—both politically and fiscally—rather than 'band-aid' solutions*
- *Program guidelines and criteria must be reviewed to see if they are creating barriers to innovative and common sense solutions*
- *Virtually everyone said governments and communities need to act collaboratively to implement solutions and coordinate planning...*
- *...a long term Alberta Housing Plan is needed to integrate strategies of local, regional, provincial and national efforts.*

The report further commented that:

- *Homelessness and affordable housing must be viewed along a continuum of housing options and supports that meet individual needs. People must have every opportunity to progress along this continuum*
- *Affordable housing must be available and accessible to Albertans who need it.*

At the February hearing of the Task Force, AUMA also urged as follows:

Provincial assistance to ensure that municipalities have the flexibility to implement inclusionary zoning rules, requiring a percentage of any new residential development to have housing within a specified price range, with ability to provide a density bonus to compensate for any financial loss to the developer as a result.

In its Affordable Housing Initiative paper, adopted at Convention in November, 2007, AUMA recommended, amongst other things, the following:

- *That the provincial government institute tax incentives to encourage the private sector and non-profit sector to become a mainstream player in the development of affordable housing*
- *That the provincial government investigate financing options for private sector and non-profit developers to facilitate the acquisition of land for affordable housing development.*

Also at the 2007 Convention, in compliance with the above Affordable Housing Initiative paper, the following resolution was passed:

NOW THEREFORE BE IT RESOLVED THAT the Alberta Urban Municipalities Association request the Government of Alberta to:

1. *Institute tax incentives to encourage the private sector and non-profit sector to become a mainstream player in the development of affordable housing, and*
2. *Investigate financing options to facilitate the acquisition of land for affordable housing development by private sector and non-profit developers.*

In its just-released report "Sustaining the Momentum: Recommendations for a National Action Plan on Housing and Homelessness", the Federation of Canadian Municipalities included the following comments:

- *Housing is by nature multi-jurisdictional and requires the ongoing participation of all orders of government, together with the private and NGO community sectors*
- *Actions and funding must be both long-term and predictable.*

All five of the aggressive ten year targets suggested in the FCM report relate to the building, maintenance and modernization of affordable housing stock in Canada.

In the January 29, 2008 document "Alberta's 20 Year Strategic Capital Plan", there are several supportive general provisions regarding affordable housing. One of the Premier's three stated priorities is "Building Communities". With respect to housing, there are three stated objectives, the first of which is "increase Alberta's supply of affordable and barrier-free housing". Also, it is noted that "the Alberta Secretariat for Action on Homelessness has been mandated to develop a provincial strategy to end homelessness".

Finally, as to the Province's current position on affordable housing, the following appears in the Premier's Ministerial Mandate letters, issued on March 27, 2008:

Housing and Urban Affairs:

- *Develop 11,000 affordable housing units by 2012;*
- *Develop the 10 year plan to address homelessness;*
- *Help Albertans stay in their homes through the rent; supplement program and the Homelessness and Eviction Prevention Fund;*

- *Make additional public land available for affordable, housing purposes.*

KEY FEEDBACK

The Chairman conducted feedback sessions at the 2008 Regionals, and the following feedback was obtained regarding barriers to the private sector becoming involved in affordable housing:

1. Condos and housing are simply more profitable than rentals.
2. There is a lack of developers interested in the affordable housing market, a lack of labour to build it, and a lack of suitable affordable land on which to carry it out.
3. Lack of rent control to ensure rent stability.
4. Many small communities have little rental development, and the private sector is not interested in expanding it there.
5. Affordable housing has a stigma.
6. Our current municipal rules on density need to change.
7. Rules around affordable housing (both regarding development and buyers) are not consistent from place to place.
8. Moving trades out of major areas, especially to do affordable housing, is a problem.
9. Developers in general shy away from boom/bust communities.

On the question of what policies or incentives might assist to bolster or bonus the provision of affordable housing in new or redevelopment areas, the following feedback was obtained:

1. Have municipalities become more proactive in working with the private sector on affordable housing partnerships (e.g. municipal land, but private sector buildings).
2. Don't enforce illegal/secondary suites.
3. Provide municipal land directly (e.g. Habitat for Humanity).
4. Get more municipalities to become the developer themselves.
5. Focus on multi-family development.
6. Bonus land development profits directed into low income housing.
7. Have Municipal Associations and groups of municipalities partner to go and get grant funding.
8. Transfer provincial title to enable borrowing against the title.
9. Support community colleges to build units for students.
10. Create different class of taxation or offsite levy fees to encourage the units to be built.
11. Establish bylaws and policies to define what affordable housing price must remain in order to keep the property feasible to the next owner.
12. Use surplus school sites.
13. Allow mixed-use housing, commercial and residential in one building.

14. Use Crown land.
15. Establish "first time buyers" complexes.
16. Limit selling prices for subsequent owners.
17. Remove tax disincentives.
18. Zone new land properly to allow multiple uses.
19. Have residential zoning bylaws allow for suites.

REVIEW OF AFFORDABLE HOUSING RESEARCH

The 2007 comment by the Canadian Home Builders' Association partially sums up the thrust of this paper:

"The real answer to the housing supply problem is comprehensive tax reform to address the systemic barriers to rental investment".

The Poverty Reduction Coalition, in its report *Tax Incentives for Affordable Housing* supports the following three short term tax measures, which could be implemented in one fiscal year, and whose implementation could, in the words of the Toronto Board of Trade, "yield revenues to the federal government that more than offset revenue loss due to tax changes":

1. Lower the GST on new rental housing, or allow a full GST rebate on new rental projects, which would allow developers of new rental housing to increase profit margins, which promote more private developers to build rental housing instead of condominiums;
2. Increase the capital cost allowance (CCA) to 5% for new rental housing, which would could increase development of rental housing as it would reduce project risk;
3. Expand the tax-deductible soft costs within the first year of operation of new rental properties so that all matters such as architecture and design costs, development permits and fees, and legal fees are included, which would thereby make more costs deductible and thereby reduce the overall cost of the rental development.

As to longer term tax incentives, the following is included in a list supported by the Poverty Reduction Coalition:

1. Allow capital gains rollover provisions for small-scale investors to introduce greater flexibility into the small-scale residential investment sectors, since at

present such investors do not qualify for tax benefits on capital gains, which acts as a disincentive for such investors;

2. Amend Section 38 of the *Income Tax Act* to encourage gifts of land or land and buildings to public foundations established for the purpose of providing affordable housing. Currently, a land donation for affordable housing results in significant income tax penalties, making such a donation virtually non-existent;
3. Amend federal tax regulations to allow all investors in new rental projects to deduct capital cost allowance losses against other income.

The Canadian Homebuilders' Association, in a January 5, 2007 report, added as an incentive the allowing of a deferral of capital gains tax on the sale of rental property if the proceeds are reinvested in new rental housing of greater or equal value.

The Toronto Board of Trade, in its publication entitled *Affordable, Available, Achievable Practical Solutions to Affordable Housing Challenges* added a proposition that CMHC should enhance its mandate to include more research and communication, and be directed to use a portion of its insurance fund surplus to lower mortgage insurance terms and premiums for multi-residential projects, and a proposal that all governments and government agencies which hold land give priority in the sale of their surplus land at market value to investors who intend to build affordable housing, coupled with greater flexibility in accepting conditional offers (e.g. tied to arranging financing, obtaining suitable zoning etc.) for a longer period (e.g. 1 year) and by requiring only a nominal deposit on the land.

Further, the Board of Trade expanded on the Canadian Homebuilders' Association notion of deferral on capital gains by adding that an individual could also receive a reduction on the amount of taxes on capital gains owing on the disposition of a rental property if it were given to a public foundation that would continue to manage the building as an affordable housing project.

The Board of Trade also supports a more aggressive approach to the use of brownfield sites, which exist in many areas of the country as idle, underused, possibly contaminated properties, but with the potential for remediation. In this area, the Board urges incentives such as the creation of a fund to help defray the costs of cleaning up brownfield sites for developers of affordable housing, immunity for those who invest in and develop these redeveloped sites from any future liability regarding the site, a streamlined approvals procedure for the redevelopment of such sites, tax abatement measures, tax credits, and the waiving of fees.

Two further suggestions from the Board of Trade are:

1. That the federal government consider the creation of a new tax credit which would encourage ordinary Canadians to invest in affordable housing venture capital corporations, which would in turn invest in affordable housing projects.
2. That tax-exempt bonds be used to raise financing for affordable housing, both for first time homebuyers and for multi-family rental development, and that the federal government exempt interest earned on such bonds from taxation.

In the February, 2007 report presented by the Affordable Housing Incentives Task Force to the City of Austin, Texas, the following three general categories of municipal incentives were highlighted:

1. Expedited reviews and approvals;
2. Expanded fee waivers (waiving more fees);
3. Enhanced development entitlements (e.g. density bonuses, reduced parking requirements, reduced parkland dedication, duplexes on smaller lots than normal, allow replacement of legal, non-conforming uses using previous non-complying setbacks, allow secondary suites up to 850 square feet above garages etc.).

Also recommended were:

1. That the City move to review and prioritize its own publicly-owned properties to determine those most likely to accommodate residential uses, and thereafter solicit proposals for residential development and require a baseline level of affordability;
2. Low density, multifamily zoning should be an allowed use on all sites currently zoned commercial and/or light industrial, provided at least 50 percent of the units do not have affordability restrictions, adequate setbacks are in place, and percentage targets for different levels of affordability are adhered to in the mix.

As a secondary point regarding research with respect to new tax rules and more support from the other orders of government, another issue has been how a municipality can ensure that once affordable housing is built, it remains so for a

considerable period of time. In that regard there are several suggested methods of accomplishing this goal, including the following:

1. Restrictive covenants on title;
2. Registering a second mortgage on title, representing the difference between fair market value and the actual cost at its affordable price, with provision that the mortgage carries a specified annual rate of return, and, upon the future sale of the property, the mortgage must be paid out, with the mortgage funds then going back into the affordable program;
3. Establish a Co-Operative which owns all the properties, with a restriction on title that upon sale, the land reverts to the Co-Op, at its original price plus specified interest, or the Co-Op has a right of first refusal to purchase the property at the original price, plus specified interest.

RECOMMENDATIONS

As a result of all of the above, it appears clear that, while municipalities have some flexibility to address the issue of attracting the private sector to the affordable housing market, more assistance is required from the other orders of government. Therefore, the following is recommended:

1. That the Province of Alberta be urged to enact a new Section 3.1 of the *Municipal Government Act* as follows:
 - *Without limiting the generality of Section 3 hereof, with respect to affordable housing initiatives designed to assist people with low to moderate incomes secure housing, councils may pass any bylaws, may make any exemptions from any of their bylaws and waive any regulations and provisions which are within the jurisdiction given to them under this or any other enactment in furtherance of the initiatives.*
2. That the Province of Alberta be urged to enact new Sections of the *Municipal Government Act* as follows:
 - “Section 616 (h.1): ‘Inclusionary zoning’ means a requirement that either built units, land or cash-in-lieu be set aside for housing affordable to people with low to moderate incomes, and that the municipality holds controls over resale of units. Inclusionary zoning for affordable housing does not constitute a part of the municipal reserve, school reserve or the environmental reserve”.
 - “Section 640(7): A land use bylaw may include provisions for inclusionary zoning requirements that allow for creation of housing affordable to people with low to moderate incomes”.
3. That the Government of Canada be urged to take the following action with respect to taxation reform:
 - Lower the GST on new rental housing, or allow a full GST rebate on new rental projects, which would allow developers of new rental housing to increase profit margins, which promote more private developers to build rental housing instead of condominiums;
 - Increase the capital cost allowance (CCA) to 5% for new rental housing, which would could increase development of rental housing as it would reduce project risk;

- Expand the tax-deductible soft costs within the first year of operation of new rental properties so that all matters such as architecture and design costs, development permits and fees, and legal fees are included, which would thereby make more costs deductible and thereby reduce the overall cost of the rental development.
- Allow capital gains rollover provisions for small-scale investors to introduce greater flexibility into the small-scale residential investment sectors, since at present such investors do not qualify for tax benefits on capital gains, which acts as a disincentive for such investors;
- Amend Section 38 of the *Income Tax Act* to encourage gifts of land or land and buildings to public foundations established for the purpose of providing affordable housing. Currently, a land donation for affordable housing results in significant income tax penalties, making such a donation virtually non-existent;
- Amend federal tax regulations to allow all investors in new rental projects to deduct capital cost allowance losses against other income;
- Allow a deferral of capital gains tax on the sale of rental property if the proceeds are reinvested in new rental housing of greater or equal value.
- Permit a deferral on capital gains by providing that an individual could receive a reduction on the amount of taxes on capital gains owing on the disposition of a rental property if it were given to a public foundation that would continue to manage the building as an affordable housing project.
- Allow a portion of revenues from affordable housing projects to be tax exempt or tax deferred.
- Create a new tax credit which would encourage ordinary taxpayers to invest in affordable housing venture capital corporations, which in turn would invest in affordable housing projects.
- Exempt from taxation interest earned on bonds used to raise financing for affordable housing, both for first time buyers and for multi-family rental developments.

4. That, in the event the Government of Canada not act on the recommendations set forth in Section 3, that the Government of Alberta be urged to take the necessary action to accomplish the intent of the recommendations at the Provincial level.
5. That the Government of Canada be urged to work with CMHC to have its mandate enhanced to include more research and communication with respect to affordable housing, and to use a portion of any CMHC insurance fund surplus to lower mortgage insurance terms and premiums for multi-residential projects.
6. That in the area of brownfield sites, the Governments of Canada and Alberta be urged to consider the creation of a fund to help defray the costs of cleaning up such sites for developers of affordable housing, immunity for those who invest in and develop these redeveloped sites from any future liability regarding the site, and a streamlined environmental approvals process for the redevelopment of such sites, as well as tax abatement and tax credits for so doing.
7. That the Governments of Canada and Alberta and their agencies which hold land be urged to give priority in the sale of their surplus land at market value to investors who intend to build affordable housing, and that they also consider greater flexibility in accepting conditional offers for a longer period, and that they require only a nominal deposit on the land.