ONTARIO NONPROFIT NETWORK

Ministry of Municipal Affairs and Housing
Housing Programs Branch
777 Bay Street, 14th Floor
Toronto, ON M7A 2J3

April 29, 2022

Re: Seeking Feedback on Access to Provincial Financing for Not-for-Profit Housing Providers

We are writing to provide feedback on access to provincial and private financing for nonprofit housing providers under the *More Homes for Everyone* plan. Better access to provincial financing for nonprofit housing providers can bridge the gap between those best positioned to serve housing needs in their communities and the capacity to grow.

ONN is the independent nonprofit network for the 58,000 nonprofits and charities in Ontario, focused on policy, advocacy and services to strengthen the sector as a key pillar of our society and economy. We work to create a public policy environment that allows nonprofits to thrive. We engage our network of diverse nonprofit organizations across Ontario to work together on issues affecting the sector and channel the voices of our network to government, funders, and other stakeholders.

Summary of feedback

Many nonprofits, including housing providers, face significant barriers in accessing financing to develop the brick and mortar that house services, programs, and support needed by communities across Ontario. This includes but is not limited to housing, child care, long-term care, arts and culture programming, and sports and recreation. In fact, nonprofits often want to build these spaces together in mixed use developments both to create community hubs and to be more economically efficient in development. As we will discuss below, the current siloed approach to financing nonprofit housing apart from these other uses undermines this efficiency and creativity.

Some of these nonprofits have been in communities for decades, such as faith buildings, and are at risk of disappearing due to the pressures of COVID-19 and changing use patterns of their communities.[1] There are a number of opportunities within the nonprofit sector for the Ministry of Infrastructure to preserve public assets and allow nonprofits and the communities they serve to thrive.

Nonprofits are a safe and secure investment because they are grounded in the needs of their community and have a zero profit motive. They are in communities for the long term. If supported properly, nonprofits could help address Ontario's affordability crisis.

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[1] See for example Kendra Fry. (July 2020) "No Space for Community: The Value of Faith Buildings and the Effect of Their Loss". Faith & the Common Good, Ontario NonProfit Network, the Ontario Trillium Foundation, Cardus, the City of Toronto, The National Trust for Canada.
https://www.faithcommongood.org/community_spaces_faith_places_survey_results

ONN urges the Ministry of Municipal Affairs and Housing to consider the following recommendations:

1) Infrastructure Ontario to make financing available to nonprofit housing developers, current housing providers, and all other nonprofits building community infrastructure (e.g. co-located community facilities such as childcare) with key characteristics described below;
2) Infrastructure Ontario and the Housing Programs Branch partner with Canadian Mortgage Housing Corporation (CMHC), academics, such as the Infrastructure Institute of the University of Toronto, and the nonprofit sector to create a risk assessment framework specific to lending to nonprofit housing and other inclusive community facility development;
3) Ministry of Municipal Affairs and Housing and Infrastructure Ontario create a pooled fund to backstop loan guarantees by municipalities for nonprofit development;
4) An inter-ministerial committee be created to eliminate barriers between Government departments to streamline the support of mixed use developments that further multiple policy objectives (e.g. housing, childcare, long-term care, etc.);
5) the Government of Ontario shift its surplus land sale policies to slow the sale of land and allow for sales below market rates to nonprofit purchasers, in particular leveraging school board assets;
6) the Government of Ontario distinguish throughout its housing policies supports for permanently deep affordability outside of the market and supports for housing for those underserved by the market. This would include coordinating across governments providing funds to operate the housing and to provide rental supplements for tenants to ensure affordability.

Our comments below are organized according to the questions posed. Alongside our recommendations, ONN echoes the recommendations of our colleagues in the nonprofit housing sector. The following should be interpreted as complementing their submissions.

Questions and Answers

1. <u>Could easier or less costly access to lending increase the supply of not-for-profit housing?</u>

   Yes, easier, less costly ,and more flexible access to lending would increase the supply of nonprofit housing. Furthermore, if financing is advanced on the terms described below to current housing providers who oversee aged infrastructure in desperate need of repair, it will prevent the loss of current affordable housing units.[2] Nonprofit housing providers need the following in financing (in order of priority) to overcome the barriers that exist in current private and public financing options.

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[2] A simpler solution would be the Government of Ontario being more willing to delay its entitlements to properties which would create more room for seeking refinancing from private sources.

- **Long-term repayment (30-40 years):** Nonprofit housing is not a quick flip in the real estate market, it is a long term investment in the community. Extending the life of loans to at least 30-40 years would better reflect the place of this housing in its community and the financing needs of nonprofit housing providers. These terms should have built in flexibility for repayment. The longer length of term also provides certainty of fixed costing which is necessary in the nonprofit housing sector, as so much of the costing is variable to tenant needs and building requirements.
- **Investment readiness supports ($100-150,000):[3]** The viability stage of a project is both the hardest stage at which to secure funding and draws the highest interest rates from investors because of the uncertainty involved. This is particularly true for small to medium size nonprofits who do not necessarily have a track record in development but are best placed to serve their communities. Ideally, support for this phase would be provided through an arm's length agency.
- **Lenders ready for action:** We have heard repeatedly of the opportunities nonprofits lose out on and the costly delays nonprofits face because of a lack of synchronization between municipalities, the Government of Ontario, and CMHC. Indeed, we understand that CMHC shares this dissatisfaction at not being able to move quickly and in a coordinated way. Housing could be built much faster if the Government of Ontario worked with other levels of government to provide a single streamlined timeline that encouraged rapid response to market opportunities.
- **Varying amounts of financing to suit small, medium, and large projects (<$10, $10-50, $50-100 mil):** To meet housing needs across Ontario, a mix of small, medium, and large builds are required. However, many public and private sources of financing will not look at projects under the $50 million minimum, effectively cutting out small to medium builds from the market. As current and potential nonprofit housing providers are at different stages in their capacity, varying amounts will help small and medium size builds.
- **Reasonable and streamlined risk assessment:** Risk assessment frameworks developed in and for the for-profit market are unsuitable and overstate the risk of investment in nonprofit development. The Government of Ontario could partner with CMHC, scholars in this area (e.g. the Infrastructure Institute at the University of Toronto), and stakeholders on the ground to develop a better suited risk assessment framework for public and private lenders considering investing in nonprofit real estate.
- **Mix between repayable and forgivable loans**

[3] This number is sourced from a forthcoming paper from the Infrastructure Institute of the University of Toronto based on an interview with 32 social purpose real estate projects across Ontario.

- **Patient and delayed repayment terms:** Nonprofit housing development faces additional steps including more direct accountability to community, additional regulatory considerations (e.g. charity law and Housing Services Act). Consequently, loans which do not begin accruing until development is complete better account for these realities.
- **Below market interest rates (3-5%):** Nonprofit housing serves those who cannot access the housing market. Consequently, while nonprofit housing *can* achieve a return on investment, by definition it will not be at a market rate. For this reason, it is not economically viable for nonprofit housing providers to take on market rate loans[4] to finance their projects without engaging in significant cost cutting that may compromise the quality of the project and increase risk. Recognizing this, the province could spur more housing development by offering forgivable loans, below market interest rates, and loan guarantees that result in a lower interest rate from private lenders and also make lending far more attractive.

To illustrate, consider the following examples of projects that succeeded or failed because some were able and some were not to receive financing that exhibited just some of the above characteristics.

- **YWCA Toronto Elm Centre** includes 300 units of permanent housing for three different residents groups: 165 affordable rental units, 50 units for Indigenous women and their families (including 10 women-led families fleeing violence), and 85 units for women with mental health or concurrent mental health and substance use needs. YWCA Toronto Elm Centre also offers market rental housing to women and women-led families. This was made possible in part by a loan from infrastructure Ontario which accrued interest at a very low rate through the development phase and the ability to lock in at a forty year term.
- **Eglinton West corridor/Little Jamaica: Black Business and Professional Association (BBPA),** a nonprofit, received grant funding from the Federal Economic Development Agency of Southern Ontario. The grant will help BBPA fund business, employment, education, and economic development programs connected to housing in Little Jamaica. Money will help keep Black-owned businesses alive despite COVID and LRT construction.
- On April 1st 2022, **The City of Toronto and Toronto Community Housing Corporation (TCHC)** transferred 81 single-family homes and small buildings in Toronto's west end to The Neighbourhood Land Trust (NLT). The NLT has partnered with YWCA Toronto to operate this unique social housing portfolio and ensure that it forever remains affordable housing. This is part of the larger "Tenant's First" strategy run by City Of Toronto.

2. What are the key barriers and gaps that prevent not-for-profit housing providers in accessing the capital financing needed to build and repair more housing (for example,

[4] We understand a typical rate for housing development is 6-8% but can be as high as 12% particularly given the perception that affordable housing is higher risk.

through commercial and government loans or through capital financing and funding provided by federal and provincial programs)?

Nonprofits face the following crucial barriers when accessing public and private financing:

- **Difficulty building the capacity internally to enter the market:** Many nonprofits that have the relationships and local knowledge to best identify and serve housing needs, lack experience in real estate development. While some supports currently exist in Toronto such as the Social Purpose Real Estate (SPRE) Reference Group these are geographically limited and do not yet provide the kind of sustained one-on-one services that organizations need to build their readiness and assess the financial viability of proposed projects. To overcome these, Government can finance the viability phase of projects ($100-150,000), and develop a wrap-around intermediary agency to assist with internal capacity assessment, concept design, and business plan development. The Government of Ontario could partner with intermediaries such as nonprofit funders and municipalities to help manage and disburse these funds and build the expertise within the organizations to navigate the process.
- **Inappropriate risk assessment frameworks:** As discussed above, when nonprofits are subject to risk assessment frameworks made for for-profit enterprises, risks are overstated and lenders are discouraged from lending. A framework that is sensitive to the unique structure and economic rationale of nonprofit housing is required for both public and private lenders. This overstatement of risk is further exaggerated in the case of nonprofit housing providers that are Black-led, serving and focused ("B3") and Indigenous-led, informed, benefiting, and an Indigenous partnership ("I4").[5]
- **Difficulty finding existing supports:** Particularly for nonprofits wishing to enter the market, it is difficult to find information about existing supports, and navigate all the options that exist.

Barriers to building that are specific to public financing:

- **Lack of support for mixed use development and coordination across government:** Mixed use development is widely recognized as better for residents and the surrounding communities as it provides local jobs and amenities, such as retail, childcare, and space for other community programming such as cultural and arts, sports, and social clubs, as well being more financially viable.[6] However, financing for housing is segregated from financing for other types of development

[5] See https://www.the-circle.ca/media--publications.html

[6] See the following University of Waterloo study which found that mixed use housing has the potential to improve quality of life in a neighbourhood, but leads to gentrification where Government fails to support affordable housing in these developments.
https://uwaterloo.ca/news/news/mixed-use-developments-may-actually-reduce-housing

and significant silos exist between Ontario's complementary policy objectives. This results in increased administrative burden, mismatched project timelines and duplicative decision-making processes.

- **Reputational concern over foreclosing on nonprofit housing:** Banks are hesitant to lend to nonprofit housing providers because, understandably, they fear the negative press that would come with exercising foreclosure rights against nonprofit housing assets. This significantly compromises the value of the security that nonprofits do hold. A government-provided loan guarantee could address this barrier.
- **Achieving the scale required by some private sources:** As discussed above, a number of important sources of private funds will not look at projects below $50 million. This effectively cuts small to medium size nonprofit builds out. Government should ensure there are sources of financing available to smaller projects.

In addition to the above barriers a crucial gap exists between nonprofits who currently own land and those who don't. The Government of Ontario has an opportunity to build on some of its past work making public lands available to nonprofits ahead of market offerings through the nonprofit lands registry for a full 180 days as opposed to just 30 days, and be open to consider other factors beyond market price paid.[7] School boards and therefore the Ministry of Education could be an important partner in this work.

3. <u>Do the issues around access to financing differ for not-for-profit development of affordable rental housing compared to home ownership or other types of development? Are they different for private sources of financing (e.g., commercial lending) compared to government sources?</u>

Yes, issues around financing differ for nonprofit development of affordable rental housing compared to home ownership and there are further differences between public and private sources.

There is a distinction between what is called "deeply affordable" housing for those who the market cannot serve (e.g. individuals below the poverty line whether due to age, disability, or other cause), and "affordable housing" for individuals underserved by the market. Private financing cannot reach deeply affordable rates because definitions of affordability that are relative to market rent do not track ability to pay, only Government and philanthropic sources can. Similarly, pension funds can be important partners as investors in affordable housing as they have been in Quebec.[8] Whereas the latter need can be

[7] https://theonn.ca/our-work/our-financing/public-lands-civic-spaces/land-registry-changes/
[8] See e.g. Fonds de solidarité FTQ

reached by private financing in partnership with or incentivized by Government (e.g. through loan guarantees).

Consequently, any public financing and supports must distinguish between these two distinct groups and policy objectives. Where projects in both categories are made to compete, the latter will consistently win out, since by definition the business case will be better. The result will be ignoring the deepest areas of need.

Furthermore, registered charities cannot directly support the building of affordable housing where it does not fall into a specific charitable purpose such as relief of poverty or relief of a condition associated with age. While the Government of Ontario does not of course have direct oversight over this matter, the Ministries of Municipalities and Housing as well as Intergovernmental Affairs could work with their counterparts in Canada's Department of Finance and the Canada Revenue Agency to ensure the Income Tax Act is as enabling of affordable housing development by charities as possible.

4. <u>What role could government play in addressing those barriers? Is there an opportunity for various levels of government to work together to address barriers?</u>

   Based on all we have said above it is clear that the Government of Ontario can play a number of roles in addressing the existing barriers. These roles include:
   - Providing financing according to the conditions enumerated in Q#1
   - Providing a pooled fund to insure loan guarantees given by municipalities. This leverages both the local expertise of the municipalities in assessing the need for and credibility of projects with the economies of scale of the province. This is particularly important to enable building in smaller communities.
   - Provide investment readiness grants and create an agency to assist nonprofits with the viability phase of development.
   - Ensuring that public lands or lands receiving public financing are not able to be sold off to private developers for private profit by building safeguards into all sales and loans, such as rights of first refusal, forgivable loans if held to term.

5. <u>How could the government prioritize its financial assistance to not-for-profit housing providers</u>

   Based on the above, we recommend the Government of Ontario adopt the following criteria in prioritizing its financing of nonprofit housing development (in the following order):
   - **Deep affordability over underserved markets:** As discussed above, because some affordable housing could find financing in the private sector with the right supports, financing should be prioritized to go to those projects for whom private

financing is not an option. These also often represent individuals in the most dire situations and in need of most immediate support.

- **Mixed use developments** - housing that incorporates community infrastructure such as childcare, community meeting space, or community programs.
- **Public benefit characteristics of the nonprofit:** Not all nonprofits are the same.[9] Nonprofits with a public benefit mission, a governance structure that demonstrates accountability to the community and those they serve, as well as strong asset lock to prevent the misappropriation of public funds should be prioritized over those that do not exhibit these public benefit characteristics and safeguards.
- **B3 and I4:** As colonization, the transatlantic slave trade, and systemic racism have systemically denied Indigenous and Black individuals access to housing to this day, it is a vital part of the advancement of reconciliation and anti-black racism that Black-led, serving and focused ("B3") and Indigenous-led, informed, benefiting, and an Indigenous partnership ("I4") organizations are prioritized. This will require targeted outreach efforts and relationship building within these communities to ensure that these organizations are aware of and supported in accessing opportunities.
- **Diversification of the size of organizations and projects:** To meet the full range of housing needs across Ontario, it is necessary to ensure that an appropriate proportion of projects of various sizes are present. Furthermore, to grow the capacity of the sector to build housing in general, it is necessary to create opportunities for small to medium size organizations to enter the market.
- **Geographical need:** Some areas of the province both within cities and in rural and Northern areas lack much basic infrastructure and amenities, including housing. It is vital that these communities be prioritized as their needs are complex and urgent. This is why municipalities have such an important role to play in identifying high priority needs, for example, through loan guarantees. As we have said, this can also provide enormous leverage to access private finance in local markets.
- **Community benefits:** Projects that have a community benefits plan in place (e.g. local hiring for building and maintenance, amenities to the community) should be prioritized as these projects will have an increased multiplier effect on the return on government's investment.

6. <u>For not-for-profit developers: does your not-for-profit organization have long-term financing need for capital expenditure? If yes, then:</u>

   <u>a. Does your organization have surplus cash flows to service loan repayment?</u>

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[9] To learn more about the distinction between public benefit and member benefit visit: https://theonn.ca/our-work/our-regulatory-environment/public-benefit-nonprofits/

Five major barriers to nonprofit housing providers developing robust surplus cash flow are:

- The lack of support for mixed use housing developments which would allow them to draw income from multiple sources
- The complex and unclear law for charities in mixed use housing development.
- The Canada Revenue Agency's interpretation of the Income Tax which in effect states that any intentionally earned surplus whether or not it's reinvested in a nonprofit's purpose will be taxed as if it is a business.[10]
- Government Funding from all levels of government does not recognize building up reserves as an eligible expense.
- A lack of supports for operating funding and rent subsidies once the housing is built.

The Government of Ontario could address all five barriers by taking a whole of Government approach to its funding (i.e. a coordinated approach to mixed use housing and recognizing that up to 5% of surplus funds put towards reserve funds as a necessary use of funds for delivering housing) and advocating to other levels of Government to create a more enabling policy environment for charities and nonprofits to engage in development (e.g. through simplifying charity law, recognizing that nonprofits can earn surplus revenue.

<u>b. Does your organization have a third-party entity, such as a municipal government, that can provide a financial guarantee?</u>

As discussed above, municipalities have an important role to play in offering loan guarantees to local nonprofit housing developers because they are in a key position to assess need and viability. However, many municipalities, particularly smaller ones in areas where there is the deepest need, are financially constrained in being able to do so. Providing a provincial pool of funds to underwrite loan guarantees provided by municipalities would leverage both the central resources of Ontario and the local expertise of municipalities. Providing municipalities with the support structure they need to issue loan guarantees confidently would create huge leverage in accessing private financing.

Furthermore, we have heard that private lenders often want guarantees and/or involvement from each level of government, which is not possible with CMHC's "last to the table" policy. As discussed above, a single streamlined timeline between municipalities, the Government of Ontario, and CMHC would go a long way to speeding up projects and also unlocking funds in the private market.

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[10] See DOC 2019-0825751E5 Ann Townsend (Feb 26, 2021) "Whether a NPO has a profit purpose". Canada Revenue Agency for the most recent statement of this position. Available at: https://www.canadiancharitylaw.ca/wp-content/uploads/2021/10/CRA-Views-2019-0825751E5-Whether-a-NPO-has-a-profit-purpose-Section-1491l-1.pdf

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7. Do you have other suggestions for ways to improve non-profits housing providers' ability to build and repair more housing?

   Since many lenders require a certain size of project $50 million plus we need to ensure the smaller amounts for renovations are available through a "repair/renovation fund" which has the capacity to evaluate smaller and renovations projects. and provide grant/loans.

Conclusion
There is enormous interest among nonprofits to reimagine their existing spaces and create new ones for the purpose of affordable housing, and other critical community needs. Given the right financial tools and a supportive policy environment, nonprofits could lead the way to making Ontario the most affordable place to live in North America. As the Ministry considers how to move forward on these recommendations, ONN would be pleased to convene the sector or join further discussions.

Sincerely

Cathy Taylor

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