

# A Political Context for Fulfilling Housing Needs as a Provincial Mandate in the Province of Quebec

## Policy Brief and Recommendations

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This document provides a brief outline of the political context that has given way to the high figures of housing unaffordability in Quebec. In response, strategy recommendations are directed to the provincial government of Quebec.

- Adopt a rigorous human rights-based policy framework applicable at all levels of government to assess progress and increase accountability to UN commitments.
- Employ a proactive framework of collaboration and accountability with municipalities to leverage obligatory housing and land-use legislation for the inclusion of social and affordable housing in all municipalities. Reinforced by a managing body and allocated sufficient funding from the Provincial budget.
- Introduce a comprehensive, long-term provincial housing strategy that seeks to consolidate and direct the scattered framework of housing resources.

### Housing Needs in Quebec

Over a period of 35 years, the situation of tenant households has deteriorated. Between 1980 and 2015, the median income increased by only 153.6%, while the median rent increased by 188.3%. The gap between increases in income and rent are particularly significant in Quebec, Montreal and Gatineau census metropolitan areas (FRAPRU, 2018).

Similarly, the number and percentage of renter households with disproportionate unaffordability rates increased between 1981 and 2016. At the last census, there were 457,340 households spending 30% or more of their income on housing, while in 1981 there were 287,290 (FRAPRU, 2018).


Between 2013 and 2017, only 9,953 social housing units were delivered in Quebec, while more than 40,000 households are registered on the waiting list for social housing, not counting those waiting for a unit in a cooperative or non-profit building (FRAPRU, 2018). The lack of investment in social housing is more than a matter of financing. These underwhelming results are indicative of a lack of rigorous policies that are required if the need is to be met.

### Housing as a Human Right

In 1976, Canada and Quebec made a commitment to recognize “the right to adequate housing for all” when they signed and ratified the UN’s International Covenant on Economic, Social and Cultural Rights. Yet the government’s legislation, as well as their social and fiscal policies continue to treat housing as a commodity and a

### Who We Are

The Table de Quartier Sud de l’Ouest-de-l’Île (TQSOL) is a non-profit organization that unites all citizens and individuals involved in local community organizations, institutions, businesses and political life to improve the quality of life and to favour social development in the south of the West Island. Social development lies at the heart of the TQSOL’s work. As a community hub and network, we provide an opportunity for people of all socioeconomic and cultural backgrounds to come together to; create connections, voice and identify local needs and concerns, establish priorities and actions, and advocate for responsible planning that fosters a good quality of life.

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business opportunity. The right to housing is a therefore a moral claim – not a legal one.

Province or CMA	Median Income		Median Rent	
	In 2015 (\$)	Increase since 1980 (%)	In 2015 (\$)	Increase since 1980 (%)
Province of Quebec	37,391	153.6	720	188.3
Montreal	39,505	156.9	777	236.4
Quebec	40,342	159.9	743	208.3
Gatineau	39,207	168.9	793	258.1
Sherbrooke	33,702	175.2	630	200
Trois-Rivieres	31,199	172.2	582	185.3
Saguenay	32,912	121.4	587	149.8

This approach to housing undoubtedly supports the construction sector and provides growing revenues to municipalities mainly through property taxes. It can also be a favourable strategy for governments to ease spending towards old age pensions, since upon retirement, some homeowners will be able to sell their homes to finance care in a specialized residence. However, not everyone will be able to live off of the sale of their homes, especially if they must pay for unanticipated care expenses. Not to mention, households that cannot access private property are at a further disadvantage in this model. Such a fiscally opportunistic housing approach ultimately delegates the ups and downs of a market economy onto communities themselves.

Following difficult struggles in the 1960s and 1980s, both levels of government were convinced to develop "off-market" housing to meet the needs of the most vulnerable households through the addition of social, non-profit and subsidized housing, so that the poorest can be properly housed, safe and sheltered from the failures of the economy. Today, these achievements are threatened. With a national unaffordability rate of 40% for tenants (Statistics Canada, 2017), it is clear that the "right to housing" is not fully respected.

### **Violation of Charter of Rights?**

The question of housing as a human right in Canada can best be summed up by the dismissal of *Tanudjaja v. Canada (2013)*. The application asked the Ontario Superior Court of Justice to, among other things, make a declaration that the Government of Canada and the Government of Ontario's failure to implement a national and provincial housing strategy violates the federal and provincial government's obligations under sections 7 and 15(1) of the *Charter of Rights and Freedoms*, that is the "right to life, liberty and security of person" and "equality". The Applicants' position is that government inaction, coupled with legislative changes that have led to homelessness and a shortage of adequate and affordable housing has created and sustained conditions that block the enjoyment of said rights.

In granting the motion to dismiss the application, the Superior Court of Justice rejected the proposition that the

Charter captures social and economic rights. Moreover, it was said that issues of housing unaffordability are matters that are produced by a political landscape, rather than any particular laws. Thus, according to the courts, the 'right to housing' is not an issue to be resolved judicially. To them, it is purely a policy issue. The dismissal is at the same time disappointing as it is insightful. While it is questionable whether or not the federal and provincial governments are avoiding their UN human rights commitments, it has been suggested by experts and the international community that a human rights-based policy framework adopted on all levels of government is necessary to assess and honour the right to housing.

### **Funding: needed, but not alone**

Seeing that the federal government has no legislative jurisdiction on provincial or municipal housing matters, the most it can do and has done in the current political framework is to offer financing programs, allocate funds, and create partnerships with NGOs and provincial and local governments. This is highlighted in Canada's first National Housing Strategy, announced on November 22, 2017. The strategy, whose demand has been long overdue (e.g. *Bill C-400, 2013*), is a national initiative that plans to invest billions of dollars towards access to both public and private sector affordable housing across the country over a 10-year period. Although the strategy uses the language of housing as a human right, this is again a moral claim rather than an object of legal accountability.

Financing programs are no doubt an integral component in allowing local governments the leverage to fulfill housing targets. In fact, much of the conversation around affordable housing in Quebec is dominated by questions of capital availability, whether it be from federal or provincial governments (e.g. National Assembly, 2018). This is rightly so, as municipalities are often overwhelmed by provincial downloading of certain social service and housing responsibilities – without a match in fiscal capacity. Moreover, there is still no comprehensive provincial housing strategy in Quebec (e.g. National Assembly, 2018), making it even more difficult for municipalities to operate in a such a scattered framework.

This mostly optional funding structure model is not uncommon across Canada. Although this approach

entrusts municipalities with the capacity to respond to their own contextual housing needs, it also sets the stage for exclusion and socioeconomic polarization by not requiring or strongly incentivizing cities to provide an environment favourable to the upward social mobility of their residents. Additionally, affordable housing has come to be treated as taboo in many cities. In certain cases, as seen amongst the TQSOI's territory on the southwest island of Montreal, it is often left up to NGOs and citizen groups to remind cities of their affordable housing orientations in their master plans, and to provide policy briefs and municipal-tool recommendations when cities have been too slow to react. This is not to say that cities are consciously neglectful in fulfilling a promise to their ailing residents, but it does highlight a lack of awareness and knowledge of their own legislative power to accomplish the task. In this view, limited access to capital is only part of the challenge that exacerbates local political will.

This reveals that federal and provincial funding is not the only factor in housing affordability. Rather, housing and land-use regulations that are in the legislative capacity of provincial, regional and municipal governments are key in determining the availability and cost of housing.

### **No Leverage in Voluntary Legislation**

A waning framework of accountability combined with a lack of minimum requirements are at the center of provincial and municipal shortcomings. While the provincially legislated *Act Respecting Land Use Planning and Development* describes under *section 145.30.1* that;

Every municipality may, by by-law and in accordance with the policy directions defined for that purpose in the planning program, make the issue of a building permit for the construction of residential units subject to the making of an agreement between the applicant and the municipality to increase the supply of affordable, social or family housing.

the voluntary nature through the use of the word 'may' indicates an insubstantial commitment on the part of the provincial government to mandate obligatory measures for municipalities. Moreover, this is the only section within the legislation that directly suggests tools that municipalities may use in their affordable housing provisions, other than

the (again, voluntary) use of financing programs (e.g. *Act Respecting the Société d'habitation de Québec*).

The province should consider employing a proactive approach in making municipalities aware of the legislative tools at their disposal while introducing obligatory – not voluntary – provisions in the legislation at hand. Such a framework of collaboration and accountability is key in assessing progress and reaching goals.

### **Where is Quebec's Provincial Housing Strategy?**

The National Assembly of Quebec recently held a debate where the Minister of Municipal Affairs and Housing was challenged on 'the CAQ Government's lack of comprehensive plan to address the housing crisis' (National Assembly, 2018). In response, the ministers made claims that there is no housing crisis, and that such concerns were theatrical in the context of politics. While a comprehensive, long-term provincial housing strategy was not presented, the ministers assured the opposition that there are short term plans to ease the pressures of unaffordability. Amongst these short term plans, were myriad discussions of financial enhancements for various programs, as well as the mention of the then yet to be announced regulation on short term rentals.

Although these changes can be reasonably expected to ease unaffordability, they do nothing to address the scattered and voluntary framework that is in place. This debate did not call for a human rights-based approach to housing, nor did they discuss the prospect of legally binding legislation for municipal measures – let alone commit to a comprehensive housing strategy.

### **Provincial Regulatory Power**

Recently, there has been a hopeful change in attitude on the part of the province towards exercising its regulatory power against the production of an affordable housing landscape. Specifically, new laws have been announced pertaining to the aforementioned regulation of short term rentals (e.g. Airbnb), whose dominance and neighbourhood-commodification by profit seeking owners can exacerbate the offer of affordable housing for renters who actually live in the city (Lee, 2016). The hope is that such provincial regulatory powers be emboldened, and that this new

regulation be a prelude for more comprehensive and accountable provincial and municipal obligations in the domain of housing.

### Case Study: Montreal 20-20-20

The City of Montreal has recently published a *bylaw to improve the supply of social, affordable and family housing*, known as “20-20-20”. As suggested in its nickname, the bylaw introduces a new obligation that all housing projects of 450 m<sup>2</sup> or more contribute 20% community, 20% affordable and 20% family housing. The bylaw will replace the *strategy for the inclusion of affordable housing in new residential projects* (Inclusionary Strategy) adopted in 2005, which applied to projects that required a significant regulatory change. The previous inclusion strategy aimed to secure 15% social and 15% affordable housing per project, but also allowed an opt-out financial contribution. On the other hand, 20-20-20 aims to close the unaffordability gap and do away with the opt-out approach – demanding strict requirements from developers.

Although some form of this inclusionary strategy (e.g. inclusionary zoning) is mentioned as an orientation in the master plans of many other municipalities, Montreal has been at the forefront of demanding real requirements while other cities, left up to their own devices, exhibit a feeble commitment. Municipalities undoubtedly differ from context to context when it comes to designing housing policy. The province should therefore entertain a comprehensive and contextual *obligatory* standard for the inclusion of social and affordable housing for all its municipalities – while providing the necessary resources to do so.

### Conclusion and Recommendations

This document provides a brief outline of the political context that has given way to the high figures of housing unaffordability in Quebec. It has been assessed that Canada is in a political situation in which it acknowledges that adequate housing is a human right, yet does not provide the consistent legislation nor the social and fiscal policies to fulfill its international commitment. Particularly, laws and regulations at the provincial and municipal levels are feeble in their affordable housing commitments. It is also highlighted that sufficient funding is integral, but

that housing and land-use regulations that are in the legislative capacity of provincial, regional and municipal governments are key in determining the availability and cost of housing.

The TQSOI recommends that the Province of Quebec explore an obligatory, human rights-based housing policy that is contextually oriented across all municipalities of the province ensuring access to quality affordable housing, consolidated in a provincial housing strategy. Moreover, such targets should be held legally accountable by a dedicated provincial body that works closely with municipalities in housing and land-use regulations to accomplish the task.

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