

Intelligence MEMOS



From: Mario Polèse

To: Canada's Housing Watchers

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Re: **LESSONS FROM MONTREAL'S FAILED INCLUSIONARY ZONING EXPERIMENT**

In January 2021, the City of Montreal adopted its flagship [bylaw for a diverse metropolis](#), popularly known as bylaw 20/20/20 because of the requirement for developers (for projects of five dwellings or more) to include social, affordable and family units in these proportions. The bylaw is a classical example, although extended here to three “inclusionary” classes of inclusionary zoning.

The social category is in part dependent on public (provincial/federal) funding. The affordable category refers to units rented ideally at 20 percent below the market rate. I shall spare the reader the operational problems of ensuring that units remain affordable and households are indeed deserving. The family category refers to units with at least two bedrooms. Various permutations are possible: City boroughs have leeway in interpreting the bylaw. For social housing, developers can also choose to transfer land (in principle, 20 percent) to qualify. Finally, developers can buy their way out of the requirement by paying an in-lieu penalty.

The bylaw's underlying intentions are entirely laudable. Mayor Valérie Plante's administration is avowedly progressive. And what could be more progressive than promoting the cohabitation of different social classes. Most readers would agree that a city of diverse neighborhoods is preferable to a socially segregated city.

A Failed Experiment

Yet, the bylaw has proven to be [a massive flop](#). Almost three years since its adoption, just one development has been built in accordance with the 20/20/20 formula. Developers instead simply pay the penalty, which says a lot about the value developers place on time; in this case, the time saved negotiating 20/20/20 permutations or land transfers with the city and its boroughs, not to mention unpredictable outcomes.

And, further, we can't measure all the cases where the bylaw has influenced a developer's decision to not build.

Montreal's failed experiment holds several lessons.

Lesson Number 1: There is no free lunch. Asking developers and selected individuals (i.e. non-subsidized tenants) to bear the cost, in whole or in part, of social housing is an illusion and in the end anti-social. Social (subsidized) housing will always be needed, notably during periods – like now – of undersupply, to adequately house the least fortunate. But, as the word “social” implies, the cost should be borne collectively, by all taxpayers, ultimately a senior government responsibility. Compelling municipalities, chronically underfunded, to transfer the cost to others will in turn produce results opposite of those intended (i.e. less housing and higher prices), which brings me to the second lesson.

Lesson Number 2: Stimulating housing construction and inclusionary zoning (unless 100-percent publicly funded) are opposites. This is a classic example of conflicting objectives. One cannot both impose inclusionary obligations, however laudable, on developers and hope to also stimulate housing construction. The more complex and time consuming the obligations, the greater the risk of thwarting housing supply, which brings me to our final lesson.

Lesson Number 3: Keep it simple. Arguably the most useful lesson to be drawn from Montreal's experiment is the propensity of those behind such bylaws, again with the best of intentions, to underestimate the costs of time and unpredictability. Montreal's bylaw is exceptionally complicated even by the standards of such regulations. That developers preferred to pay a penalty (or simply decided not to build in Montreal) should have surprised no one. Yet, in its most recent announcement, the city shows little intention of simplifying the bylaw, in fact, [hiking the penalty](#), although also increasing the compensation for transferred land.

The Montreal Board of Trade recently called for a [suspension of the bylaw](#) and time to rethink the bylaw so that it does not act as a break on construction. It remains to be seen whether the city will eventually take heed.

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