

IN THE MATTER OF  
ALLAN DJORDJEVIC APPLICATION # S25/2023

**DOCUMENTS BRIEF**

**RYAN MICHAEL SOLCZ**  
LSO 71460H

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*Lawyer for Allan Djordjevic*

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**TAB 1**



## Council Report: S 53/2020

### **Subject: 436 Askin Avenue-Partial Demolition of a Heritage Listed Property (Ward 2)**

#### **Reference:**

Date to Council: October 13, 2020  
Author: George Robinson, MCIP, RPP  
Planner II- Revitalization & Policy Initiatives  
519-255-6543, ext. 6531  
grobinson@citywindsor.ca

Kristina Tang, MCIP, RPP  
Heritage Planner  
ktang@citywindsor.ca

Planning & Building Services  
Report Date: September 25, 2020  
Clerk's File #: MBA2020

**To:** Mayor and Members of City Council

#### **Recommendation:**

THAT the request for the proposed demolition of the enclosed porch and balcony at the rear of 436 Askin Ave by Allan Djordjevic to facilitate a rear addition and conversion to a semi-detached dwelling, **BE GRANTED**.

#### **Executive Summary:**

N/A

#### **Background:**

The property at 436 Askin was 'listed' on the Windsor Municipal Heritage Register on June 9, 2008. The Picturesque English Revival style house was constructed circa 1929.

The owner submitted an application to demolish the rear attached enclosed porch and balcony on the property (Appendix A). The initial application in March 2020 was deemed incomplete, further information was requested of the owner to satisfy Council policy. The additional required historical information was submitted and deemed complete by Planning staff on September 25, 2020 (Appendix B). The applicant is proposing to convert the building from a single detached house to a semi-detached dwelling and partial demolition of the rear attached enclosed porch with second floor balcony is required to facilitate this development (Appendix C- Drawings of the Proposal).

**Discussion:****Property description:**

The subject property is located in close proximity to the University of Windsor, the fourth house south of Fanchette Street on Askin Avenue. According to City records, the principal two storey dwelling was constructed circa 1929 in the Picturesque English Revival style.



Front elevation of 436 Askin Ave.

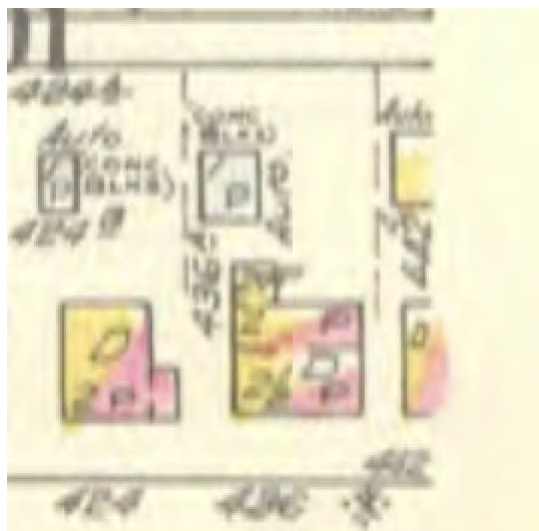
The request is to demolish the one storey enclosed porch with second story balcony at the rear of the existing house. It appears that the rear porch was not constructed the same year as the house, but some form of a rear deck or balcony is shown on the 1952 Fire Insurance Map and in aerial photography dating from 1969. Secondary buildings and structures more than forty years old are included in the Windsor Municipal Heritage Register unless otherwise stated.

In order to facilitate redevelopment of the site, the applicant will also be removing the spiral staircase which gives access to the second floor balcony above the rear enclosed porch. The staircase is not original to the building and has no heritage value. The rear uncovered deck to the south of the enclosed porch will also be removed but is not subject to any heritage restrictions. According to the applicant's plans, one existing second floor window is to be filled-in, the door which gives access to the balcony above the enclosed porch is to be converted to a window, and the sliding glass doors which currently provide access to the rear uncovered deck are to be filled in.



View of rear attached enclosed porch and fire escape staircase which is to be removed.

The site is currently zoned Residential District 2.1 (RD2.1) which permits Semi-detached dwellings. The proposed plans comply with zoning regulations. Other than the required Heritage notification process for the demolition of the rear attached enclosed porch and balcony, there are no Planning Act or Heritage Act processes that apply to the proposed development. A Building Permit is required for the removals and construction of the addition, which can be obtained after the Heritage Act process is completed.



1952 Fire Insurance Map showing subject property.

## Legal provisions:

The subject property is listed on the Windsor Municipal Heritage Register, but not designated. Section 27 of Part IV of the *Ontario Heritage Act* states that “the register may include property ... that the council of the municipality believes to be of cultural heritage value or interest”, without being designated. Also, “[T]he owner of the property shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless the owner gives the council of the municipality at least 60 days notice in writing of the owner’s intention to demolish or remove the building or structure or to permit the demolition or removal of the building or structure.”

During the 60 days after notice, City Council (with Committee consultation) may initiate designation, or decide to take no action. If a property is proposed for designation, a notice of intent to designate must include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, which are those features that are considered important to retain if any alterations to the property are proposed after designation. “Cultural heritage value or interest” is to be considered according to Ontario Regulation 9/06.

There is no explicit provision for the Committee or Council to comment on additions to or remodelling a heritage-listed, non-designated property, other than removal/demolition of structures from the Register under the *Ontario Heritage Act*. There is also no explicit provision for approval of demolition subject to stated conditions.

Heritage designation is not being considered at this time and is not part of this report.

## Heritage Considerations:

The rear attached enclosed porch to be demolished appears to have similar heritage/architectural style as the rest of the property. While the materials used to enclose the rear porch may not be original to the house, the brick pilings and door location on the exterior brick wall adjacent to the main floor kitchen suggests that there may have been a deck with or without the second floor balcony at original time of construction. A review of aerial photography shows a deck and balcony at this location in 1949.



Similar brick used on both exterior facade of main building and pilings for the rear enclosed porch.



The proposed rear addition will be clad with brick and stucco on the side facades in a similar style to the original, with brickwork around the windows of the original building to be replicated on the north side of the addition (see Appendix C). The proposed traditional matching design on the addition is strongly encouraged but not a requirement of this heritage process. The incorporation of traditional materials and its location as a rear addition with limited views from Askin Avenue will make the addition less noticeable.

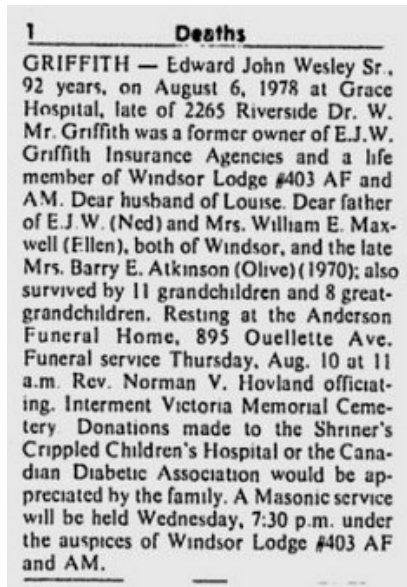


Front elevation views of subject property from Askin Avenue.

Ontario Regulation 9/06 contains criteria for determining cultural heritage value or interest when reviewing if a site is a good candidate for designation under Section 29 of the Ontario Heritage Act. The regulation speaks to three broad categories: design value or physical value, historical value or associative value, and contextual value.

436 Askin, with its steeply pitched cross-gabled roof, prominent chimney, oriel window, arched doorway, and decorative half-timbering at sides, is an example of Picturesque English Revival style (a variant of the more typical Tudor Revival style), and has physical/design value.

According to City records and historical research provided by the applicant, the existing building was constructed in 1929 by Edward and Louise Griffith, who purchased the property in Oct. 1926 for \$2500 and was a long-time owner, selling 436 Askin in Nov. 1951 for \$21000. Edward Griffith was an insurance salesman and mason who passed away in August 1978.



Obituary for Edward Griffith, August 8, 1978 Windsor Star, page 24.

While the building is an excellent example of early 20<sup>th</sup> century residential dwellings and masonry, there does not appear to be any outstanding historical/associative value to the property.

Contextually this building is of the same age as many other homes constructed in the area. Building permit records indicate that many of the original homes that remain on Askin Avenue were constructed in the mid-to-late 1920's. While craftsmen bungalows, American foursquare, and colonial revival styled homes are more common in the immediate area, Picturesque English Revival style homes of this time period are common in other areas of the city, including Walkerville and Riverside.

Although Council has the option to initiate designation which would put a halt on any building/demo application, it is not recommended by staff at this time.

### **Official Plan Policy:**

The Windsor Official Plan includes (9.0) "A community's identity and civic pride is rooted in physical and cultural links to its past. In order to celebrate Windsor's rich history, Council is committed to recognizing, conserving and enhancing heritage resources."

Objectives include (9.3.2.1) "Council will identify Windsor's heritage resources by: ... (c) Researching and documenting the history and architectural and contextual merit of potential heritage resources on an individual property basis; ... 9.3.3.4.(a) maintaining and updating the list of built heritage resources known as the Windsor Municipal Heritage Register."

### **Risk Analysis:**

The demolition of the rear attached porch and balcony would allow the proposed building of the addition and conversion into a semi-detached dwelling. The alternative is to initiate designation of the property which would put a hold on any building permits and require heritage alteration permit for alterations such as the addition proposed to the property to seek Council approval. Although designation of property does not

require the consent of the Owner, it is subject to appeals by the owner to the Conservation Review Board, following which City council still holds the final decision. Given the applicant's willingness to incorporate historically appropriate exterior finishing materials into the proposed addition, Administration is not recommending designation at this time. Additional research into the site and a subsequent report to the heritage committee could be requested should Council decide to pursue designation.

### **Financial Matters:**

There is no cost to the city; the property owner is paying the full cost for the proposed demolition of the porch and balcony, and construction of the addition. The proposed addition and conversion to a semi-detached dwelling may increase the assessed value of the property.

### **Consultations:**

Discussion took place mostly through the property owner. Planning and Building department staff were also consulted.

### **Conclusion:**

City staff recommends that the notification of the proposed demolition of the rear attached enclosed porch and balcony of the heritage listed property at 436 Askin Avenue be accepted.

### **Planning Act Matters: N/A**

### **Approvals:**

<b>Name</b>	<b>Title</b>
Michael Cooke	Manager of Planning Policy/ Deputy City Planner
Thom Hunt	City Planner / Executive Director Planning & Building
Wira Vendrasco	Deputy City Solicitor
Shelby Askin Hager	City Solicitor / CLT
Onorio Colucci	Chief Administrative Officer

### **Notifications:**

<b>Name</b>	<b>Address</b>	<b>Email</b>
Allan Djordjevic		<a href="mailto:allandjordjevic@aol.com">allandjordjevic@aol.com</a>
Councillor Fabio Costante		<a href="mailto:fcostante@citywindsor.ca">fcostante@citywindsor.ca</a>

### **Appendices:**

- Appendix A – Heritage demolition application
- Appendix B – Historical research and ownership records
- Appendix C – Drawings of the proposal



**CORPORATION OF THE CITY OF WINDSOR**  
**HERITAGE ALTERATION PERMIT APPLICATION** 05/2019

Planning Dept., Suite 320-350 City Hall Sq W, Windsor ON N9A 6S1  
 519-255-6543 / 519-255-6544 fax / planningdept@citywindsor.ca

Address of Work 436 ASKIN AVE, WINDSOR, N9B2X4

**1. Applicant, Agent and Registered Owner Information**

Provide in full the name of the applicant, registered owner and agent, the name of the contact person, and address, postal code, phone number, fax number and email address. If the applicant or registered owner is a numbered company, provide the name of the principals of the company. If there is more than one applicant or registered owner, copy this page, complete in full and submit with this application.

**APPLICANT**

Contact Name(s) Allan Djordjevic  
 Company or Organization \_\_\_\_\_  
 Mailing Address 13983 RIVERSIDE DRIVE  
TRUMBLETON,  
 \_\_\_\_\_  
 Email AllanDjordjevic@aol.com Postal Code N9N 1B7  
 Phone(s) 248-495-6614

**REGISTERED OWNER IF NOT APPLICANT**

Contact Name(s) \_\_\_\_\_  
 Company or Organization \_\_\_\_\_  
 Mailing Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Email \_\_\_\_\_ Postal Code \_\_\_\_\_  
 Phone(s) \_\_\_\_\_

**AGENT AUTHORIZED BY REGISTERED OWNER TO FILE THE APPLICATION**

Contact Name(s) \_\_\_\_\_  
 Company or Organization \_\_\_\_\_  
 Mailing Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Email \_\_\_\_\_ Postal Code \_\_\_\_\_  
 Phone(s) \_\_\_\_\_

**Who is the primary contact?**

Applicant       Registered Owner       Agent

## HERITAGE ALTERATION PERMIT APPLICATION – page 2 of 4

Address of Work 4360 ASKIN AVE, WINDSOR, N9B 2X4

Designation By-Law No. or District \_\_\_\_\_

**2. TYPE OF APPLICATION** Check all that apply:

- Alteration     Addition     Demolition     Construction  
 Erection     Maintenance     Removal     Repair

**3. HERITAGE DESCRIPTION OF BUILDING** ( attachments, if necessary) Describe the current design or appearance of locations on the building where work is requested. Include site plan, photographs, history, architectural description, number of storeys, style, features, etc.

PICTURESQUE ENGLISH REVIVAL STYLE, BUILT IN 1929,  
2 STORY BRICK AND TAPER HOUSE

**4. DESCRIPTION OF WORK** ( attachments, if necessary) The description should be more detailed and extensive depending on the project. Include a written summary of work to be done along with any elevations, drawings, measurements, paint samples, information on building materials, window sizes and configurations, decorative details proposed.

SEMI-ADDITION AT THE REAR OF EXISTING HOME, ADDITION  
TO MATCH ARCHITECTURAL ELEMENTS OF EXISTING HOUSE

**5. NOTES FOR DECLARATION** The applicant agrees that the proposed work shall be done in accordance with this application, including attachments, and understands that the issuance of the Heritage Alteration Permit under the Ontario Heritage Act shall not be a waiver of any of the provisions of any By-Law of the Corporation of the City of Windsor, or the requirements of the Building Code Act, RSO 1980, c51.

The applicant acknowledges that in the event a permit is issued, any departure from the conditions imposed by the Council of the Corporation of the City of Windsor, or plans and specifications approved is prohibited and could result in the permit being revoked. The applicant further agrees that if the Heritage Alteration Permit is revoked for any cause of irregularity, in the relation to non-conformance with the said agreements, By-Laws, acts or regulations that, in consideration of the issuance of the permit, all claims against the City for any resultant loss or damage are hereby expressly waived.

APPLICANT Signature(s) \_\_\_\_\_



Date \_\_\_\_\_

MARCH 10/2020

Date \_\_\_\_\_

HERITAGE ALTERATION PERMIT APPLICATION – page 3 of 4  
**SCHEDULE A**

**A. Authorization of Registered Owner for Agent to Make the Application**

If the applicant is not the registered owner of the land that is the subject of this application, the written authorization of the registered owner that the applicant is authorized to make the application must be included with this application form or the authorization below must be completed.

I, \_\_\_\_\_, am the registered owner of the land that is  
*name of registered owner*  
 subject of this application for a Heritage Alteration Permit and I authorize  
 \_\_\_\_\_ to make this application on my behalf.  
*name of agent*

\_\_\_\_\_  
 Signature of Registered Owner  
 If Corporation – I have authority to bind the corporation.

\_\_\_\_\_  
 Date

**B. Consent to Enter Upon the Subject Lands and Premises**

I, Allen Dorobovic, hereby authorize the members of the Windsor Heritage Committee, Planning Standing Committee and City Council and staff of the Corporation of the City of Windsor to enter upon the subject lands and premises described in Section 3 of the application form for the purpose of evaluating the merits of this application and subsequently to conduct any inspections on the subject lands that may be required as condition of approval. This is their authority for doing so.

\_\_\_\_\_  
 Signature of Registered Owner

\_\_\_\_\_  
 Date

If Corporation – I have authority to bind the corporation.

**C. Acknowledgement of Applicant**

I understand that receipt of this application by the City of Windsor Planning Department does not guarantee it to be a complete application. Further review of the application will occur and I may be contacted to provide additional information and/or resolve any discrepancies or issues with the application as submitted.

I further understand that pursuant to the provisions of the Ontario Heritage Act and the Municipal Freedom of Information and Protection of Privacy Act, this application and all material and information provided with this application are made available to the public.

\_\_\_\_\_  
 Signature of Applicant

\_\_\_\_\_  
 Date

## HERITAGE ALTERATION PERMIT APPLICATION – page 4 of 4

**DO NOT COMPLETE BELOW – STAFF USE ONLY****Approval Record**

Date Received by Heritage Planner: \_\_\_\_\_

Building Permit Application Date, if needed: \_\_\_\_\_

 Approval requiring City Council:

Windsor Heritage Committee: \_\_\_\_\_

Planning &amp; Economic Development Standing Committee: \_\_\_\_\_

City Council: \_\_\_\_\_

 Approval requiring City Planner:

Heritage Planner: \_\_\_\_\_

Staff Decision Appealed to City Council: \_\_\_\_\_

If so, Date to City Council: \_\_\_\_\_

Council Decision Appealed: \_\_\_\_\_

Additional Notes: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**DECISION**

Heritage Permit No.: \_\_\_\_\_ Date: \_\_\_\_\_

Council Motion or City Planner's Signature: \_\_\_\_\_

**CONTACT INFORMATION**

Planning Department - Planning Policy  
 Corporation of the City of Windsor  
 Suite 320 - 350 City Hall Square West  
 Windsor ON N9A 6S1  
 planningdept@citywindsor.ca  
 519-255-6543 x 6179  
 519-255-6544 (fax)  
 http://www.citywindsor.ca

TO MIKE CERVI  
FROM CAROL SLATER  
RE. DJORDJEVIC  
436 ASKIN

HISTORICAL SEARCH  
FROM 1923 TO PRESENT.

1046350 ONTARIO INC.

No. 493 DATE: Aug 30, 2020  
TO: M. Cervi  
REFERENCE: DJORDJEVIC  
436 ASKIN

- SEARCH TITLE - HISTORICAL
- SUB-SEARCH
- OBTAIN PHOTO
- TO REGISTRATION
- TO CLOSING
- TO SHERIFF
- UPDATE SEARCH
- P.P.S.A.
- 

  
Carol Slater  
532 Road 5 West, R.R. #3  
Cottam, Ont. N0R 1B0  
H.S.T. R138354196

FEE	75.00
DISB.	70.00
H.S.T.	18.85
TOTAL	163.85



T/S 10976	DEED	MAR 12 1923	(1) CHITTLE, THOMAS ESTATE (2) LEE, KING (3) SULLIVAN, MARGARET.	TOWN OF SANDWICH. LOTS 4, 5, 6 PLAN '828' EAST SIDE ASKIN.
	\$ 3,250.00			
T/S 11246	DEED	JUNE 8 1923	(1) LEE, KING (2) MASSEY, HAROLD. (3) LEE, WONG.	" "
	\$ 4,500.00			
T/S 16538	DEED	OCT 4 1926	(1) MASSEY, HAROLD (2) GRIFFITH, EDWARD J.W. GRIFFITH, LOUISE JANE. (3) MASSEY, SARAH.	
	COPY ILLEGIBLE. \$ 2500.00			
WW 55534	DEED	NOV. 15 1951	(1) GRIFFITH, EDWARD J.W. GRIFFITH, LOUISE JANE (2) KENNEDY, JOSEPH ALOYSIUS KENNEDY, JULIETTE MARIE as JT.	5 1/2 LOTS LOT 6 E/S ASKIN PLAN 828
	\$ 21,000.00			

R 368867	DEED	SEPT 30 1966	① KENNEDY, JOSEPH ALOYSIUS KENNEDY, JULIETTE MARIE	② THIBERT, NORMAN ERNEST THIBERT, MARY THERESE	CO of W 5 1/2 LOT 5 ALL LOT 6. PLAN 828 E/S ASKIN BLDG.
R 983572	DEED	AUG 3 1986	① THIBERT, NORMAN ERNEST THIBERT, MARY THERESE	② DINGLER, DANIEL WARD DINGLER, SUSAN STEINDORF	" "
R 1121061	TRANSFER	MAR 8 1990	① THIBERT, NORMAN ERNEST THIBERT, MARY THERESE	② DINGLER, DANIEL WARD DINGLER, SUSAN STEINDORF.	
CE 692607	TRANSFER PERSONAL REP.	DEC 11 2015	① ESTATE OF DINGLER, DANIEL WARD	② DJORDJEVIC, ALLEN DJORDJEVIC, CLORINDA.	

LAND  
REGISTRY  
OFFICE #12

01232-0190 (LT)

PAGE 1 OF 2  
PREPARED FOR CSlater01  
ON 2020/08/06 AT 20:16:08

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

PROPERTY DESCRIPTION: LT 6 PL 828 TOWN OF SANDWICH; PT LT 5 PL 828 TOWN OF SANDWICH AS IN R1121061 ; WINDSOR

PROPERTY REMARKS:

ESTATE/QUALIFIER:  
FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:  
RE-ENTRY FROM 01232-0438

PIN CREATION DATE:  
1999/05/28

OWNERS' NAMES  
DJORDJEVIC, ALLEN  
DJORDJEVIC, CLORINDA

CAPACITY SHARE  
JTEN  
JTEN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<p><b>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1996/01/08 ON THIS PIN**</b></p> <p><b>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/05/28**</b></p> <p><b>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/05/28 **</b></p> <p><b>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</b></p> <p><b>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *</b></p> <p><b>** AND ESCHEATS OR FORFEITURE TO THE CROWN.</b></p> <p><b>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF</b></p> <p><b>** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY</b></p> <p><b>** CONVENTION.</b></p> <p><b>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</b></p> <p><b>**DATE OF CONVERSION TO LAND TITLES: 1999/05/31 **</b></p>						
R1116041	1990/01/17	CHARGE		*** COMPLETELY DELETED ***	THE TORONTO DOMINION BANK	
R1121061	1990/03/08	TRANSFER		*** COMPLETELY DELETED ***	DINGLER, DANIEL WARD DINGLER, SUSAN STEINDORF	
CE342514	2008/08/21	APL OF SURV-LAND		*** COMPLETELY DELETED *** DINGLER, SUSAN STEINDORF	DINGLER, DANIEL WARD	
CE691859	2015/12/07	TRANSMISSION-LAND		*** COMPLETELY DELETED *** DINGLER, DANIEL WARD	DINGLER, NOAH EBERHARD AMRAM DINGLER, DANIEL WARD - ESTATE	
CE692607	2015/12/11	TRANS PERSONAL REP	\$351,000	DINGLER, NOAH EBERHARD AMRAM	DJORDJEVIC, ALLEN	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.

NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF ...

LAND  
REGISTRY  
OFFICE #12

01232-0190 (LT)

PAGE 2 OF 2  
PREPARED FOR CSlater01  
ON 2020/08/06 AT 20:16:08

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		REMARKS: PLANNING ACT STATEMENTS.				
CE692608	2015/12/11	CHARGE	\$351,000	DJORDJEVIC, ALLEN DJORDJEVIC, CLORINDA	DJORDJEVIC, CLORINDA  CANADIAN IMPERIAL BANK OF COMMERCE	C
CE696083	2016/01/11	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO DOMINION BANK		
		REMARKS: R1116041.				

T. of S 10976

000018

S-4-22B  
Deeds  
Form No. 1-4

Published by John A. Newsome, 102 West Richmond St., Toronto.

# This Indenture

made in duplicate the Nineteenth day of February  
in the year of our Lord one thousand nine hundred and twenty-three  
In Pursuance of the Short Forms of Conveyances Act and The Devolution of  
Estates Act.

Between

ANTOINE PHILIPPE EUGENE PANET of the City of  
Windsor in the County of Essex and Province of  
Ontario, Solicitor, the Executor of the last will  
of Thomas Chittle late of the said City of Windsor  
Insurance Broker, deceased,

hereinafter called the Grantor of the FIRST PART  
KING LEE of the same place, Restaurant Keeper,

hereinafter called the Grantee of the SECOND PART  
MARGARET SULLIVAN of the same place, Married Woman

~~Witnesseth~~ of the THIRD PART  
Whereas the said Thomas Chittle died on or about the 6th. day of July  
1920, having duly made his last will and testament, Probate whereof  
was granted to the said Antoine Philippe Eugene Panet by the Surro-  
gate Court of the County of Essex on the 6th. day of August 1920 and  
was registered in the Registry Office of the County of Essex on the  
15th. day of September 1920 in Book "K" General Register as No. 4039;  
And whereas the said Thomas Chittle had agreed to sell the lands  
hereinafter described and all monies due under the said agreement  
have been paid

Witnesseth, that in consideration of the premises and the sum of One

lawful money of Canada now paid by the said grantee to the said grantor (the receipt  
whereof is hereby by him acknowledged) he the said grantor

DO TH Grant unto the said grantee in fee simple  
ALL and Singular that certain parcel or tract of land and premises, situate, lying  
and being in the Town of Sandwich in the County of Essex and  
Province of Ontario and being composed of Lots Four ( 4 ) Five ( 5 )  
and Six ( 6 ) according to registered plan No. 828, and more fully  
described as follows, being on the East side of Askin Boulevard,  
south of Fanchette Street.

TO HAVE AND TO HOLD unto the said grantee his heirs and assigns to and for their sole and only use forever, subject nevertheless to the reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown.

And the said grantor covenants with the grantee that he has done no act to incumber the said lands.

And the said grantor releases to the grantee all his claims upon the said lands.

And the party of the third part hereby releases to the said grantee all her claims upon the said lands.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals

Signed Sealed and Delivered)

in the presence of

*Acck David*

*A. Phillips*  
*Executor*

*Margaret Sullivan*

Form No. 443

Published by John A. Newsome, 192 West Richmond St., Toronto.

### Affidavit, Land Transfer Tax

In the Matter of an Act respecting the Taxation of Real Estate Transfers.

Ontario  
County  
of Essex

I King Lee  
of the City of Windsor  
in the County of Essex

To wit:

the Grantee

(Grantee, Grantor or duly authorized Agent or Solicitor for Grantee or Grantor as the case may be)

named in the within Deed (or Transfer) make oath and say:

1. That I have personal knowledge of the facts herein deposed to.
2. That the full and true purchase price of the land and premises therein described, including existing encumbrances and the value of any property, security or thing given as a consideration, is Three thousand two hundred  
+ fifty (\$3250.00) Dollars, and no more.

Sworn before me at the City  
of Windsor  
in the County  
of Essex  
this 5<sup>th</sup> day of March

*King Lee*

A. D. 1973.  
*F. D. Woods*  
A. Commissioner etc.

REGISTRY OFFICE  
MARTIN 1022  
ESSEX CO.  
SANDWICH, ONT.

I certify that the within instrument duly entered and registered in the Registry Office of the Registry Division of the County of Essex, - in Book R for the Town of Sandwich at 3 o'clock P.M. of the 12 day of March 1923. Number 10976

Registrar

DATED 19th. February 1923

A. Phil. E. Panet, Executor et al.

King Lee

-10-

Deed of Land

XXXXXXXXXXXXXXXXXXXX

SITUATED

Town of Sandwich.

Published by John A. Newsome, 102 W. Richmond St., Toronto

828

E

H

A Commissioner for taking Affidavits, Etc

SWORN before me at the City of Windsor in the County of Essex, this 20th day of February, 1923

- 1. THAT I was personally present and did see the within Instrument and a Duplicate duly signed, sealed and executed by A. Phil. E. Panet and Margaret Sullivan two of the parties thereto.
- 2. THAT the said Instrument and Duplicate were executed by the said parties of Windsor in the County of Essex, and that each of them is over the full age of twenty-one years.
- 3. THAT I know the said parties and that each of them is over the full age of twenty-one years.
- 4. THAT I am a subscribing witness to the said Instrument and Duplicate.

To Wit: in the City of Windsor of Essex, make oath and say:

CANADA PROVINCE OF ONTARIO

Attest: [Signature]

This name strictly in full, no initials

Occupation Address



T 06 S 11246

000022

Form 101 - No Dower

United Typewriter Company, Limited, Toronto.

# This Indenture

made (in duplicate) the Seventeenth day of May one thousand nine hundred and Twenty-three.

In pursuance of the Short Forms of Conveyances Act,

Between

KING LEE, of the City of Windsor, in the County of Essex and Province of Ontario, Restaurant Keeper, hereinafter called the Grantor.

OF THE FIRST PART.

HAROLD MASSEY, of the village of Petite Cote, in the County of Essex, Machinist, hereinafter called the Grantee.

OF THE SECOND PART.

-and-

WONG LEE, the wife of King Lee, hereinafter called the Party of the Third Part.

Witnesseth, that in consideration of the sum of four thousand five hundred.

Dollars of lawful money of Canada, now paid by the said Grantee to the said Grantor, the receipt whereof is hereby by him acknowledged, he the said Grantor Doth Grant unto the said Grantee in fee simple

All and Singular that certain parcel or tract of land and premises situate, lying and being in the Town of Sandwich, in the County of Essex and Province of Ontario and being composed of lots Four, Five and Six ( 4,5 and 6 ) according to registered plan number 828, and more fully described as follows, being on the east side of Askin Boulevard south of Fanchette Street.

To have and to hold unto the said Grantee his heirs and assigns to and for his and their sole and only use forever,

Subject nevertheless to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.

The said Grantor Covenant<sub>s</sub> with the said Grantee That he has the right to convey the said lands to the Grantee notwithstanding any act of the said Grantor.

And that the said Grantee shall have quiet possession of the said lands, free from all incumbrances.

And the said Grantor Covenant<sub>s</sub> with the said Grantee that he will execute such further assurances of the said lands as may be requisite.

And the said Grantor Covenant<sub>s</sub> with the said Grantee that he has done no act to incumber the said lands.

And the said Grantor Release. to the said Grantee All his claims upon the said lands.

AND the said wife of the said Grantor hereby bars her dower in the said lands.

In Witness Whereof the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered IN THE PRESENCE OF

Louise Arthur

King Lee

wong Lee

Affidavit, Land Transfer Tax

In the matter of an Act respecting the  
Taxation of Real Estate Transfers.

Ontario )  
of ) I Harold Massey  
To wit: ) of the village of Petite Cote  
in the County of Essex

the Grantee

(Grantee, Grantor or duly authorized Agent or Solicitor for Grantee or Grantor as the case may be)

named in the within Deed (or Transfer) make oath and say:

- 1. That I have personal knowledge of the facts herein deposed to.
- 2. That the full and true purchase price of the land and premises therein described, including existing encumbrances and the value of any property, security or thing given as a consideration, is

\$4500.00

Dollars, and no more.

Sworn before me at the City  
of Windsor  
in the County  
of Essex  
this 17th day of  
May

*Harold Massey*

A. D. 1923  
*Albo Clay*  
A Commissioner etc.

JUN 8 1924  
ESSEX CO  
SANDWICH, ONT

I certify that the within instrument is  
duly entered and registered in the  
Registry Office of the Registry Divi-  
sion of the County of Essex, in Book  
for the Town  
of Sandwich  
at 10 o'clock AM, on the 8th day  
of June 1924  
Number 13446  
Registrar

Dated *8th June 1924*  
A.D. 1924

*Henry Lee*

*Harold Harvey*

**Deed of Grant**

SITUATE

*Town of Sandwich*

United Typewriter Co., Limited, Toronto

*TALBOT CLAY*  
*REGISTER*

*855*  
*E*

day of \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_  
DECLARED before me at the \_\_\_\_\_  
effect as if made under oath and by virtue of "The Canada Evidence Act"  
AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and  
and of the full age of 21 years.  
THAT I was at the time of the execution and delivery by me of the within instrument  
do solemnly declare

TO WIT:

of \_\_\_\_\_ of the \_\_\_\_\_ in the \_\_\_\_\_

*Talbot Clay*  
A Commissioner, etc

A.D. 1924  
this 17th day of May  
Essex  
County  
Windsor

*Louise Arthur*

1. That I was personally present and did see the within instrument and a Duplicate thereof duly signed, sealed  
and executed by *Henry Lee and Harold Lee*  
the parties thereto.  
2. That the said instrument and Duplicate were executed by the said parties  
at the \_\_\_\_\_ City of \_\_\_\_\_ Windsor  
3. That I know the said parties  
4. That I am a subscribing witness to the said instrument and Duplicate  
SWORN before me at the \_\_\_\_\_ City  
of \_\_\_\_\_ in the \_\_\_\_\_ County of \_\_\_\_\_ Essex  
Province of Ontario  
CANADA  
Louise Arthur  
of the \_\_\_\_\_ City of \_\_\_\_\_ Windsor  
in the \_\_\_\_\_ County of \_\_\_\_\_ Essex  
Stenographer  
make oath and say  
That I was personally present and did see the within instrument and a Duplicate thereof duly signed, sealed

# This Indenture

made (in duplicate) the \_\_\_\_\_ day of \_\_\_\_\_  
one thousand nine hundred and \_\_\_\_\_

In pursuance of the Short Forms of Conveyances Act,

Between

[REDACTED]

Witnesseth, that in consideration of \_\_\_\_\_

\_\_\_\_\_ Dollars of lawful money of Canada, now paid  
by the said Grantee to the said Grantor, the receipt whereof is hereby  
by \_\_\_\_\_ acknowledged, the said Grantor Do Grant unto

the said Grantee in fee simple \_\_\_\_\_  
All and Singular the certain parcel or tract of land and premises  
situate, lying and being \_\_\_\_\_

[REDACTED]

X  
GA

BA  
BA

To have and to hold unto the said Grantee heirs and assigns to  
and for their sole and only use forever,

Subject nevertheless to the reservations, limitations, provisos and conditions  
expressed in the original grant thereof from the Crown.

The said Grantor Covenant with the said Grantee That he ha  
the right to convey the said lands to the Grantee notwithstanding any act of  
the said Grantor.

And that the said Grantee shall have quiet possession of the said lands, free  
from all incumbrances.

And the said Grantor Covenant with the said Grantee that he will  
execute such further assurances of the said lands as may be requisite.

And the said Grantor Covenant with the said Grantee that he ha  
done no act to incumber the said lands.

And the said Grantor Release to the said Grantee All claims  
upon the said lands.

And the said wife of the said  
party of the first part hereby bars her dower in the said lands.

In Witness Whereof the said parties hereto have herunto set their  
hands and seals.

Signed, Sealed and Delivered  
IN THE PRESENCE OF

S. Sepworth

*[Handwritten signatures]*  
Mrs. Sarah Sepworth

Form 244

United Typewriter Co., Limited, Toronto

### Affidavit, Land Transfer Tax Act

In the Matter of the Land Transfer Tax Act, 1921 and 1922

PROVINCE OF ONTARIO } I, *W. H. Jurlong*  
 COUNTY of *Essex* } of the *city of Windsor*  
 in the County of *Essex*, solicitor  
 for the *grantor* named in the within (or  
 To wit (annexed) transfer make oath and say:

This affidavit may be made by the purchaser or vendor or by any one acting for them under power of attorney or by an agent accredited in writing by the purchaser or vendor or by the solicitor of either of them.

1. I am *solicitor for the grantor* named in the within (or annexed) transfer.
2. I have a personal knowledge of the facts stated in this affidavit.
3. The true amount of the moneys in cash and the value of any property or security included in the consideration is as follows:

- (a) Moneys in cash paid *\$ 2,500.00*
- (b) Property transferred in exchange to the value of \_\_\_\_\_
- (c) Securities transferred in the value of \_\_\_\_\_

Set out liens and encumbrances in detail.

4. The amount of liens and encumbrances subject to which such transfer is made is as follows: *0*

5. The total consideration in moneys, cash, property, liens and encumbrances is *\$ 2,500.00*

and no more.

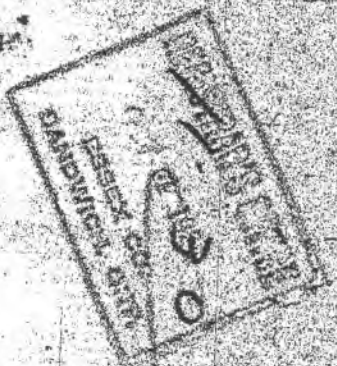
6. The only consideration for the within (or annexed) transfer is natural love and affection.
7. The relationship between the Grantor and Grantee is that of \_\_\_\_\_

When clauses 3, 4 and 5 are applicable, clauses 6 and 7 should be struck out. When clauses 4, 6 and 7 are applicable, clauses 3 and 5 should be struck out.

Sworn before me at the *city of Windsor*, in the  
 County of *Essex*  
 this *2nd*  
 day of *October* A.D. 192*6*

*W. H. Jurlong*

*N. J. Jordan*  
 Commissioner, etc.



Dated 20th September A.D. 1905

W. 1905 16538

EDWARD J. Y. CHITTEH  
of the County of [unclear] in the Province of Ontario

Appt of Agent

SITUATE

Town of [unclear]

United Trustee Co., Limited, Toronto

858

E/167

WINDING UP

MANHATTAN, SOLICITORS  
NOTARIES, ETC.  
ONTARIO

I certify that the within instrument is duly entered and registered in the Registry Office of the Province of Ontario of the County of [unclear] in the [unclear] District of [unclear] in the [unclear] Division of [unclear] in the [unclear] Township of [unclear] in the [unclear] County of [unclear] in the Province of Ontario on the [unclear] day of [unclear] 1905.

4

*W. J. Chitcheh*

A Commissioner, etc.

SWORN before me at the

of [unclear] in the [unclear] of [unclear] this [unclear] day of [unclear] A.D. 1905

*J. M. Depewitt*

1. That I was personally present and did see the within Instrument and a Duplicate duly signed, sealed and executed by [unclear]

2. That the said Instrument and Duplicate were executed by the said part [unclear] at the [unclear] of [unclear]

3. That I know the said part [unclear]

4. That I am a subscribing witness to the said Instrument and Duplicate.

make oath and say:

*J. M. Depewitt*  
of the [unclear] in the [unclear] of [unclear]

CANADA  
Province of Ontario



# This Indenture

made in duplicate the Twenty-sixth day of September  
in the year of our Lord one thousand nine hundred and Fifty-one.

In Pursuance of the Short Forms of Conveyances Act:

Between

EDWARD J. W. GRIFFITH, Manager, and LOUISE JANE GRIFFITH, his wife, as joint tenants and not as tenants in common, both of the City of Windsor, in the County of Essex and Province of Ontario, hereinafter called the GRANTORS

OF THE FIRST PART.

- and -

JOSEPH ALOYSIUS KENNEDY, King's Counsel and JULIETTE MARIE KENNEDY, his wife, as joint tenants, both of the said City of Windsor hereinafter called the GRANTEES

OF THE SECOND PART.

**Witnesseth** that in consideration of - - - - -

Twenty-one Thousand - - - - - dollar s of lawful money of Canada now paid by the said grantee to the said grantor (the receipt whereof is hereby by them acknowledged) they the said grantor DO GRANT unto the said grantee s in fee simple as joint tenants and not as tenants in common.

ALL and Singular that certain parcel or tract of land and premises, situate, lying and being

composed of the South half of Lot Number Five (5) and Lot Number (6) Six on the East side of Askin Boulevard, in the Town of Sandwich, in the County of Essex, according to Registered Plan #828, and which may be more particularly described as follows: COMMENCING on the East side of Askin Boulevard where the same is intersected by the Southerly limit of the said Lot 6; Thence Easterly along Southerly limit of said Lot 6 to the Easterly limit thereof; Thence Northerly along the Easterly limit of said Lots Six and Five a distance of Fifty feet (50'); Thence Westerly parallel to the Southerly limit of Lot Six to the Easterly limit of Askin Boulevard; Thence Southerly along said Easterly limit of Askin Boulevard Fifty feet (50') to the Place of beginning.

RECORDED IN THE OFFICE OF THE REGISTRAR OF DEEDS AND MORTGAGES ON THE 26th DAY OF SEPTEMBER 1951 AT 10:30 AM.

Deed without Dower—Page 2

TO HAVE AND TO HOLD unto the said grantee s their heirs and assigns to and for their sole and only use forever, as joint tenants and not as tenants in common.

SUBJECT NEVERTHELESS to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.

The said grantor s COVENANT with the said grantee s THAT they t have the right to convey the said lands to the said grantees notwithstanding any act of the said grantor

AND that the said grantee s shall have quiet possession of the said lands free from all encumbrances.

AND the said grantors COVENANT with the said grantee s that they will execute such further assurances of the said lands as may be requisite.

AND the said grantor s COVENANT with the said grantee s that they have done no act to encumber the said lands.

AND the said grantors RELEASE to the said grantee ALL their claims upon the said lands.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered  
IN THE PRESENCE OF

*Nancy Redman*

*E. Griffith*

*Louise J. Griffith*

**Affidavit, Land Transfer Tax Act**  
IN THE MATTER OF THE LAND TRANSFER TAX ACT, 1921 AND 1922

PROVINCE OF ONTARIO  
COUNTY OF

I, William I. Starnve  
of the City of Windsor  
in the County of Essex for the  
To Wit: Grantors named in the within (or annexed) transfer make oath and say:

This affidavit may be made by the purchaser or vendor or by any one acting for them under power of attorney or by an agent accredited in writing by the purchaser or vendor or by the solicitor of either of them.

- I am Grantors Solicitor named in the within (or annexed) transfer.
- I have a personal knowledge of the facts stated in this affidavit.
- The true amount of the monies in cash and the value of any property or security included in the consideration is as follows:
 

(a) Monies paid in cash	\$ <u>15000</u>	
(b) Property transferred in exchange;		
Equity value \$	_____	
Encumbrance \$	_____	
(c) Securities transferred to the value of	\$ _____	
(d) Balances of existing encumbrances with interest owing at date of transfer	\$ _____	
(e) Monies secured by mortgage under this transaction	\$ <u>3000</u>	
(f) Liens, legacies, annuities and maintenance charges to which transfer is subject	\$ _____	
Total consideration		\$ <u>21000</u>
- If consideration is nominal, is the transfer for natural love and affection?
- If so, what is the relationship between Grantor and Grantee?
- Other remarks and explanations, if necessary.

Sworn before me at the  
of City of Windsor  
in the County of Essex  
this 13th  
day of Nov  
A.D. 19 51

David J. Dixon  
A Commissioner, etc.

W. I. Starnve

THE REGISTRY ACT

COUNTY OF

AFFIDAVIT AS TO MARRIAGE STATUS

TO WIT:

I,  
in the within instrument named make oath and say:

Strike out words and parts not applicable and initial

THAT at the time of the execution and delivery by me of the within instrument I was [married], [unmarried], [a widower], and of the full age of twenty-one years or

HUSBAND

THAT at the time of the execution and delivery by me of the within instrument I was legally married to \_\_\_\_\_, the person joining therein as my wife to bar her dower and was of the full age of twenty-one years or

WIFE

THAT at the time of the execution and delivery of the within instrument, I was legally married to \_\_\_\_\_, the person named therein as my husband, and he was of the full age of twenty-one years.

SWORN before me at the

of  
in the  
of  
this day of

A.D. 19

A Commissioner for taking Affidavits, etc.

NOV 15 1951  
REGISTRY OF  
MORTGAGES  
ESSEX CO.

3.30

I certify that the within instrument is  
duly entered and registered in the  
Registry Office of the Registrar  
of the County of Essex, in Book  
579 for the City of Windsor, with  
at 1213 Selkirk St. of the 15 day  
of November A.D. 1951  
Number 55534  
Jane Perrin  
Registrar

57 W 55534

Dated 19 51

EDWARD J. W. GRIFFITH et ux

TO

JOSEPH ALOYSIUS KENNEDY et ux

436 Selkirk St  
Windsor

Repn of Grant  
SITUATE

Witness of Gilbert Lusk, Treasurer

828  
EJW

HARVEY & HOLLAND,  
Barristers and Solicitors,  
803 Canada Trust Building,  
Windsor, Ontario.

A Commissioner for taking Affidavits, etc.

Sworn before me at the City of Windsor in the County of Essex of this 13th day of November A.D. 1951.  
W. J. Lusk

1. That I was personally present and did see the within instrument and a duplicate duly signed, sealed and executed by Edward J. W. Griffith and Louise Jane Griffith, his wife  
2. That the said instrument and duplicate were executed by the said parties  
3. That I know the said parties  
4. That I am a subscribing witness to the said instrument and duplicate

CANADA  
Province of Ontario  
County of Essex  
City of Windsor

Nancy Rushmore  
Stenographer  
Essex

make oath and say:

THIS INDENTURE made in duplicate the 27th day of September, in the year of our Lord one thousand nine hundred and sixty-six.

IN PURSUANCE OF THE SHORT FORMS OF CONVEYANCES ACT:

B E T W E E N :

JOSEPH ALOYSIUS KENNEDY, Queen's Counsel, and JULIETTE MARIE KENNEDY, his wife, both of the City of Toronto, in the County of York, (formerly of the City of Windsor, in the County of Essex), and Province of Ontario, as joint tenants and not as tenants in common,

hereinafter called the GRANTORS,

OF THE FIRST PART

- and -

NORMAN ERNEST THIBERT, of the said City of Windsor, Physician, and MARY THERESE THIBERT, his wife, of the same place, as joint tenants and not as tenants in common,

hereinafter called the GRANTEES,

OF THE SECOND PART

WHEREAS by Agreement for Sale dated September 6, 1956 and registered September 18, 1959 as Instrument Number 206405, the Grantors agreed to sell to William A. T. Whittal, Executive, and Verlin Whittal, his wife, as joint tenants and not as tenants in common, the lands hereinafter described;

AND WHEREAS by Assignment dated September 16, 1959 and registered September 18, 1959 as Instrument Number 206406, the said William A. T. Whittal and Verlin Whittal assigned all their right, title and interest as Purchasers in the Agreement aforesaid to Norman Ernest Thibert and Mary Therese Thibert, the Grantees herein, as joint tenants and not as tenants in common;

AND WHEREAS the Grantees have paid all monies due under the

Deed without Dower  
Form 109

- 2 -

Agreement aforesaid and are entitled to a conveyance of the said lands;

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of other good and valuable consideration and the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the said Grantees to the said Grantors (the receipt whereof is hereby them acknowledged) they the said Grantors DO GRANT unto the said Grantees in fee simple, as joint tenants and not as tenants in common

ALL and Singular that certain parcel or tract of land and premises, situate, lying and being in the City of Windsor, in the County of Essex and Province of Ontario, being composed of the South half of Lot Five (5), and all of Lot Six (6) according to Registered Plan No. 828, on the east side of Askin Boulevard, which said lands may be more particularly described as follows:

COMMENCING on the east side of Askin Boulevard where the same is intersected by the southerly limit of said Lot Six (6);

THENCE easterly along the southerly limit of said Lot Six (6) to the easterly limit thereof;

THENCE northerly along the easterly limit of said Lot Six (6) and Lot Five (5) a distance of Fifty Feet (50');

THENCE westerly parallel to the southerly limit of Lot Six (6) to the easterly limit of Askin Boulevard;

THENCE southerly along the said easterly limit of Askin Boulevard Fifty Feet (50') to the place of beginning. - - - - -

TO HAVE AND TO HOLD unto the said grantees, their heirs and assigns to and for them and their sole and only use forever,

SUBJECT NEVERTHELESS to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.

The said grantor s COVENANT with the said grantees THAT they have the right to convey the said lands to the said grantee s notwithstanding any act of the said grantor s.

AND that the said grantee s shall have quiet possession of the said lands free from all encumbrances.

AND the said grantor s COVENANT with the said grantees that they will execute such further assurances of the said lands as may be requisite.

AND the said grantors COVENANT with the said grantee s that they have done no act to encumber the said lands.

AND the said grantor s RELEASE to the said grantee s ALL their claims upon the said lands.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered  
IN THE PRESENCE OF

*Joseph A. L. ...*

*Joseph Aloysius Kennedy*  
Joseph Aloysius Kennedy

*Juliette Marie Kennedy*  
Juliette Marie Kennedy

AFFIDAVIT AS TO LEGAL AGE AND MARITAL STATUS

PROVINCE OF ONTARIO } I/WE Joseph Aloysius Kennedy
COUNTY OF ESSEX } of the City of Toronto
To Wit: } in the County of York, Queen's Counsel.

Strike out words and parts not applicable and initial.

in the within instrument named, make oath and say that at the time of the execution of the within instrument,

If Attorney see footnote.

1. I was of the full age of twenty-one years;

2. And that Juliette Marie Kennedy

who also executed the within instrument WAS of the full age of twenty-one years

3. I was legally married to the person named therein as my wife. ~~xxxxxx~~

~~xxxxxx~~

SWORN before me at the City

of Toronto

in the County

of York

this 27th day of September

A.D. 19 66

[Signature]

A Commissioner for taking Affidavits, etc.

NOTE: If Attorney, substitute in space provided, "I am Attorney for (State name) one of the parties named therein and he/she was of the full age of twenty-one years."

Affidavit Land Transfer Tax Act
IN THE MATTER OF THE LAND TRANSFER TAX ACT.

PROVINCE OF ONTARIO } I, Joseph Aloysius Kennedy
COUNTY OF ESSEX } of the City of Toronto
To Wit: } in the County of York;

named in the within (or annexed) transfer make oath and say:

This affidavit may be made by the purchaser or vendor or by any one acting for them under power of attorney or by an agent accredited in writing by the purchaser or vendor or by the solicitor of either of them.

1. I am one of the Grantors named in the within (or annexed) transfer;

2. I have a personal knowledge of the facts stated in this affidavit.

3. The true amount of the monies in cash and the value of any property or security included in the consideration is as follows:

Table with 2 columns: Description and Amount. (a) Monies paid in cash \$25,000.00; (b) Property transferred in exchange; Equity value \$; Encumbrance \$; (c) Securities transferred to the value of \$ nil; (d) Balances of existing encumbrances with interest owing at date of transfer \$ nil; (e) Monies secured by mortgage under this transaction \$ nil; (f) Liens, legacies, annuities and maintenance charges to which transfer is subject \$ nil.

Total consideration \$25,000.00

4. If consideration is nominal, is the transfer for natural love and affection?

5. If so, what is the relationship between Grantor and Grantee?

6. Other remarks and explanations, if necessary

Sworn before me at the City

of Toronto

in the County

of York

this 27th day of September A.D. 19 66

[Signature]

A Commissioner, etc.

[Signature]



THIS SPACE TO BE RESERVED FOR REGISTRY OFFICE CERTIFICATES

SEP 30 4 09 PM '66  
REGISTRY DIVISION  
OF ESSEX

ABST'D...  
INDEXED...  
COPIED...  
FILED...  
*OK 5/1/66*

368867

Number  
I certify that the within  
instrument is registered in  
the Registry Office for the  
County of Essex at  
P. M. of the 30 day of  
Sept 19 66

Registrar

CHECKED BY

Dated 27th September 1966

368867

JOSEPH ALOYSIUS KENNEDY and  
JULIETTE MARIE KENNEDY

TO

NORMAN ERNEST THIBERT and  
MARY THERESE THIBERT

436 Askin Boulevard  
Windsor, Ontario

Deed of Land

SITUATE

in the City of Windsor, in  
the County of Essex

*P 828*  
Newcome and Gilbert, Limited, Toronto

McPHERSON, PRINCE & GEDDES  
802 Canada Building  
WINDSOR, Ontario

A Commissioner for taking Affidavits, etc.

1. THAT I was personally present and did see the within or annexed Instrument and a duplicate thereof duly signed, sealed and executed by  
2. THAT the said Instrument and duplicate were executed by the said part  
3. THAT I know the said part  
4. THAT I am a subscribing witness to the said Instrument and duplicate.  
SWORN before me at the  
in the  
of  
of  
this  
A.D. 19

PROVINCE OF ONTARIO  
I, of the  
TO WIT:  
make oath and say:  
in the

A Commissioner for taking Affidavits, etc.

8. THAT I know the said part is.  
9. THAT I am a subscribing witness to the said Instrument and duplicate.  
SWORN before me at the City of Toronto in the County of York  
A.D. 19 66  
*Joseph A. Kennedy*

2. THAT the said Instrument and duplicate were executed by the said part, in at the City of Toronto.  
TWO of the parties thereto

1. THAT I was personally present and did see the within or annexed Instrument and a duplicate thereof duly signed, sealed and executed by Joseph Aloysius Kennedy and Juliette Marie Kennedy  
make oath and say:  
of  
of  
in the

PROVINCE OF ONTARIO  
I, of the City of Toronto in the County of York  
TO WIT:  
make oath and say:  
of  
of  
in the



# Transfer/Deed of Land

Form 1 — Land Registration Reform Act, 1984

**A**

FOR OFFICE USE ONLY

983572

(1) Registry  Land Titles  (2) Page 1 of 3 pages

(3) Property Identifier(s) Block Property Additional: See Schedule

(4) Consideration **ONE**  
ONE HUNDRED AND SIXTY-TWO THOUSAND SEVEN HUNDRED AND FIFTY-----Dollars \$ 162,750.00

(5) Description This is a: Property Division  Property Consolidation   
South half Lot 5, all of Lot 6,  
Plan 838, City of Windsor,  
County of Essex  
as in Schedule attached

New Property Identifiers Additional: See Schedule

Executions Additional: See Schedule

(6) This Document Contains (a) Redescription New Easement Plan/Sketch  (b) Schedule for: Description  Additional Parties  Other  (7) Interest/Estate Transferred Fee Simple

(8) Transferor(s) The transferor hereby transfers the land to the transferee and certifies that the transferor is at least eighteen years old and that we are spouses of one another

Name(s)	Signature(s)	Date of Signature Y M D
THIBERT, Norman Ernest	<i>Norman Ernest Thibert</i>	1986 08 27
THIBERT, Mary Therese	<i>Mary Therese Thibert</i>	1986 08 27

(9) Spouse(s) of Transferor(s) I hereby consent to this transaction  
Name(s) Signature(s) Date of Signature Y M D

(10) Transferor(s) Address for Service 206-3663 Riverside Drive East, Windsor, Ontario N8Y 4V3

(11) Transferee(s)

Name(s)	Date of Birth Y M D
DINGLER, Daniel Ward	1945 04 06
DINGLER, Susan Steindorf	1941 10 11

as joint tenants and not as tenants in common

(12) Transferee(s) Address for Service 436 Askin Blvd., Windsor, Ontario N9B 2X4

(13) Transferor(s) The transferor verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene section 49 of the Planning Act, 1983.

Date of Signature Y M D Signature Date of Signature Y M D

Solicitor for Transferor(s) I have explained the effect of section 49 of the Planning Act, 1983 to the transferor and I have made inquiries of the transferor to determine that this transfer does not contravene that section and based on the information supplied by the transferor, to the best of my knowledge and belief, this transfer does not contravene that section. I am an Ontario solicitor in good standing.

Name and Address of Solicitor Signature Date of Signature Y M D

OPTIONAL  
Planning Act —  
Affix Statement by  
Solicitor for Transferee(s)  
here if necessary

(14) Solicitor for Transferee(s) I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in subclause 49 (21a) (c) (ii) of the Planning Act, 1983 and that to the best of my knowledge and belief this transfer does not contravene section 49 of the Planning Act 1983. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

Name and Address of Solicitor Signature Date of Signature Y M D

(15) Assessment Roll Number of Property  
Cty. Mun. Map Sub. Par.  
37 39 050 100 09100

(16) Municipal Address of Property  
436 Askin Blvd.,  
Windsor, Ontario.  
N9B 2X4  
*PJR*

(17) Document Prepared by:  
*Corrent & Harri*  
BARRISTERS & SOLICITORS  
SUITE 300  
333 QUELLETTE AVENUE,  
WINDSOR, ONTARIO N9A 4J1

Fees and Tax	
Registration Fee	16
Land Transfer Tax	1342.50
	70.00
<b>Total</b>	<b>1428.50</b>

FOR OFFICE USE ONLY



## Schedule

Form 5 — Land Registration Reform Act, 1984

Page 2

S

Additional Property Identifier(s) and/or Other Information

ALL and Singular that certain parcel or tract of land and premises, situate, lying and being in the City of Windsor, in the County of Essex and Province of Ontario, being composed of the South half of Lot Five (5), and all of Lot Six (6) according to Registered Plan No. 828, on the east side of Askin Boulevard, which said lands may be more particularly described as follows:

COMMENCING on the east side of Askin Boulevard where the same is intersected by the southerly limit of said Lot Six (6);

THENCE easterly along the southerly limit of said Lot Six (6) to the easterly limit thereof;

THENCE northerly along the easterly limit of said Lot Six (6) and Lot Five (5) a distance of Fifty Feet (50');

THENCE westerly parallel to the southerly limit of Lot Six (6) to the easterly limit of Askin Boulevard;

THENCE southerly along the said easterly limit of Askin Boulevard Fifty Feet (50') to the place of beginning.

FOR OFFICE  
USE ONLY

THE MATTER OF THE CONVEYANCE OF (insert brief description of land) South half of Lot 5 and all of Lot 6, Registered Plan 828, east side of Askin Boulevard, City of Windsor, County of Essex,

BY (print names of all transferors in full) Norman Ernest Thibert and Mary Therese Thibert

TO (see instruction 1 and print names of all transferees in full) Daniel Ward Dingler and Susan Steindorf Dingler

1, (see instruction 2 and print name(s) in full) Daniel Ward Dingler

**MAKE OATH AND SAY THAT:**

1. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent(s)): (see instruction 2)
- (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
  - (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
  - (c) A transferee named in the above-described conveyance;
  - (d) The authorized agent or solicitor acting in this transaction for (insert name(s) of principal(s)) \_\_\_\_\_

\_\_\_\_\_ described in paragraph(s) (a), (b), (c) above; (strike out references to inapplicable paragraphs)

- (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for (insert name(s) of corporation(s)) \_\_\_\_\_

\_\_\_\_\_ described in paragraph(s) (a), (b), (c) above; (strike out references to inapplicable paragraphs)

- (f) A transferee described in paragraph (c) (insert only one of paragraph (a), (b) or (c) above, as applicable) and am making this affidavit on my own behalf and on behalf of (insert name of spouse) Susan Steindorf Dingler who is my spouse described in paragraph (c) (insert only one of paragraph (a), (b) or (c) above, as applicable) and as such, I have personal knowledge of the facts herein deposed to.

2. (To be completed where the value of the consideration for the conveyance exceeds \$250,000).

I have read and considered the definition of "single family residence" set out in clause 1(1)(j) of the Act. The land conveyed in the above-described conveyance

- contains at least one and not more than two single family residences. *Note: Clause 2(1) (d) imposes an additional tax at the rate of one-half of one per cent upon the value of consideration in excess of \$250,000 where the conveyance contains at least one and not more than two single family residences.*
- does not contain a single family residence.
- contains more than two single family residences. (see instruction 3)

3. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses 1(1)(f) and (g) of the Act and each of the following persons to whom or in trust for whom the land is being conveyed in the above-described conveyance is a "non-resident corporation" or a "non-resident person" as set out in the Act. (see instructions 4 and 5) none

4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

(a) Monies paid or to be paid in cash	\$	<u>161,750.00</u>	
(b) Mortgages (i) Assumed (show principal and interest to be credited against purchase price)	\$	<u>nil</u>	
(ii) Given back to vendor	\$	<u>nil</u>	
(c) Property transferred in exchange (detail below)	\$	<u>nil</u>	
(d) Securities transferred to the value of (detail below)	\$	<u>nil</u>	
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	\$	<u>nil</u>	
(f) Other valuable consideration subject to land transfer tax (detail below)	\$	<u>nil</u>	
(g) VALUE OF LAND, BUILDING, FIXTURES AND GOODWILL SUBJECT TO LAND TRANSFER TAX (Total of (a) to (f))	\$	<u>161,750.00</u>	\$ <u>161,750.00</u>
(h) VALUE OF ALL CHATTELS - items of tangible personal property (Retail Sales Tax is payable on the value of all chattels unless exempt under the provisions of the "Retail Sales Tax Act", R.S.O. 1990, c.454, as amended)	\$	<u>1,000.00</u>	
(i) Other consideration for transaction not included in (g) or (h) above	\$	<u>nil</u>	
(j) TOTAL CONSIDERATION	\$	<u>162,750.00</u>	

All Blanks  
Must Be  
Filed In.  
Insert "Nil"  
Where:  
Applicable.

5. If consideration is nominal, describe relationship between transferor and transferee and state purpose of conveyance. (see instruction 6)

6. If the consideration is nominal, is the land subject to any encumbrance?

7. Other remarks and explanations, if necessary.

Sworn before me at the City of Windsor,  
 in the County of Essex,  
 this 28th day of August, 19 86.

*[Signature]*  
 A Commissioner for taking Affidavits, etc.

*[Signature]*  
 Daniel Ward Dingler

**Property Information Record**

A. Describe nature of instrument: Deed to joint tenants

B. (i) Address of property being conveyed (if available) 436 Askin Blvd., Windsor, Ontario, N9B 2X4

(ii) Assessment Roll No. (if available) 050 100 09100

C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed (see instruction 7) 436 Askin Blvd., Windsor, Ontario, N9B 2X4

D. (i) Registration number for last conveyance of property being conveyed (if available) 368867

(ii) Legal description of property conveyed: Same as in D.(i) above. Yes  No  Not known

E. Name(s) and address(es) of each transferee's solicitor  
Holden & Moorhouse  
802 Canada Building  
Windsor, Ontario  
N9A 1A8

For Land Registry Office use only	
REGISTRATION NO.	
Land Registry Office No.	
Registration Date	



# Transfer/Deed of Land

DYE & DURHAM CO. LIMITED  
Form No. 970

Form 1 - Land Registration Reform Act, 1984

**A**

1121061

FOR OFFICE USE ONLY

30 MAR - 9 PM 3:41

New Property Identifiers

Executions

(1) Registry  Land Titles  (2) Page 1 of 3 pages

(3) Property Identifier(s) Block Property Additional: See Schedule

(4) Consideration ONE ----- Dollars \$ 1.00

(5) Description This is a: Property Division  Property Consolidation   
 South half of Lot 5, all of Lot 6, Plan 828, City of Windsor, County of Essex  
 see Schedule attached

Additional: See Schedule

Additional: See Schedule

(6) This Document Contains (a) Redescription New Easement Plan/Sketch  (b) Schedule for: Description  Additional Parties  Other  (7) Interest/Estate Transferred Fee Simple

(8) Transferor(s) The transferor hereby transfers the land to the transferee and certifies that the transferor is at least eighteen years old and that we are spouses of one another.

Name(s)	Signature(s)	Date of Signature Y M D
THIBERT, Norman Ernest	<i>Norman Ernest Thibert</i>	1990 01 31
THIBERT, Mary Therese	<i>Mary Therese Thibert</i>	1990 01 31

(9) Spouse(s) of Transferor(s) I hereby consent to this transaction

Name(s)	Signature(s)	Date of Signature Y M D

(10) Transferor(s) Address for Service 206-3663 Riverside Drive East, Windsor, Ontario, N8Y 4V3

(11) Transferee(s)

Name(s)	Date of Birth Y M D
DINGLER, Daniel Ward	1945 04 06
DINGLER, Susan Steindorf	1941 10 11

as joint tenants and not as tenants in common

(12) Transferee(s) Address for Service 436 Askin Blvd., Windsor, Ontario, N9B 2X4

(13) Transferor(s) The transferor verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene section 49 of the Planning Act, 1983.

Signature	Date of Signature Y M D	Signature	Date of Signature Y M D
<i>Norman Ernest Thibert</i>	1990 01 31	<i>Mary Therese Thibert</i>	1990 01 31

Solicitor for Transferor(s) I have explained the effect of section 49 of the Planning Act, 1983 to the transferor and I have made inquiries of the transferor to determine that this transfer does not contravene that section and based on the information supplied by the transferor, to the best of my knowledge and belief, this transfer does not contravene that section. I am an Ontario solicitor in good standing.

Name and Address of Solicitor: \_\_\_\_\_ Signature: \_\_\_\_\_

(14) Solicitor for Transferee(s) I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in subclause 49 (21a) (c) (ii) of the Planning Act, 1983 and that to the best of my knowledge and belief this transfer does not contravene section 49 of the Planning Act 1983. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

Name and Address of Solicitor: \_\_\_\_\_ Date of Signature: \_\_\_\_\_  
 Signature: \_\_\_\_\_

(15) Assessment Roll Number of Property

Cty.	Mun.	Map	Sub.	Par.
37	39	050	100	09100

(16) Municipal Address of Property 436 Askin Blvd. Windsor, Ontario, N9B 2X4

(17) Document Prepared by: Holden & Moorhouse 802 Canada Building Windsor, Ontario N9A 1A8

E T A S

Fees and Tax	
Registration Fee	22.00
Land Transfer Tax	70.00
Total	22.00

Additional Property Identifier(s) and/or Other Information

ALL and Singular that certain parcel or tract of land and premises, situate, lying and being in the City of Windsor, in the County of Essex and Province of Ontario, being composed of the South half of Lot Five (5), and all of Lot Six (6) according to Registered Plan No. 828, on the east side of Askin Boulevard, which said lands may be more particularly described as follows:

COMMENCING on the east side of Askin Boulevard where the same is intersected by the southerly limit of said Lot Six (6);

THENCE easterly along the southerly limit of said Lot Six (6) to the easterly limit thereof;

THENCE northerly along the easterly limit of said Lot Six (6) and Lot Five (5) a distance of Fifty Feet (50');

THENCE westerly parallel to the southerly limit of Lot Six (6) to the easterly limit of Askin Boulevard;

THENCE southerly along the said easterly limit of Askin Boulevard Fifty Feet (50') to the place of beginning. - - - - -

Form 1 - Land Transfer Tax Act  
Affidavit of Residence and of Value of the Consideration

Refer to all instructions on reverse side.

IN THE MATTER OF THE CONVEYANCE OF (insert brief description of land) south half of Lot 5, all of Lot 6,  
Registered Plan 828, City of Windsor, County of Essex

BY (print names of all transferors in full) Norman Ernest Thibert and Mary Therese Thibert

TO (see instruction 1 and print names of all transferees in full) Daniel Ward Dingler and Susan Steindorf Dingler

I, (see instruction 2 and print name(s) in full) Daniel K. Moorhouse

MAKE OATH AND SAY THAT:

- I am (place a clear mark within the squares opposite that one of the following paragraphs that describes the capacity of the deponent(s)): (see instruction 2)
  - (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
  - (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
  - (c) A transferee named in the above-described conveyance;
  - (d) The authorized agent or solicitor acting in this transaction for (insert name(s) of principal(s)) Daniel Ward Dingler and Susan Steindorf Dingler  
described in paragraph(s) (b), (c) above; (strike out references to inapplicable paragraphs)
  - (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for (insert name(s) of corporation(s)) \_\_\_\_\_  
described in paragraph(s) (a), (b), (c) above; (strike out references to inapplicable paragraphs)
  - (f) A transferee described in paragraph ( ) (insert only one of paragraph (a), (b) or (c) above, as applicable) and am making this affidavit on my own behalf and on behalf of (insert name of spouse) \_\_\_\_\_ who is my spouse described in paragraph ( ) (insert only one of paragraph (a), (b) or (c) above, as applicable) and as such, I have personal knowledge of the facts herein deposed to.
- (To be completed where the value of the consideration for the conveyance exceeds \$250,000).  
I have read and considered the definition of "single family residence" set out in clause 1(1)(j) of the Act. The land conveyed in the above-described conveyance
  - contains at least one and not more than two single family residences. Note: Clause 2(1) (d) imposes an additional tax at the rate of one-half of one per cent upon the value of consideration in excess of \$250,000 where the conveyance contains at least one and not more than two single family residences.
  - does not contain a single family residence.
  - contains more than two single family residences. (see instruction 3)
- I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses 1(1)(f) and (g) of the Act and each of the following persons to whom or in trust for whom the land is being conveyed in the above-described conveyance is a "non-resident corporation" or a "non-resident person" as set out in the Act. (see instructions 4 and 5) None

4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

(a) Monies paid or to be paid in cash	\$	<u>1.00</u>	
(b) Mortgages (i) Assumed (show principal and interest to be credited against purchase price)	\$	<u>nil</u>	
(ii) Given back to vendor	\$	<u>nil</u>	
(c) Property transferred in exchange (detail below)	\$	<u>nil</u>	
(d) Securities transferred to the value of (detail below)	\$	<u>nil</u>	
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	\$	<u>nil</u>	
(f) Other valuable consideration subject to land transfer tax (detail below)	\$	<u>nil</u>	
(g) VALUE OF LAND, BUILDING, FIXTURES AND GOODWILL SUBJECT TO LAND TRANSFER TAX (Total of (a) to (f))	\$	<u>1.00</u>	\$ <u>1.00</u>
(h) VALUE OF ALL CHATTELS - items of tangible personal property (Retail Sales Tax is payable on the value of all chattels unless exempt under the provisions of the "Retail Sales Tax Act", R.S.O. 1990, c.454, as amended)	\$	<u>nil</u>	
(i) Other consideration for transaction not included in (g) or (h) above	\$	<u>nil</u>	
(j) TOTAL CONSIDERATION	\$	<u>1.00</u>	

All Blanks  
Must Be  
Filled In.  
Insert "Nil"  
Where  
Applicable.

- If consideration is nominal, describe relationship between transferor and transferee and state purpose of conveyance. (see instruction 6) Transferors previously conveyed the land to transferees using incorrect description of land
- If the consideration is nominal, is the land subject to any encumbrance? Yes
- Other remarks and explanations, if necessary.  
Conveyance is given to correct error in description.

Sworn before me at the City of Windsor  
in the County of Essex  
this 8<sup>th</sup> day of March 1990

[Signature]  
A Commissioner for taking Affidavits, etc.

[Signature]  
signature(s)

Property Information Record

- Describe nature of instrument: Deed to joint tenants
- (i) Address of property being conveyed (if available) 436 Askin Boulevard, Windsor, Ontario N9B 2X4  
(ii) Assessment Roll No. (if available) 37 39 050 100 09100
- Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed (see instruction 7) 436 Askin Boulevard, Windsor, Ontario N9B 2X4
- (i) Registration number for last conveyance of property being conveyed (if available) 368867  
(ii) Legal description of property conveyed: Same as in D.(i) above. Yes  No  Not known

E. Name(s) and address(es) of each transferee's solicitor  
Daniel K. Moorhouse  
Holden & Moorhouse  
802-374 Ouellette Avenue  
Windsor, Ontario  
N9A 1A8

For Land Registry Office use only	
REGISTRATION NO.	
Land Registry Office No.	
Registration Date	

LRO # 12 **Transfer By Personal Representative**  
 The applicant(s) hereby applies to the Land Registrar.

Registered as CE692607 on 2015 12 11 at 14:28  
 yyyy mm dd Page 1 of 3

### LRO Annotation

Execution certificate 27412306-5402040B Clear - Michelle Osborne 2015/12/17

### Properties

**PIN** 01232 - 0190 LT **Interest/Estate** Fee Simple  
**Description** LT 6 PL 828 TOWN OF SANDWICH; PT LT 5 PL 828 TOWN OF SANDWICH AS IN  
 R1121061 ; WINDSOR  
**Address** 436 ASKIN AVENUE  
 WINDSOR

### Consideration

**Consideration** \$351,000.00

### Transferor(s)

The transferor(s) hereby transfers the land to the transferee(s).

**Name** DINGLER, NOAH EBERHARD AMRAM  
**Address for Service** 1095 Lincoln Avenue  
 Phoenixville, PA  
 19460 USA

This document is not authorized under Power of Attorney by this party.

### Transferee(s)

	<b>Capacity</b>	<b>Share</b>
<b>Name</b> DJORDJEVIC, ALLEN	Joint Tenants	
<b>Date of Birth</b> 1967 11 10		
<b>Address for Service</b> 13983 Riverside Dr., Tecumseh, ON N8N 1B7		
<b>Name</b> DJORDJEVIC, CLORINDA	Joint Tenants	
<b>Date of Birth</b> 1970 03 18		
<b>Address for Service</b> 13983 Riverside Dr., Tecumseh, ON N8N 1B7		

### Statements

The personal representative has the authority to transfer the land under the terms of the will, if any, the Estates Administration Act and the Succession Law Reform Act.

Title to the land is not subject to spousal rights under the Family Law Act

The debts of the deceased are paid in full

No consents are required for this transfer

STATEMENT OF THE TRANSFEROR (S): The transferor(s) verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene the Planning Act.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEROR (S): I have explained the effect of the Planning Act to the transferor(s) and I have made inquiries of the transferor(s) to determine that this transfer does not contravene that Act and based on the information supplied by the transferor(s), to the best of my knowledge and belief, this transfer does not contravene that Act. I am an Ontario solicitor in good standing.

STATEMENT OF THE SOLICITOR FOR THE TRANSFEREE (S): I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in the Planning Act, and to the best of my knowledge and belief this transfer does not contravene the Planning Act. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing.

### Signed By

Daniel Kenneth Moorhouse 1061 University Avenue West acting for Signed 2015 12 11  
 Windsor Transferor(s)  
 N9A 5S5

Tel 519-258-5002

Fax 519-258-0241

I am the solicitor for the transferor(s) and I am not one and the same as the solicitor for the transferee(s).



**Signed By**

I have the authority to sign and register the document on behalf of the Transferor(s).

Fernando Michael Carmine Cervi	400-1500 Ouellette Ave. Windsor N8X 1K7	acting for Transferee(s)	Signed 2015 12 11
--------------------------------	---	-----------------------------	-------------------

Tel 519-258-9494

Fax 519-258-9985

I am the solicitor for the transferee(s) and I am not one and the same as the solicitor for the transferor(s).

I have the authority to sign and register the document on behalf of the Transferee(s).

**Submitted By**

MICHAEL CERVI	400-1500 Ouellette Ave. Windsor N8X 1K7	2015 12 11
---------------	---	------------

Tel 519-258-9494

Fax 519-258-9985

**Fees/Taxes/Payment**

Statutory Registration Fee	\$62.85
Provincial Land Transfer Tax	\$3,740.00
Total Paid	\$3,802.85

**File Number**

Transferor Client File Number :	1957-003
Transferee Client File Number :	2015 11 24 02

**LAND TRANSFER TAX STATEMENTS**

In the matter of the conveyance of: 01232 - 0190 LT 6 PL 828 TOWN OF SANDWICH; PT LT 5 PL 828 TOWN OF SANDWICH AS IN R1121061 ; WINDSOR

BY: DINGLER, NOAH EBERHARD AMRAM  
 TO: DJORDJEVIC, ALLEN Joint Tenants  
 DJORDJEVIC, CLORINDA Joint Tenants

**1. DJORDJEVIC, ALLEN AND DJORDJEVIC, CLORINDA**

I am

- (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;  
 (b) A trustee named in the above-described conveyance to whom the land is being conveyed;  
 (c) A transferee named in the above-described conveyance;  
 (d) The authorized agent or solicitor acting in this transaction for \_\_\_\_\_ described in paragraph(s) ( ) above.  
 (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for \_\_\_\_\_ described in paragraph(s) ( ) above.  
 (f) A transferee described in paragraph() and am making these statements on my own behalf and on behalf of \_\_\_\_\_ who is my spouse described in paragraph( ) and as such, I have personal knowledge of the facts herein deposited to.

**3. The total consideration for this transaction is allocated as follows:**

(a) Monies paid or to be paid in cash	351,000.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	0.00
(ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	351,000.00
(h) VALUE OF ALL CHATTELS -items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	351,000.00

**PROPERTY Information Record**

A. Nature of Instrument: Transfer By Personal Representative  
 LRO 12 Registration No. CE692607 Date: 2015/12/11

B. Property(s): PIN 01232 - 0190 Address 436 ASKIN AVENUE Assessment 3739050 -  
 WINDSOR Roll No 100091000000

C. Address for Service: 13983 Riverside Dr., Tecumseh, ON N8N 1B7

D. (i) Last Conveyance(s): PIN 01232 - 0190 Registration No. R1121061  
 (ii) Legal Description for Property Conveyed: Same as in last conveyance? Yes  No  Not known

E. Tax Statements Prepared By: Fernando Michael Carmine Cervi  
 400-1500 Ouellette Ave.  
 Windsor N8X 1K7

**GENERAL NOTES**

CODE AND PROCEDURES

THESE PLANS HAVE BEEN PREPARED IN ACCORDANCE WITH THE CURRENT EDITION OF THE ONTARIO BUILDING CODE. THE OWNER / BUILDER IS RESPONSIBLE FOR ENSURING THAT ANY CHANGES TO THE CODE ARE COMPLIED WITH AND ALL AMENDMENTS ARE INCORPORATED IN THE CONSTRUCTION OF THIS PLAN. ALL WORK SHALL CONFORM TO LOCAL CODES AND BYLAWS. IT IS THE OWNER/BUILDERS RESPONSIBILITY TO NOTIFY AG DESIGN OF ANY REQUIREMENTS THAT EXCEED THE ONTARIO BUILDING CODE.

CONCRETE

THE COMPRESSIVE STRENGTH OF CONCRETE AFTER 28 DAYS SHALL NOT BE LESS THAN:  
 - 32 MPA (4650 PSI) WITH 5 TO 8 % AIR ENTRAINMENT FOR GARAGE FLOORS, CARPORTS FLOORS AND ALL EXTERIOR FLATWORK.  
 - 20 MPA (2900 PSI) FOR INTERIOR FLOORS OTHER THEN THOSE FOR GARAGES AND CARPORTS  
 - 15 MPA FOR FOUNDATION WALLS, COLUMNS, FOOTINGS, PIERS AND OTHER APPLICATIONS

SITE BATCHED CONCRETE SHALL CONFORM TO THE ONTARIO BUILDING CODE REQUIREMENTS.

WHEN THE AIR TEMPERATURE IS BELOW 5°C CONCRETE SHALL BE KEPT AT A TEMPERATURE OF NOT LESS THAN 10°C OR MORE THAN 25°C WHILE BEING PLACED AND MAINTAINED AT A TEMPERATURE OF NOT LESS THAN 10°C FOR 72 HOURS AFTER PLACING. NO FROZEN MATERIAL OR ICE SHALL BE USED IN THE CONCRETE.

FOOTINGS

FOOTINGS AND PADS ARE TO BE PLACED ON UNDISTURBED SOIL, ROCK, OR COMPACTED GRANULAR FILL, TO AN ELEVATION BELOW FROST PENETRATION WITH A MINIMUM SOIL BEARING CAPACITY OF 75 KPA. IT IS THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO VERIFY THE SOIL BEARING CAPACITY PRIOR TO CONSTRUCTION. IF A LESSER BEARING CAPACITY IS ENCOUNTERED IT IS THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO HAVE THE FOUNDATION REDESIGNED BY A QUALIFIED PROFESSIONAL TO SUIT SITE CONDITION.

WHERE WATER TABLE LEVELS ARE WITHIN A DISTANCE BELOW THE BEARING SURFACE LESS THAN OR EQUAL TO THE WIDTH OF THE FOOTING, THE FOOTINGS SHALL BE DOUBLED IN WIDTH UNDER WALLS AND DOUBLED IN AREA UNDER POSTS.

FOUNDATION WALLS

FOUNDATION WALLS TO EXTEND A MINIMUM 8" ABOVE FINISHED GRADE.

GRADE LINES ON PLANS ARE ASSUMED, OWNER/CONTRACTOR TO VERIFY.

WHERE EXTERIOR FINISHED GROUND LEVEL IS AT A HIGHER ELEVATION THAN THE GROUND LEVEL INSIDE THE FOUNDATION WALLS SHALL BE DAMP PROOFED & WHERE HYDROSTATIC PRESSURE OCCURS WATER PROOFING IS REQUIRED.

WOOD FRAMING GENERAL

ALL WOOD FRAMING SHALL COMPLY WITH SECTION 9.23 OF THE ONTARIO BUILDING CODE.

ALL STRUCTURAL FRAMING LUMBER SHALL BE GRADE STAMPED AS SPRUCE - PINE - FIR (S-P-F) NO.2 OR BETTER WITH A MOISTURE CONTENT OF 19% OR LESS AT TIME OF CONSTRUCTION.

WOOD FRAMING MEMBERS THAT ARE NOT TREATED WITH A WOOD PRESERVATIVE AND BEAR ON CONCRETE OR IN DIRECT CONTACT WITH THE GROUND SHALL BE SEPARATED WITH A 6 MIL POLY OR TYPE 'S' ROLL ROOFING.

ALL NOTCHING AND DRILLING OF FRAMING MEMBERS SHALL CONFORM TO SUBSECTION 9.23.5 OF THE ONTARIO BUILDING CODE.

FLUSHED FRAMED WOOD MEMBERS SHALL BE SUPPORTED WITH APPROPRIATE JOIST HANGERS AND FASTENERS.

ROOF FRAMING

ROOF SHEETING SHALL BE INSTALLED WITH THE SURFACE GRAIN AT RIGHT ANGLES TO THE ROOF FRAMING JOINTS PERPENDICULAR TO ROOF RIDGE SHALL BE STAGGERED WITH EDGES SUPPORTED ON TRUSSES. IF TONGUED AND GROOVED EDGE PANEL TYPE SHEETING IS NOT USED THAN EDGES PARALLEL TO THE ROOF RIDGE SHALL BE SUPPORTED BY METAL 'H' CLIPS OR NOT LESS THAN 1.5"X1.5" BLOCKING SECURELY NAILED BETWEEN FRAMING MEMBERS.

VENTILATION OF ROOF SPACE TO BE VENTED TO A MINIMUM OF OF 1/150 OF INSULATED ROOF AREA.

MECHANICAL & ELECTRICAL

MECHANICAL AND ELECTRICAL SERVICES DONE BY OTHERS.

STEEL BEAMS

STEEL BEAMS SHALL MEET THE REQUIREMENTS FOR GRADE 350W STEEL IN CSA G40.21, "GENERAL REQUIREMENTS FOR ROLLED OR WELDED STRUCTURAL QUALITY STEEL"

SMOKE ALARMS

SMOKE ALARMS SHALL CONFORM TO CAN/ULC-S531 "SMOKE ALARMS"

SMOKE ALARMS SHALL BE INSTALLED ON OR NEAR THE CEILING AND BE INSTALLED AS PER CAN/ULC-S553 "INSTALLATION OF SMOKE ALARMS"

SMOKE ALARMS SHALL HAVE A VISUAL SIGNALLING COMPONENT CONFORMING TO THE REQUIREMENTS IN 18.5.3 OF NFPA 72, "NATIONAL FIRE ALARM AND SIGNALING CODE"

SMOKE ALARMS SHALL BE INSTALLED WITH PERMANENT CONNECTIONS TO AN ELECTRICAL CIRCUIT. C/W BATTERY BACKUP AS PER O.B.C REQUIREMENTS

ALL SMOKE ALARMS SHALL BE INTERCONNECTED SO THE ACTIVATION OF ONE ALARM WILL CAUSE ALL ALARMS TO SOUND

STEEL LINTELS SUPPORTING MASONRY VENEER

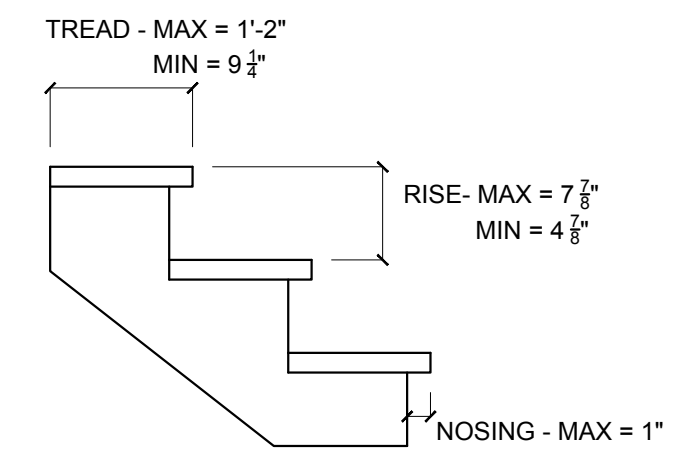
STEEL LINTELS SUPPORTING MASONRY VENEER OVER OPENINGS SHALL HAVE EVEN AND LEVEL BEARING AND SHALL HAVE NOT LESS THAN 6" LENGTH OF BEARING AT END SUPPORTS, AND BEAR ON MASONRY, CONCRETE OR STEEL.

STEEL ANGLE LINTELS SHALL BE PRIMED OR PAINTED OR OTHERWISE PROTECTED FROM CORROSION

DEADBOLT

DOORS THAT REQUIRE A DEADBOLT SHALL BE EQUIP WITH A DEADBOLT LOCK WITH A CYLINDER HAVING NO MORE THAN FIVE PINS AND A BOLT THROW NOT LESS THAN 25MM LONG, PROTECTED WITH A SOLID OR HARDENED FREE-TURNING RING OR BEVELED CYLINDER HOUSING

**STAIR AND GUARD INFORMATION**



STAIR DIMENSIONS

STAIRS SHALL HAVE A WIDTH OF NOT LESS THAN 34"

THE CLEAR HEIGHT OVER STAIRS SHALL BE NOT LESS THAN 6'-4"

RISERS SHALL HAVE A UNIFORM HEIGHT IN ANY ONE FLIGHT WITH A MAXIMUM TOLERANCE OF 1/8" BETWEEN ADJACENT TREADS AND 3/8" BETWEEN THE TALLEST AND SHORTEST RISERS IN A FLIGHT.

TREADS SHALL HAVE A UNIFORM RUN WITH A MAXIMUM TOLERANCE OF 1/8" BETWEEN ADJACENT TREADS, AND 3/8" BETWEEN THE DEEPEST AND SHALLOWEST TREADS IN A FLIGHT

HANDRAILS

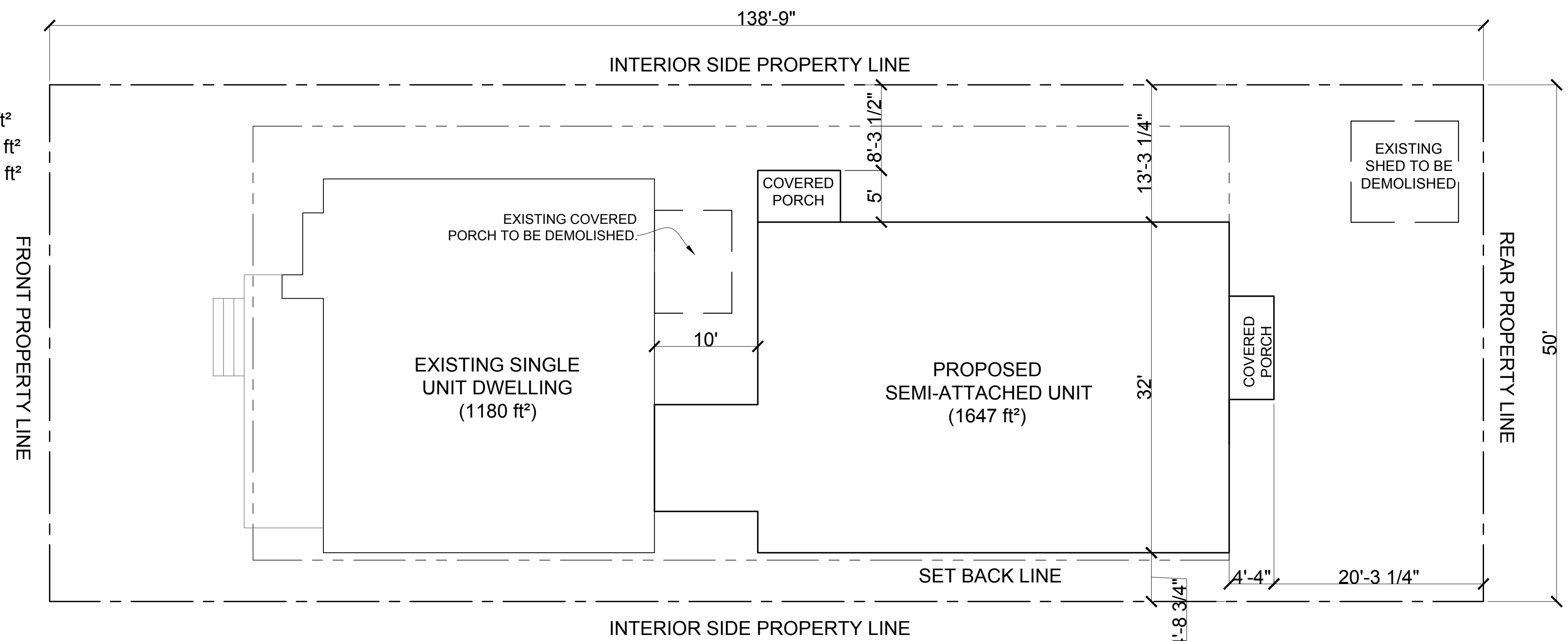
THE HEIGHT OF HANDRAILS ON STAIRS AND RAMPS SHALL BE NOT LESS THAN 34" AND NOT MORE THAN 38"

GUARDS

THE MINIMUM HEIGHT OF GUARDS SHALL BE NOT LESS THAN 36"

ALL GUARDS SHALL BE CONSTRUCTED AS PER SB-7 REQUIREMENTS

LOT AREA = 6937.5 ft<sup>2</sup>  
 EXISTING DWELLING COVERAGE = 1180 ft<sup>2</sup>  
 PROPOSED ADDITION COVERAGE = 1647 ft<sup>2</sup>  
 TOTAL COVERAGE = 2842 ft<sup>2</sup>  
 LOT COVERAGE = 41%



**PROPOSED SITE PLAN**

SCALE: 1/8"=1'-0"

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I Ashley Kozachanko declare that I take responsibility for the design of this plan. I am qualified and registered with the Ministry of Municipal Affairs and Housing.

Individual BCIN: 37168 Firm BCIN: 43381



Windsor, ON  
 Phone : 519-965-7176

**SEMI-DETACHED ADDITION**  
 436 ASKING AVENUE  
 Windsor, ON

GENERAL NOTES & SITE PLAN

Date : March 9, 2020  
 Scale : 1/4" = 1'-0"  
 Project No. : 061/19  
 Drawing No. :

**A-0.1**

**LEGEND**

**(FW1)** BITUMINOUS DAMP PROOFING  
10" POURED CONCRETE FOUNDATION WALL, R20 BLANKET INSULATION, ON 20"X8" POURED CONCRETE FOOTING ON UNDISTURBED SOIL

**(FW2)** 8" POURED CONCRETE FOUNDATION WALL ON 18" X 8" POURED CONCRETE FOOTING ON UNDISTURBED SOIL

**(LBIW)** LOAD BEARING INTERIOR WALL  
2X6 WOOD STUDS @ 16" O/C W/ SINGLE BOTTOM PLATE AND DOUBLE TOP PLATE OVER LINTELS 2X6 WOOD BLOCKING @ 3'-11" O/C HORIZONTAL ON 16" X 8" POURED CONCRETE FOOTING ON UNDISTURBED SOIL

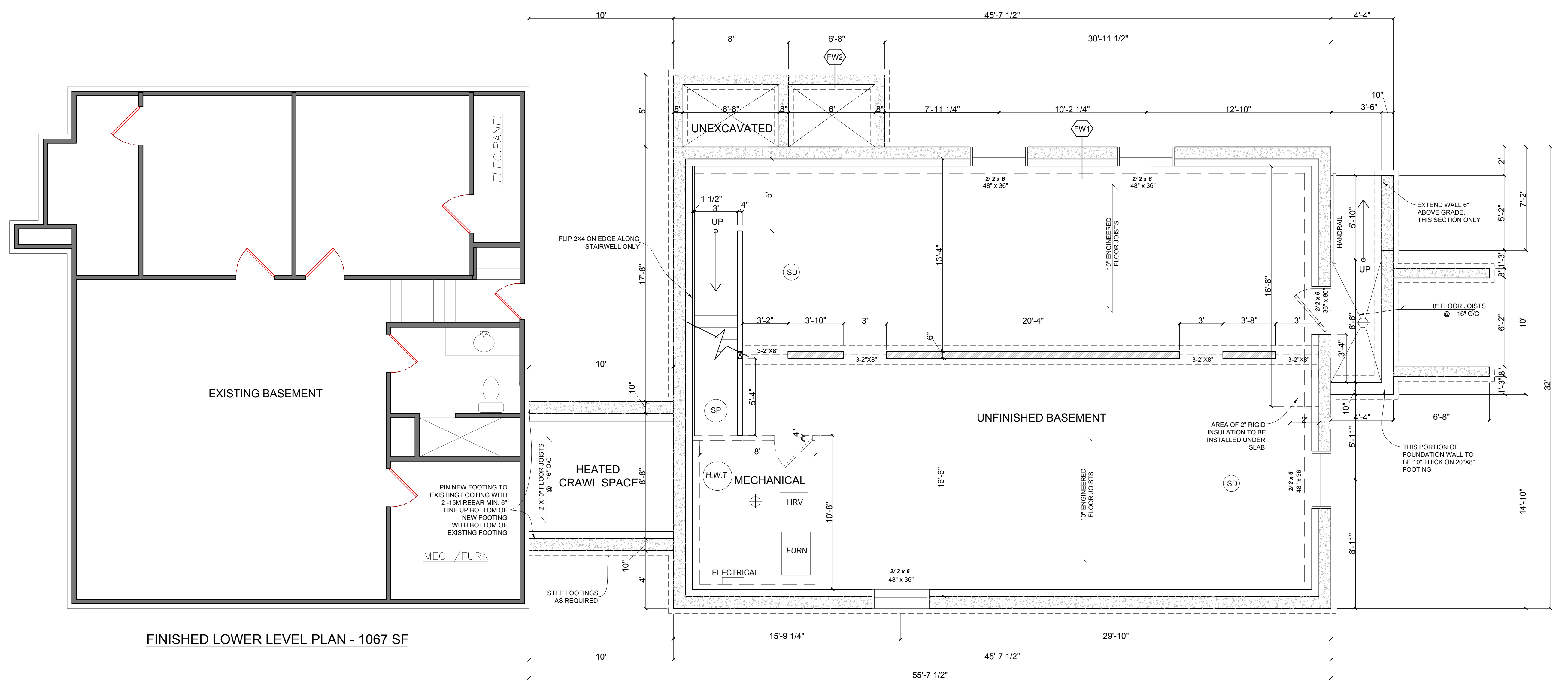
**(FD)** FLOOR DRAIN

**(SP)** SUMP PUMP C/W COVER TO RESIST REMOVAL BY CHILDREN AND SEALED TO MAINTAIN CONTINUITY OF THE AIR BARRIER SYSTEM

**(SD)** DENOTES SMOKE ALARM C/W CO<sup>2</sup> DETECTOR. REFER TO GENERAL NOTES.

**NOTES**

- ALL INTERIOR PARTITIONS TO BE P1 UNLESS NOTED OTHERWISE.
- MECHANICAL AND ELECTRICAL SERVICES DONE BY OTHERS.



FINISHED LOWER LEVEL PLAN - 1067 SF

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Individual BCIN: 37168 Firm BCIN: 43381



**SEMI-DETACHED ADDITION**  
436 ASKING AVENUE  
Windsor, ON  
**BASEMENT PLAN**

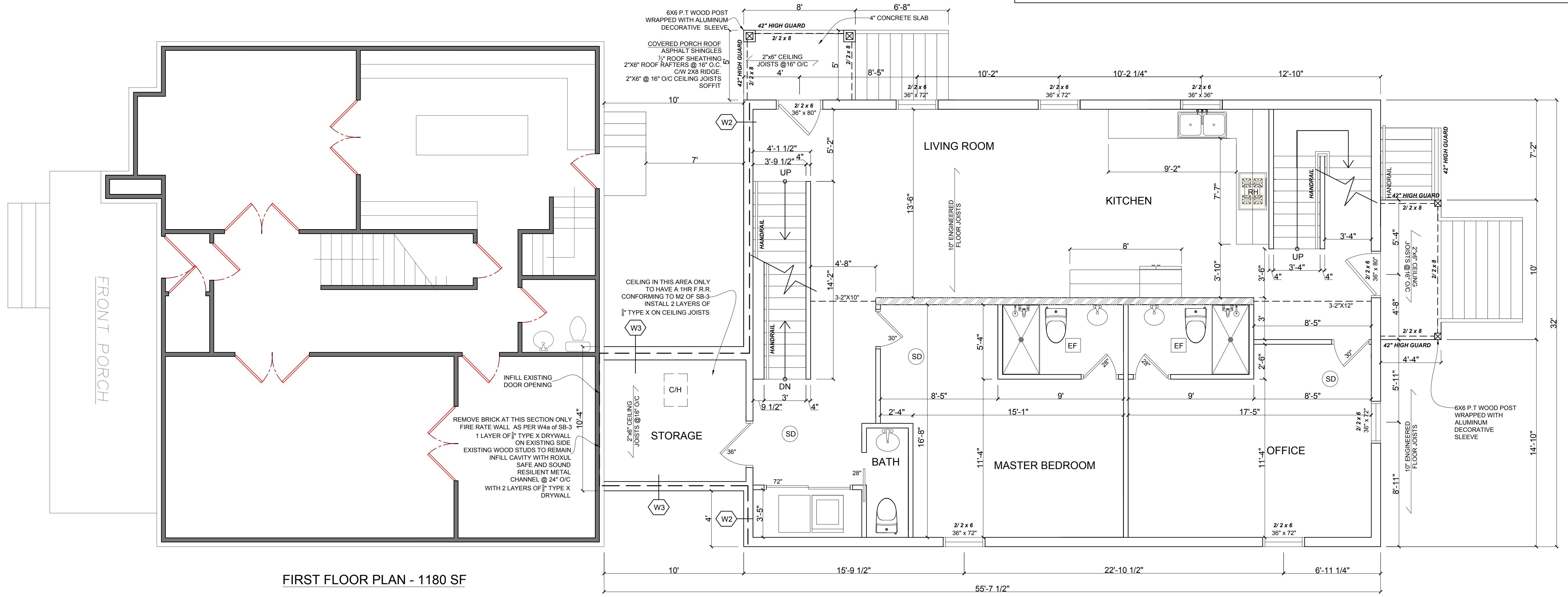
Date : March 9, 2020  
Scale : 1/4" = 1'-0"  
Project No. : 061/19  
Drawing No. : **A-1.0**

**LEGEND**

	<b>LOAD BEARING INTERIOR WALL</b> 2X6 WOOD STUDS @ 16" O/C W/ SINGLE BOTTOM PLATE AND DOUBLE TOP PLATE OVER LINTELS 2X6 WOOD BLOCKING @ 3'-11" O/C HORIZONTAL		CRAWL SPACE ACCESS HATCH 32"X24" MINIMUM. INSTALLED AS PER OBC REQUIREMENTS.
	<b>EXTERIOR WALL</b> SIDING AS PER OWNER AIR BARRIER ON 1/2" PLYWOOD EXTERIOR GRADE SHEETING 2X6 WOOD STUDS @ 16" O/C, R24 BATT INSULATION 6 MIL POLY VAPOUR BARRIER W/ 1/2" DRYWALL		DENOTES EXHAUST FAN VENTED DIRECTLY TO EXTERIOR AS PER O.B.C REQUIREMENTS.
	<b>EXTERIOR WALL WITH 1 HR F.R.R. EW1a of SB-3</b> NON-COMBUSTIBLE SIDING (CEMENT BOARD) AIR BARRIER ON 1/2" PLYWOOD EXTERIOR GRADE SHEETING 2X6 WOOD STUDS @ 16" O/C R24 BATT INSULATION 6 MIL POLY VAPOUR BARRIER 5/8" TYPE X DRYWALL		DENOTES RANGE HOOD VENTED DIRECTLY TO EXTERIOR AS PER O.B.C REQUIREMENTS.
	<b>EXTERIOR WALL WITH 1 HR F.R.R. B1a or B1b of SB-3</b> 6" OR 8" CONCRETE BLOCK (REFER TO SECTION) 2X6 STEEL STUDS @ 16" O/C R24 BATT INSULATION 6 MIL POLY VAPOUR BARRIER 1/2" DRYWALL		<b>INTERIOR NON-LOAD BEARING WALLS</b> 2X4 WOOD STUDS @ 16" O/C 1/2" DRYWALL ON BOTH SIDES OF STUDS
			DENOTES SMOKE ALARM C/W CO <sup>2</sup> DETECTOR. REFER TO GENERAL NOTES.

**NOTES**

- ALL INTERIOR PARTITIONS TO BE P1 UNLESS NOTED OTHERWISE.
- MECHANICAL AND ELECTRICAL SERVICES DONE BY OTHERS.



FIRST FLOOR PLAN - 1180 SF

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Individual BCIN: 37168 Firm BCIN: 43381



**SEMI-DETACHED ADDITION**  
436 ASKING AVENUE  
Windsor, ON  
**MAIN FLOOR PLAN**

Date : March 9, 2020  
Scale : 1/4" = 1'-0"  
Project No. : 061/19  
Drawing No. : **A-1.1**

**LEGEND**

**W1** EXTERIOR WALL  
SIDING AS PER OWNER  
AIR BARRIER ON 1/2" PLYWOOD EXTERIOR GRADE SHEETING  
2X6 WOOD STUDS @ 16" O.C. R24 BATT INSULATION  
6 MIL POLY VAPOUR BARRIER W/ 1/2" DRYWALL

**P1** INTERIOR NON-LOAD BEARING WALLS  
2X4 WOOD STUDS @ 16" O/C  
1/2" DRYWALL ON BOTH SIDES OF STUDS

**SD** DENOTES SMOKE ALARM C/W CO<sup>2</sup> DETECTOR. REFER TO GENERAL NOTES.

**EF** DENOTES EXHAUST FAN VENTED DIRECTLY TO EXTERIOR AS PER O.B.C REQUIREMENTS.

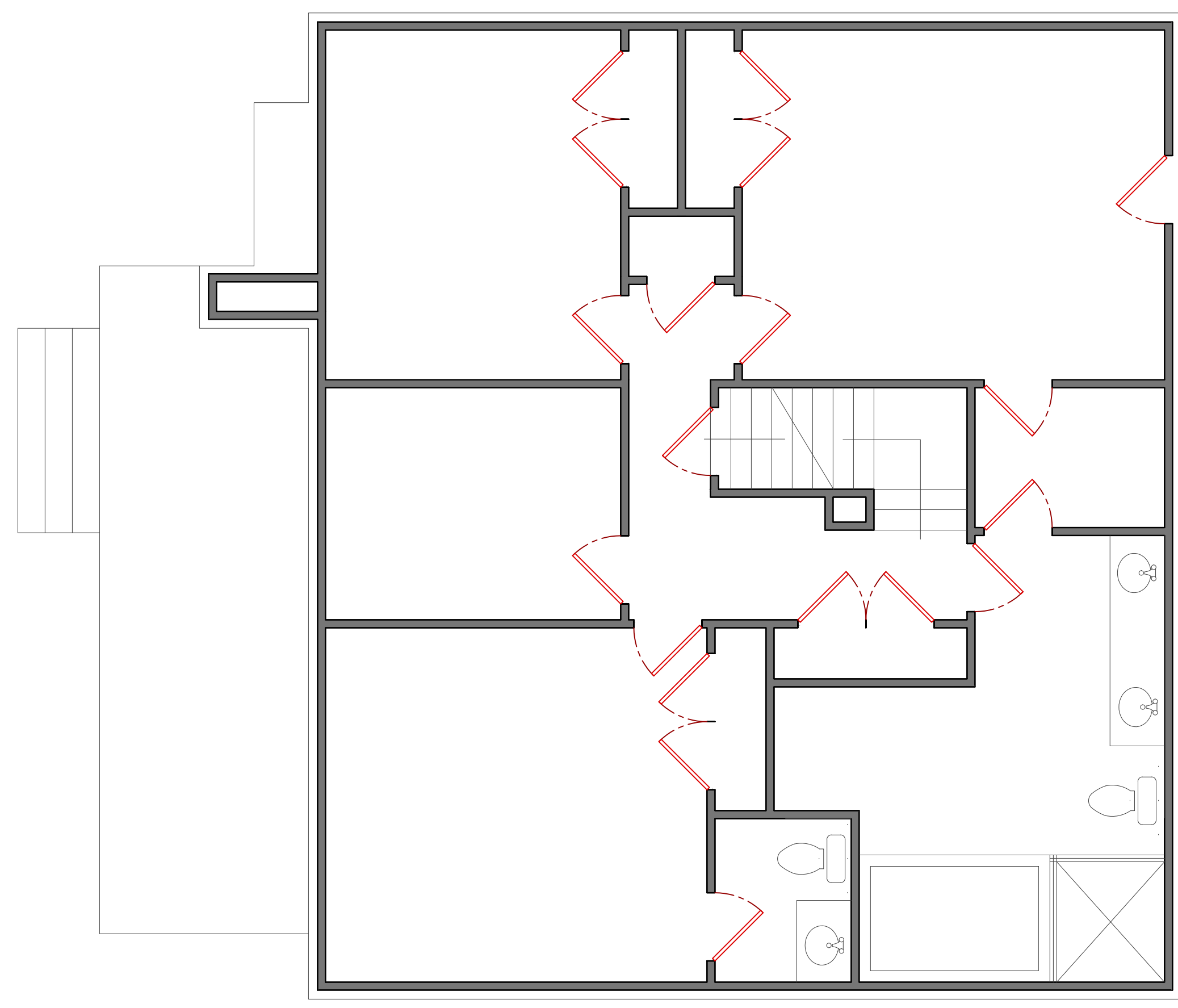
**A/H** ATTIC ACCESS HATCH 20" X 28" MINIMUM. INSTALLED AS PER OBC REQUIREMENTS

**LOAD BEARING INTERIOR WALL**  
2X6 WOOD STUDS @ 16" O/C W/ SINGLE BOTTOM PLATE AND DOUBLE TOP PLATE OVER LINTELS 2X6 WOOD BLOCKING @ 3'-11" O/C HORIZONTAL

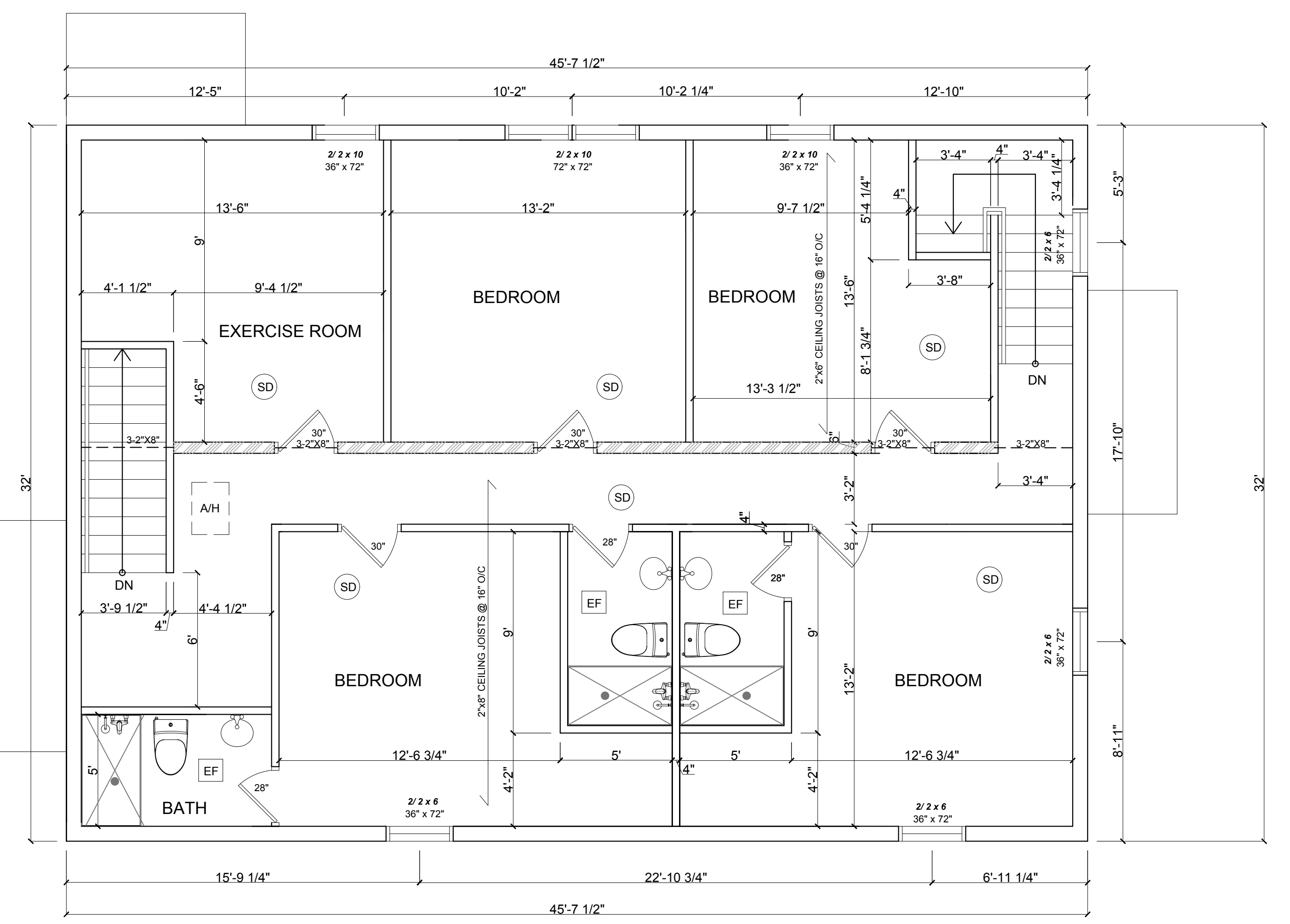
**ROOF CONSTRUCTION**  
ASPHALT ROOF SHINGLES ON ROOF FELT  
1/2" OSB SHEATHING  
ENGINEERED ROOF TRUSSES  
WITH R-60 BATT INSUL.  
6 mil POLY VAPOUR BARRIER  
1/2" GYPSUM BOARD

**NOTES**

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- MECHANICAL AND ELECTRICAL SERVICES DONE BY OTHERS.



SECOND FLOOR PLAN - 1142 SF



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Individual BCIN: 37168 Firm BCIN: 43381



**SEMI-DETACHED ADDITION**  
436 ASKING AVENUE  
Windsor, ON  
**SECOND FLOOR PLAN**

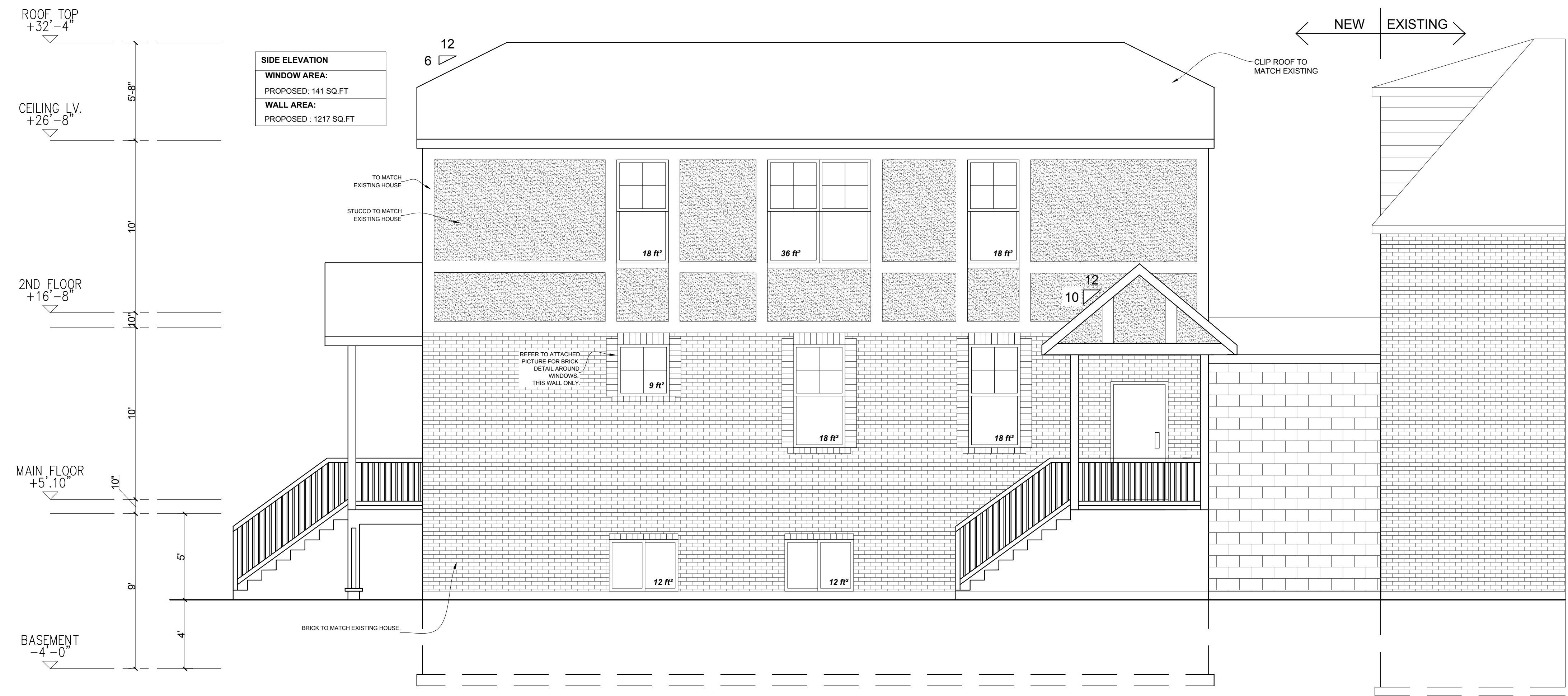
Date : March 9, 2020  
Scale : 1/4" = 1'-0"  
Project No. : 061/19  
Drawing No. : **A-1.2**



EXISTING BRICK DETAIL AROUND WINDOW REFERENCE

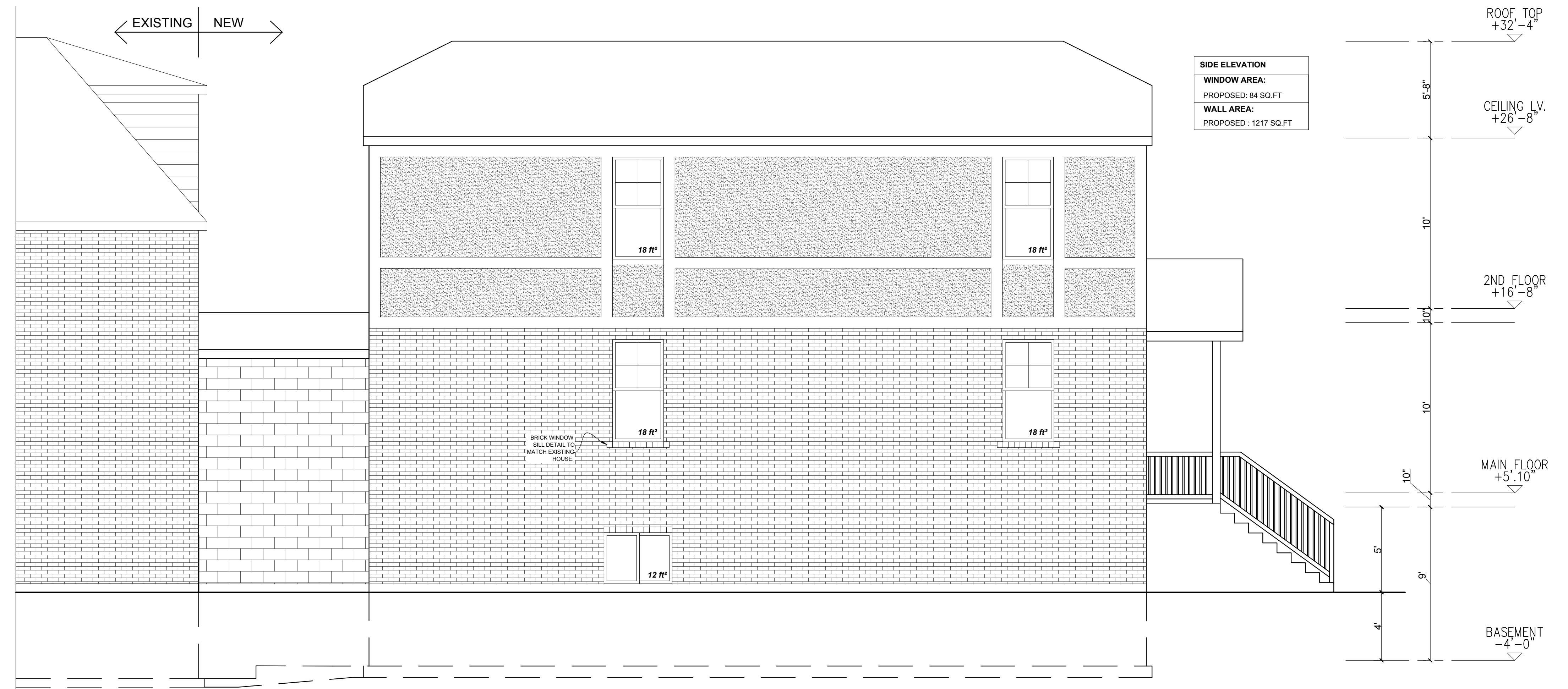


EXISTING BRICK WINDOW SILL DETAIL REFERENCE



SIDE ELEVATION

SCALE: 1/4"=1'-0"



SIDE ELEVATION

SCALE: 1/4"=1'-0"

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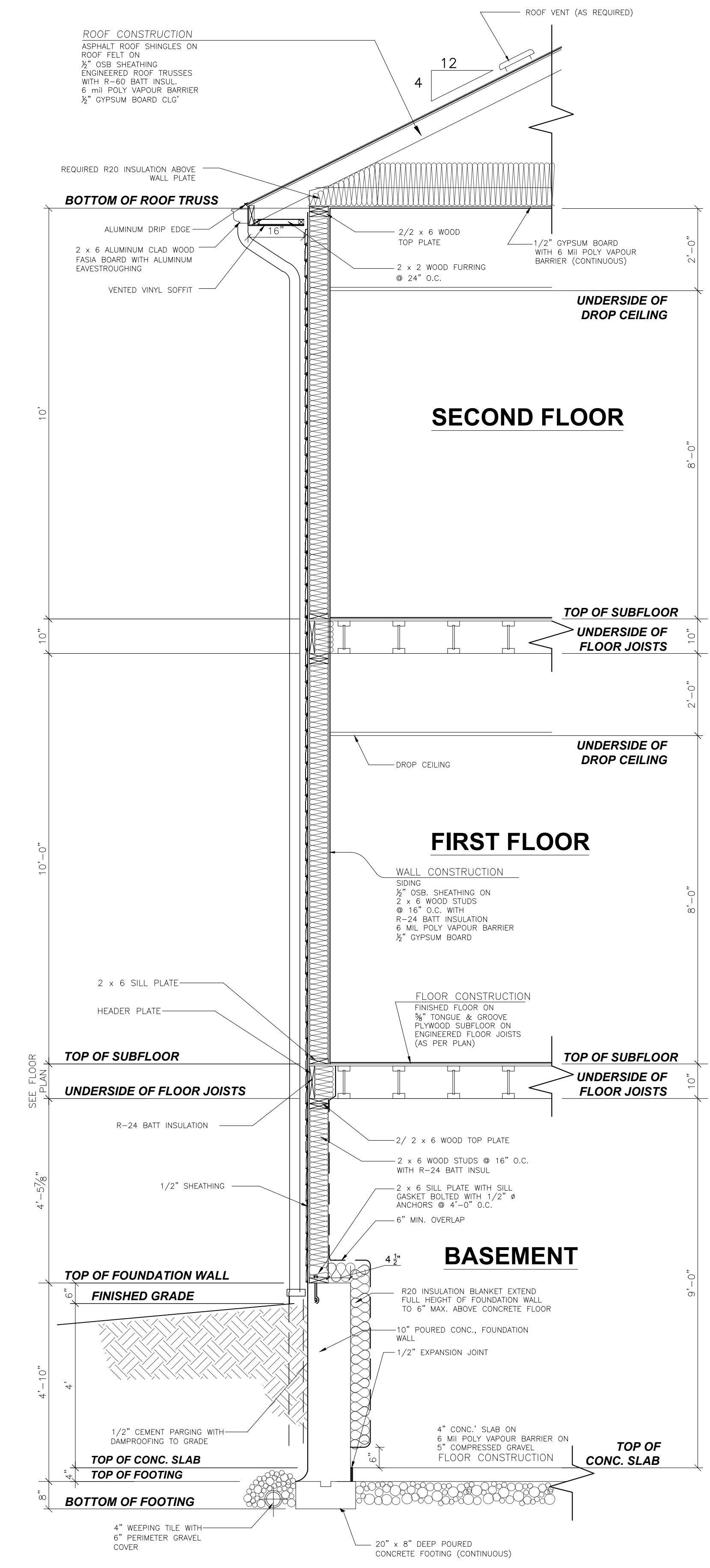
Windsor, ON  
Phone : 519-965-7176

SEMI-DETACHED ADDTION  
436 ASKING AVENUE  
Windsor, ON

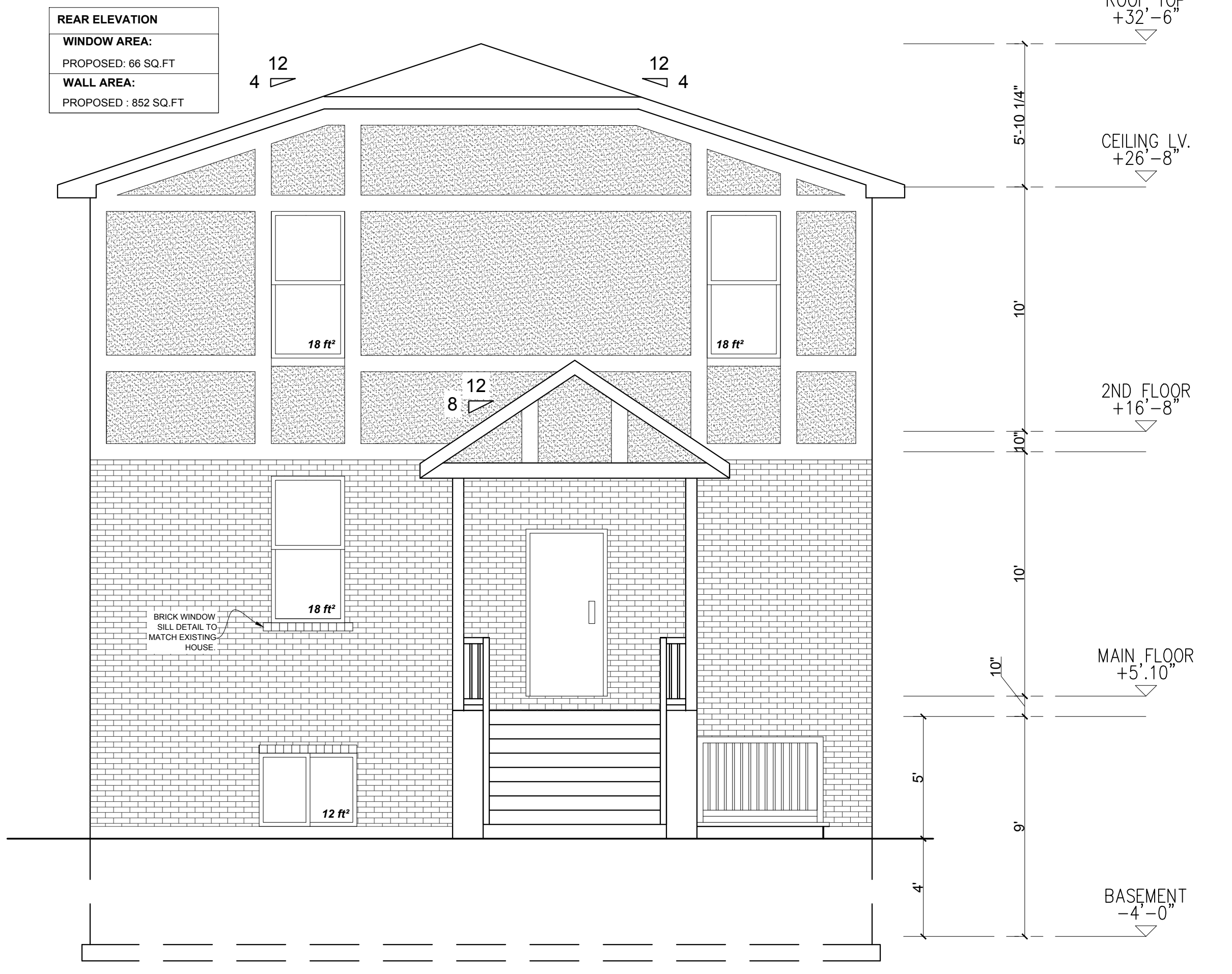
ELEVATIONS

Date : March 9, 2020  
Scale : 1/4" = 1'-0"  
Project No. : 061/19  
Drawing No. :

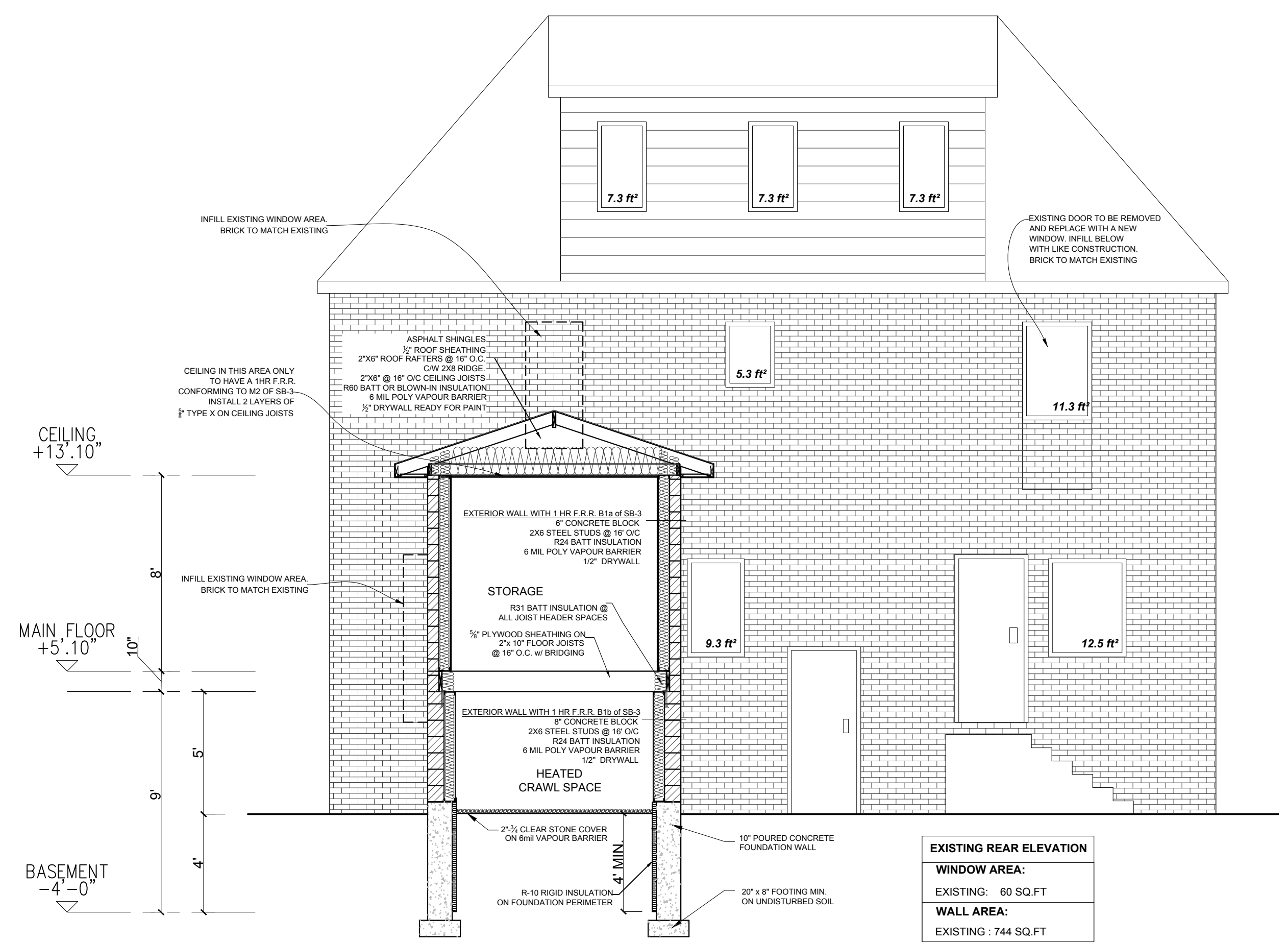
A-2.0



**WALL SECTION**  
SCALE: 1/2"=1'-0"



**REAR ELEVATION**  
SCALE: 1/4"=1'-0"



**EXISTING REAR ELEVATION**  
SCALE: 1/4"=1'-0"

<b>EXISTING REAR ELEVATION</b>
<b>WINDOW AREA:</b>
EXISTING : 60 SQ.FT
<b>WALL AREA:</b>
EXISTING : 744 SQ.FT

**DO NOT SCALE**

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**SEMI-DETACHED ADDITION**  
436 ASKING AVENUE  
Windsor, ON

**ELEVATIONS & SECTION**

Date : March 9, 2020  
Scale : 1/4" = 1'-0"  
Project No. : 061/19  
Drawing No. : **A-2.1**





**TAB 2**

**Properties**

*PIN* 01232 - 0190 LT  
*Description* LT 6 PL 828 TOWN OF SANDWICH; PT LT 5 PL 828 TOWN OF SANDWICH AS IN R1121061 ; WINDSOR  
*Address* 436 ASKIN AVENUE  
WINDSOR

*PIN* 01232 - 0610 LT  
*Description* PART ALLEY PLAN 828 (CLOSED BY CE711948) PARTS 49 & 50, 12R26503; SUBJECT TO AN EASEMENT OVER PARTS 49 & 50, 12R26503 AS IN CE725421; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 49 & 50, 12R26503 AS IN CE725420; CITY OF WINDSOR  
*Address* 436 ASKIN AVENUE  
WINDSOR

**Applicant(s)**

This Order/By-law affects the selected PINs.

*Name* THE CORPORATION OF THE CITY OF WINDSOR  
*Address for Service* OFFICE OF THE CITY CLERK  
350 City Hall Square West  
Windsor, Ontario N9A 6S1

This document is being authorized by a municipal corporation DREW DILKENS (Mayor) and STEVE VLACHODIMOS (City Clerk).

This document is not authorized under Power of Attorney by this party.

**Statements**

This application is based on the Municipality By-law See Schedules.

**Signed By**

Natalie Jane D'Ambrosio 400 City Hall Square East, Suite 201 acting for Applicant(s) Signed 2022 03 25  
Windsor  
N9A 7K6

Tel 519-255-6548

Fax 519-255-6933

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

THE CORPORATION OF THE CITY OF WINDSOR 400 City Hall Square East, Suite 201 2022 03 25  
Windsor  
N9A 7K6

Tel 519-255-6548

Fax 519-255-6933

**Fees/Taxes/Payment**

*Statutory Registration Fee* \$66.30  
*Total Paid* \$66.30

**File Number**

*Applicant Client File Number :* HER2021-KM

## BY-LAW NUMBER 51-2022

A BY-LAW TO DESIGNATE THE LANDS AND PREMISES SITUATE WITHIN THE CITY OF WINDSOR, MUNICIPALLY KNOWN AS 436 ASKIN AVENUE, TO BE OF CULTURAL HERITAGE VALUE OR INTEREST UNDER THE PROVISIONS OF THE ONTARIO HERITAGE ACT, R.S.O. 1990, CHAPTER O.18, AS AMENDED

Passed the 21<sup>st</sup> day of March, 2022.

**WHEREAS** by virtue of the provisions of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18, as amended, the Council of a municipality may, by by-law, designate a property within the municipality to be of cultural heritage value or interest.

**AND WHEREAS** upon consideration of the recommendation of the Development & Heritage Standing Committee, The Corporation of the City of Windsor deems it desirable and expedient to designate the lands municipally known as *436 Askin Avenue*, more particularly described in Schedule "A" annexed hereto and forming part of this by-law (the subject lands), to be of cultural heritage value or interest, for the reasons stated in Schedule "B" annexed hereto and forming part of this by-law.

**AND WHEREAS** notice of intention to so designate the subject lands, was served on the owner(s) of the said subject lands and upon the Ontario Heritage Trust and such notice was published in a newspaper having general circulation in the municipality, on *NOVEMBER 26, 2020*.

**AND WHEREAS** no Notice of Objection has been served on the Clerk of the Municipality within thirty (30) days after the date of publication of the Notice of Intention in a newspaper having general circulation in the municipality.

**THEREFORE** the Council of the Corporation of the City of Windsor enacts as follows:

1. That the lands municipally known as *436 Askin Avenue*, more particularly described in said Schedule "A" annexed hereto, be and the same is hereby designated to be of cultural heritage value or interest, for the reasons stated in said Schedule "B" annexed hereto.
2. This by-law shall come into force and take effect after the final passing thereof on the day upon which it is electronically registered in the Land Registry Office for the County of Essex (No. 12).

*[Handwritten signature]*

*[Handwritten signature]*

ACTING MAYOR

*[Handwritten signature]*

CITY CLERK

First Reading - March 21, 2022  
 Second Reading - March 21, 2022  
 Third Reading - March 21, 2022

## SCHEDULE "A"

LT 6 PL 828 TOWN OF SANDWICH; PT LT 5 PL 828 TOWN OF SANDWICH AS IN R1121061; WINDSOR

**Being all of PIN No. 01232-0190**

**436 Askin Avenue, Windsor**

PART ALLEY PLAN 828 (CLOSED BY CE711948) PARTS 49 & 50, 12R26503; SUBJECT TO AN EASEMENT OVER PARTS 49 & 50, 12R26503 AS IN CE725421; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 49 & 50, 12R26503 AS IN CE725420; WINDSOR

**Being all of PIN No. 01232-0610**

**436 Askin Avenue, Windsor**

## SCHEDULE "B"

**STATEMENT OF CULTURAL HERITAGE VALUE AND INTEREST  
436 Askin Avenue****Description of Historic Place**

436 Askin Avenue is located on the east side of Askin Avenue, south of Fanchette Street. The 2 ½-storey brick and stucco house was built c.1928 in the Tudor Revival style.

**Design or Physical Value:**

The building is a large 2½-storey Tudor Revival style house with brick walls and steeply pitched roofs, designed with the front facing west to Askin Avenue. The asymmetrical facade includes a steeply pitched two-storey projecting portico with a stepped chimney, off-set from the center to the north. The main roof is clipped on the north end and marked by a large rectangular chimney on the south end. Although the gable ends feature stucco and decorative half-timbering, the majority of the building is constructed of variegated brick with brown to buff colours, including varieties of red colours. The projecting portico has many decorative features, including an arched voussoir entryway radiating out in a sunburst pattern, and a center oriel window apparently with leaded glass. Decorative brick patterns accentuate the portico, with brick in a variety of header, stretcher, rowlock, soldier, and sailor orientations. Around the building, soldier course brick delineate the floors, openings are framed by brick surrounds and rowlock brick window sills, and corners of the building are marked by protruding columns capped by stacked, sloping sailor brick coping. Other features include a recessed arched front door (west-facing), and various original window types including wood sash windows with six over one sash windows, casement windows with leaded glass in diamond pattern, and stained glass windows.

The building is a representative example of Tudor Revival style and displays a high degree of craftsmanship, especially in the decorative brickwork.

**Historical or Associative Value:**

From an early survey in 1881, the subject lands are identified as part of the French farm lots located in the Town of Sandwich. The French farm subdivision patterns of narrow lots perpendicular to the river front were laid out throughout the region up to Cabana Road or 4th Concession. During the early decades of the twentieth century up to 1930, the Border Cities experienced unprecedented growth with a population increase of nearly tenfold. The prosperity of the economy in the region had attracted much development and boom in populations. By the 1920s, many of the farm lots close to the riverfront were going through the process of being developed and homes were being built in the area, including along Askin Avenue. The subject parcel consists of Lot 6 and Part of Lot 5 on Plan 868 which was approved by the Town of Sandwich on December 20<sup>th</sup>, 1916.

According to property title and ownership records, the property was purchased by Edward and Louise Griffith in Oct. 1926 for \$2500. It appears the building was constructed c.1928, with the Griffiths indicating occupancy at the subject property's address of 212 Askin Avenue in 1928 (per 1928-1929 City Directories and The Border Cities Star newspaper records). They were long-time owners, selling 436 Askin in Nov. 1951 for \$21000. According to Edward Griffith's obituary posted in the Windsor Star in August 1978, he had owned an insurance agency business and was a life member of the Windsor Lodge #403 AF and AM.

Information about the architect, building or designer of the building is unknown.

**Contextual Value:**

This block on Askin Avenue between Fanchette Street and Wyandotte Street consists of one and two storey residential buildings. The majority of the buildings are single detached houses, although there are several traditional type semi-detached houses and duplexes. 436 Askin is of similar epoch as many other homes constructed in the area. Building permit records and Fire Insurance Maps indicate that many of the original

homes that remain on Askin Avenue were constructed in the mid-to-late 1920's, ranging in architectural styles of craftsmen bungalows, American foursquare, and colonial revival styled homes, etc. The subject property's Tudor Revival architecture is distinctive as it is comparatively less common in the immediate area. Single-vehicle-width driveways with access to the front are typical along this block. South of the block, Wyandotte Street is designated as a Main Street in the Official Plan, and features a mix of commercial uses and apartment-style dwellings. The main campus of the University of Windsor is one block to the west of the subject site. Amidst changes in the surrounding context, the original building typology and Tudor Revival house contributes to maintaining the character of the area as a mature residential neighbourhood with heritage character.

The subject property's period architecture visually and historically connects to the era of its original early 20<sup>th</sup> century subdivision plan, along with the wide tree median right-of-way design on Askin Avenue. The section of Askin Avenue incorporates a treed landscaped boulevard, and a wide median island that is approximately 15 metres in width, also landscaped with grass, shrubs, and a mix of deciduous trees. This locally uncommon wide treed median is a defining feature on this block and part of the original plan of subdivision laid out in 1916.

#### **Description of Heritage Attributes:**

##### **Attributes that contribute to the design or physical value of 436 Askin Avenue:**

2½-storey Tudor Revival style house, built in c.1928

- Steeply pitched side-gabled roof with gabled portico
- Asymmetrical façade with two-storey front-facing portico off-set from the center to the north
- Majority of building constructed of variegated brick with brown to buff colours, including varieties of red colours
- Main side-gable roof clipped on the north end and marked by a large rectangular brick chimney on the south end with triple chimney pot
- Side-gable ends feature stucco and decorative half-timbering
- Gables with plain or half-timbered vergeboard
- Steeply pitched projecting portico features
  - 2 sided oriel window with casement windows of leaded glass with crest
  - Stepped brick chimney with chimney pots and sailor brick coping ends
  - Arched voussoir entryway radiating out in sunburst pattern in front center, and arched opening at south side
  - Rectangular opening with brick sill and column with brick coping to south of front facing plane
  - Decorative brick patterns in a variety of header, stretcher, rowlock, soldier and sailor, orientations, and projecting units in random pattern, accentuate the porch
  - Situated atop brick (with projecting units) and concrete deck
- Recessed arched front door (west-facing)
- Canopy over the first floor west-facing bay windows (north of porch)
- Variety of original window types including wood sash windows with six over one windows, casement windows with leaded glass in diamond pattern, and stained glass windows
- Brick surrounds over openings feature double rowlock lintels, projecting stretcher and header brick at sides, and rowlock sills
- Soldier brick course delineating floors
- Front corners of the building marked by protruding columns topped by stacked, sloping sailor brick coping

**Attributes that contribute to the historical or associative value of 436 Askin Avenue:**

- Developed alongside the growth in the Border Cities area as part of a Town of Sandwich subdivision
- Associated with first owners Edward & Louise Griffith

**Attributes that contribute to the contextual value of 436 Askin Avenue:**

- Original building typology and tudor revival style of house contributes to maintaining the character of the area as a mature residential neighbourhood with heritage character
- The subject property's period architecture visually and historically connects to the era of its original early 20<sup>th</sup> century subdivision plan, along with the wide tree median right-of-way design on Askin Avenue.



**TAB 3**



**Council Report: S 25/2023**

**Subject: 436 Askin Avenue - Heritage Permit Request (Ward 2)**

**Reference:**

Date to Council: March 6, 2023

Author: Tracy Tang

Planner II - Revitalization & Policy Initiatives

ttang@citywindsor.ca

519-255-6543 x 6449

Kristina Tang, MCIP, RPP

Heritage Planner

ktang@citywindsor.ca

519-255-6543 x 6179

Planning & Building Services

Report Date: February 16, 2023

Clerk's File #: MB/13966

**To:** Mayor and Members of City Council

**Recommendation:**

- I. THAT the Heritage Permit at 436 Askin Avenue **BE GRANTED** for the erection of one detached additional dwelling unit per Appendix 'B' of this report; and,
- II. THAT the Heritage Permit approval **BE SUBJECT** to the following approval conditions prior to work start:
  - a. Submission of satisfactory product details and samples (including material and colour selections);
  - b. Provision of satisfactory architectural drawings by qualified designers;
  - c. Determination that the work is satisfactory to meet Building code compliance; and
- III. THAT the City Planner or designate **BE DELEGATED** the authority to approve any further proposed changes associated with the proposed scope of work for the erection of one rear detached additional dwelling unit.

**Executive Summary: N/A****Background:**

The property at 436 Askin Avenue was designated by Council under Part IV of the *Ontario Heritage Act* on March 21, 2022. It is identified on the Windsor Municipal Heritage Register as a Tudor Revival style house built circa 1928. The Statement of Cultural Heritage Value or Interest from the designation by-law 51-2022 is attached as Appendix 'A'. The designation was triggered by a 2020 proposal for partial demolition of a rear porch to accommodate a large addition (larger than the size of the existing structure). Council rejected the proposal then by initiating the designation.

The property owner has now provided a different proposal to construct a smaller detached two-storey additional dwelling unit (ADU) at the rear of the property. The proposal has undergone zoning compliance review and a building permit application was submitted for the proposed construction in October 2022. A Heritage Permit is required for the erection of an ADU at the rear of 436 Askin Avenue. The Owner submitted a Heritage Permit application with updated drawings, elevations, and floor plans, which was accepted as a complete application on February 16, 2023. The Heritage Permit application package can be found in Appendix 'B'.

**Legal Provisions:**

The *Ontario Heritage Act (OHA)* requires the owner of a heritage designated property to apply to Council to alter the property. The designation by-law includes heritage attributes (see Appendix 'A'). In accordance with the *OHA*, changes to a designated property that affect heritage attributes must be considered by City Council after consulting with the municipal Heritage Committee. Council has the option of granting consent with or without terms and conditions, or refusing the application within 90 days of notice of complete application. The heritage designations apply to the entire real property and new construction such as the proposal have the potential to impact the heritage attributes of a designated property and thus needs to be evaluated.

**Discussion:****Property Description:**

The subject property is located in close proximity to the University of Windsor, and is the fourth house south of Fanchette Street on the east side of Askin Avenue. The two-and-a-half storey dwelling was constructed circa 1928 in Tudor Revival style. The building is clad in brick and stucco, with steeply pitched roofs and an asymmetrical facade. The property has a front driveway access off of Askin Avenue. See Appendix 'C' for additional photos of the property.



Front elevation of 436 Askin Avenue

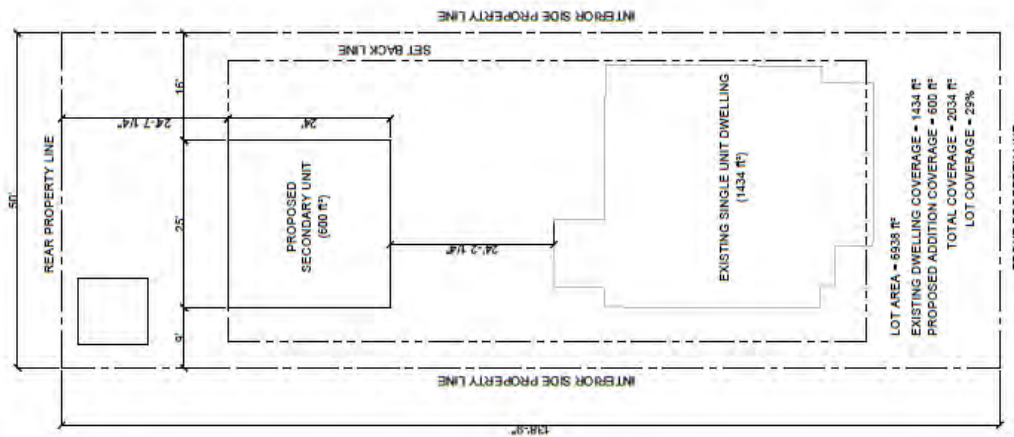
Furthermore, the property is located within a Mature Neighbourhood as per Schedule A-1 Special Policy Areas of the Official Plan. As per Policy 1.51.1 of Volume II, Chapter I Special Policy Areas: Infill and intensification within Mature Neighbourhoods shall be consistent with the built form, height, massing, architecture and landscape of the area.

### **Proposal and Heritage Conservation Considerations**

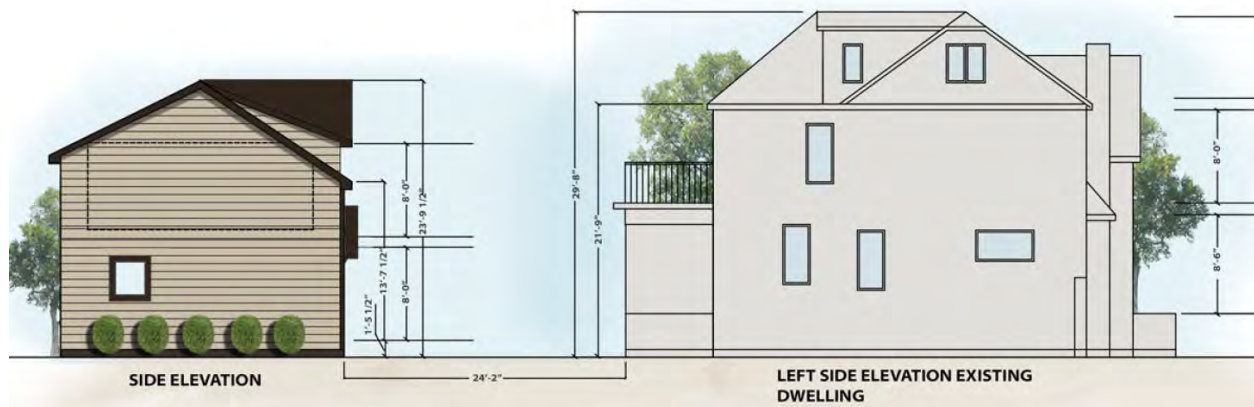
For the proposed scope of work, the most relevant references from the *Standards & Guidelines for Conservation of Historic Places* have been considered.

- 11.** Conserve the *heritage value* and *character-defining elements* when creating any new additions to an *historic place* or any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place.

The heritage permit for 436 Askin Avenue is for the erection of one detached two-storey ADU in the rear yard. The ADU is as proposed in the drawings attached within Appendix 'B'.



Site Plan view of existing structures and the proposed ADU at 436 Askin Avenue



Side elevation drawing comparing the heights and massing of the historic dwelling and the proposed ADU

The new structure is proposed to be located behind the existing dwelling and subordinate in height and massing to allow the main historic structure to continue being the prominent view from Askin Avenue. The alignment of the ADU behind the existing dwelling makes it more discreet. It would not be visible from a straight front-on view from Askin Avenue, though it would still be visible from certain angles along Askin Avenue.



Askin Avenue-view rendering of the historic Tudor Revival style dwelling with the proposed ADU at rear



Rendering of the proposed detached ADU at the rear of 436 Askin Avenue, front (west) facade

To match the character of the Mature Neighbourhood and meet the *Standards* of compatibility, traditional-looking design and materials have been recommended and proposed. The proposed front facade is asymmetrical with a pitched front gable and clipped roof similar to the roof of the existing dwelling. The Owner is proposing a variegated brick in a colour similar to what is on the existing dwelling on the front facade of the ADU, and horizontal vinyl siding on the sides and rear. Black single-hung windows with six-over-one muntin patterns are proposed to match with the windows on the existing dwelling. The ADU would have an entrance from the ground floor, with parking area provided from the existing driveway on the north side of the existing structure.

The proposed development complies with the zoning regulations of the current zoning Residential District 2.1 (RD2.1). Other than the required Heritage Permit application, there are no *Planning Act* processes that apply to the proposal. A Building Permit is required for the new construction, which the Owner has already applied for and is

subject to the Heritage application decision. The Owner may proceed with the Building Permit should Council decide to approve the request for a Heritage Permit application.



North side yard view on left and south side yard view on right. The ADU proposed would be located behind the existing dwelling and thus mostly screened from view from Askin Avenue.

The proposal has considered the heritage *Standards and Guidelines* and does not appear to adversely impact the heritage property. The conditions recommended with the approval would allow for verification of the proposal further along the design process as the Owner would be required to provide satisfactory architectural drawings prepared by qualified designers for Building Code compliance, and obtain a Building Permit. Should the application be approved, Heritage Planning Staff will also continue the discussion on material and colour selections and require satisfactory final product information to be provided as a condition of the approval. Additional property photographs are provided in Appendix 'C'.

### **Official Plan Policy:**

The Windsor Official Plan states "Council will recognize Windsor's heritage resources by: Designating individual buildings, structures, sites and landscapes as heritage properties under the Ontario Heritage Act." (9.3.3.1(a))

The Plan includes protection (9.3.4.1). "Council will protect heritage resources by: (c) Requiring that, prior to approval of any alteration, partial demolition, removal or change in use of a designated heritage property, the applicant demonstrate that the proposal will not adversely impact the heritage significance of the property ..."

### **Risk Analysis:**

Risk of inappropriate new erections on the heritage designated property is being mitigated through the Heritage Permit application process and conditions.

**Climate Change Risks****Climate Change Mitigation: N/A****Climate Change Adaptation: N/A****Financial Matters:**

There is no cost to the City; the Property Owner is paying the full cost of the proposal for the construction of the ADU. The proposed work may increase the assessed value of the property.

**Consultations:**

Heritage Planning Staff have been in discussion with the Property Owner since January 2023 and conducted a site visit in February 2023. Planning and Building Department Staff were consulted in the preparation of this report.

**Conclusion:**

The heritage permit request for the erection of a detached two-storey ADU at 436 Askin Avenue is recommended for approval, subject to conditions. Delegated authority to the City Planner or designate to direct any further minor changes as needed will provide expediency on application processing and confirm that the development proposed would not have a negative impact on the heritage attributes of the property.

**Planning Act Matters: N/A****Approvals:**

<b>Name</b>	<b>Title</b>
Michael Cooke	Manager of Planning Policy/Deputy City Planner
Thom Hunt	City Planner / Executive Director, Planning & Building
Wira Vendrasco	Deputy City Solicitor
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administrative Officer

**Notifications:**

<b>Name</b>	<b>Address</b>	<b>Email</b>
Allan Djordjevic		



**Appendices:**

- 1 Appendix A - Statement of Cultural Heritage Value or Interest from Heritage Designation By-law 51-2022
- 2 Appendix B - Heritage Permit Application
- 3 Appendix C - Additional Photos of 436 Askin Avenue

**APPENDIX 'A' - Heritage Designation By-law for 436 Askin Avenue**

From By-Law No. 51-2022, March 21, 2022

**SCHEDULE "B"**

**STATEMENT OF CULTURAL HERITAGE VALUE AND INTEREST  
436 Askin Avenue**

**Description of Historic Place**

436 Askin Avenue is located on the east side of Askin Avenue, south of Fanchette Street. The 2 ½-storey brick and stucco house was built c.1928 in the Tudor Revival style.

**Design or Physical Value:**

The building is a large 2½-storey Tudor Revival style house with brick walls and steeply pitched roofs, designed with the front facing west to Askin Avenue. The asymmetrical facade includes a steeply pitched two-storey projecting portico with a stepped chimney, off-set from the center to the north. The main roof is clipped on the north end and marked by a large rectangular chimney on the south end. Although the gable ends feature stucco and decorative half-timbering, the majority of the building is constructed of variegated brick with brown to buff colours, including varieties of red colours. The projecting portico has many decorative features, including an arched voussoir entryway radiating out in a sunburst pattern, and a center oriel window apparently with leaded glass. Decorative brick patterns accentuate the portico, with brick in a variety of header, stretcher, rowlock, soldier, and sailor orientations. Around the building, soldier course brick delineate the floors, openings are framed by brick surrounds and rowlock brick window sills, and corners of the building are marked by protruding columns capped by stacked, sloping sailor brick coping. Other features include a recessed arched front door (west-facing), and various original window types including wood sash windows with six over one sash windows, casement windows with leaded glass in diamond pattern, and stained glass windows.

The building is a representative example of Tudor Revival style and displays a high degree of craftsmanship, especially in the decorative brickwork.

**Historical or Associative Value:**

From an early survey in 1881, the subject lands are identified as part of the French farm lots located in the Town of Sandwich. The French farm subdivision patterns of narrow lots perpendicular to the river front were laid out throughout the region up to Cabana Road or 4th Concession. During the early decades of the twentieth century up to 1930, the Border Cities experienced unprecedented growth with a population increase of nearly tenfold. The prosperity of the economy in the region had attracted much development and boom in populations. By the 1920s, many of the farm lots close to the riverfront were going through the process of being developed and homes were being built in the area, including along Askin Avenue. The subject parcel consists of Lot 6 and Part of Lot 5 on Plan 868 which was approved by the Town of Sandwich on December 20<sup>th</sup>, 1916.

According to property title and ownership records, the property was purchased by Edward and Louise Griffith in Oct. 1926 for \$2500. It appears the building was constructed c.1928, with the Griffiths indicating occupancy at the subject property's address of 212 Askin Avenue in 1928 (per 1928-1929 City Directories and The Border Cities Star newspaper records). They were long-time owners, selling 436 Askin in Nov. 1951 for \$21000. According to Edward Griffith's obituary posted in the Windsor Star in August 1978, he had owned an insurance agency business and was a life member of the Windsor Lodge #403 AF and AM.

Information about the architect, building or designer of the building is unknown.

**Contextual Value:**

This block on Askin Avenue between Fanchette Street and Wyandotte Street consists of one and two storey residential buildings. The majority of the buildings are single detached houses, although there are several traditional type semi-detached houses and duplexes. 436 Askin is of similar epoch as many other homes constructed in the area. Building permit records and Fire Insurance Maps indicate that many of the original

homes that remain on Askin Avenue were constructed in the mid-to-late 1920's, ranging in architectural styles of craftsmen bungalows, American foursquare, and colonial revival styled homes, etc. The subject property's Tudor Revival architecture is distinctive as it is comparatively less common in the immediate area. Single-vehicle-width driveways with access to the front are typical along this block. South of the block, Wyandotte Street is designated as a Main Street in the Official Plan, and features a mix of commercial uses and apartment-style dwellings. The main campus of the University of Windsor is one block to the west of the subject site. Amidst changes in the surrounding context, the original building typology and Tudor Revival house contributes to maintaining the character of the area as a mature residential neighbourhood with heritage character.

The subject property's period architecture visually and historically connects to the era of its original early 20<sup>th</sup> century subdivision plan, along with the wide tree median right-of-way design on Askin Avenue. The section of Askin Avenue incorporates a treed landscaped boulevard, and a wide median island that is approximately 15 metres in width, also landscaped with grass, shrubs, and a mix of deciduous trees. This locally uncommon wide treed median is a defining feature on this block and part of the original plan of subdivision laid out in 1916.

#### **Description of Heritage Attributes:**

##### **Attributes that contribute to the design or physical value of 436 Askin Avenue:**

2½-storey Tudor Revival style house, built in c.1928

- Steeply pitched side-gabled roof with gabled portico
- Asymmetrical façade with two-storey front-facing portico off-set from the center to the north
- Majority of building constructed of variegated brick with brown to buff colours, including varieties of red colours
- Main side-gable roof clipped on the north end and marked by a large rectangular brick chimney on the south end with triple chimney pot
- Side-gable ends feature stucco and decorative half-timbering
- Gables with plain or half-timbered vergeboard
- Steeply pitched projecting portico features
  - 2 sided oriel window with casement windows of leaded glass with crest
  - Stepped brick chimney with chimney pots and sailor brick coping ends
  - Arched voussoir entryway radiating out in sunburst pattern in front center, and arched opening at south side
  - Rectangular opening with brick sill and column with brick coping to south of front facing plane
  - Decorative brick patterns in a variety of header, stretcher, rowlock, soldier and sailor, orientations, and projecting units in random pattern, accentuate the porch
  - Situated atop brick (with projecting units) and concrete deck
- Recessed arched front door (west-facing)
- Canopy over the first floor west-facing bay windows (north of porch)
- Variety of original window types including wood sash windows with six over one windows, casement windows with leaded glass in diamond pattern, and stained glass windows
- Brick surrounds over openings feature double rowlock lintels, projecting stretcher and header brick at sides, and rowlock sills
- Soldier brick course delineating floors
- Front corners of the building marked by protruding columns topped by stacked, slopping sailor brick coping

**Attributes that contribute to the historical or associative value of 436 Askin Avenue:**

- Developed alongside the growth in the Border Cities area as part of a Town of Sandwich subdivision
- Associated with first owners Edward & Louise Griffith

**Attributes that contribute to the contextual value of 436 Askin Avenue:**

- Original building typology and tudor revival style of house contributes to maintaining the character of the area as a mature residential neighbourhood with heritage character
- The subject property's period architecture visually and historically connects to the era of its original early 20<sup>th</sup> century subdivision plan, along with the wide tree median right-of-way design on Askin Avenue.



# HERITAGE PERMIT APPLICATION

Revised 12/2021

## CORPORATION OF THE CITY OF WINDSOR

Planning Dept., Suite 320-350 City Hall Sq W, Windsor ON N9A 6S1  
519-255-6543 | 519-255-6544 (fax) | [planningdept@citywindsor.ca](mailto:planningdept@citywindsor.ca)

### 1. Applicant, Agent and Registered Owner Information

Provide in full the name of the applicant, registered owner and agent, the name of the contact person, and address, postal code, phone number, fax number and email address. If the applicant or registered owner is a numbered company, provide the name of the principals of the company. If there is more than one applicant or registered owner, copy this page, complete in full and submit with this application.

#### APPLICANT

Contact Name(s) Allen Djordjevic  
Company or Organization \_\_\_\_\_  
Mailing Address 436 Askin, Windsor, Ontario, N9B 2X4  
\_\_\_\_\_  
Postal Code N8N1B7  
Email adgdesignstudio@gmail.com Phone(s) 248-495-6614

#### REGISTERED OWNER IF NOT APPLICANT

Contact Name(s) \_\_\_\_\_  
Company or Organization \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
\_\_\_\_\_  
Postal Code \_\_\_\_\_  
Email \_\_\_\_\_ Phone(s) \_\_\_\_\_

#### AGENT AUTHORIZED BY REGISTERED OWNER TO FILE THE APPLICATION

Contact Name(s) \_\_\_\_\_  
Company or Organization \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
\_\_\_\_\_  
Postal Code \_\_\_\_\_  
Email \_\_\_\_\_ Phone(s) \_\_\_\_\_

#### Who is the primary contact?

- Applicant                       Registered Owner                       Agent



# HERITAGE PERMIT APPLICATION

Revised 12/2021

## 2. SUBJECT PROPERTY

Municipal Address: 436 ASKIN AVE, WINDSOR , N9B 2X4

Legal Description (if known): \_\_\_\_\_

Building/Structure Type:

- Residential
- Commercial
- Industrial
- Institutional

Heritage Designation:

- Part IV (Individual)
- Part V (Heritage Conservation District)

By-law #: \_\_\_\_\_ District: \_\_\_\_\_

Is the property subject to a Heritage Easement or Agreement?

- Yes
- No

## 3. TYPE OF APPLICATION

Check all that apply:

- Demolition/Removal of heritage attributes
- Addition
- Erection
- Alteration\*
- Demolition/Removal of building or structure
- Signage
- Lighting

\*The Ontario Heritage Act's definition of "alter" means to change in any manner and includes to restore, renovate, repair or disturb.

## 4. HERITAGE DESCRIPTION OF BUILDING

*Describe the existing design or appearance of buildings, structures, and heritage attributes where work is requested. Include site layout, history, architectural description, number of storeys, style, features, etc..*

\_\_\_\_\_

2 Story dwelling, brick and siding, built in 1928, English Revival,

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

**5. PROPOSED WORK**

*Provide a detailed written description of work to be done, including any conservation methods you plan to use. Provide details, drawings, and written specifications such as building materials, measurements, window sizes and configurations, decorative details, etc.. Attach site plans, elevations, product spec sheets, etc. to illustrate, if necessary.*

Please see attached files for the above

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**6. HERITAGE PERMIT RATIONALE**

*Explain the reasons for undertaking the proposed work and why it is necessary.*

Provide a dwelling when Windsor and Essex County has a housing shortage problem,

Provide additional income to offset high mortgage interest rates on dwelling

In the future provide a dwelling for family members

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*Describe the potential impacts to the heritage attributes of the property.*

compatible with the exterior architectural style, materials, and features of the primary dwelling,  
designed to fit in the fabric of the neighborhood, designed simple and modest so does not detract  
from primary dwelling

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**7. CHECKLIST OF MATERIALS SUBMITTED** Check all that apply:

Required:

- Photographs (showing the current condition and context of existing buildings, structures, and heritage attributes that are affected by the application)
- Site plan/ Sketch (showing buildings on the property and location of proposed work)
- Drawings of proposed work (e.g. existing and proposed elevations, floor plans, roof plans, etc., as determined by Heritage Planning staff)
- Specifications of proposed work (e.g. construction specification details)

Potentially required (to be determined by Heritage Planning staff):

- Registered survey
- Material samples, brochures, product data sheets etc.
- Cultural Heritage Evaluation Report
- Heritage Impact Assessment (HIA)
- Heritage Conservation Plan
- Building Condition Assessment



# HERITAGE PERMIT APPLICATION

Revised 12/2021

## 8. NOTES FOR DECLARATION

*The applicant hereby declares that the statements made herein and information provided are, to the best of their belief and knowledge, a true and complete representation of the purpose and intent of this application.*

*The applicant agrees that the proposed work shall be done in accordance with this application, including attachments, and understands that the issuance of the Heritage Alteration Permit under the Ontario Heritage Act shall not be a waiver of any of the provisions of any By-Law of the Corporation of the City of Windsor, or the requirements of the Building Code Act, RSO 1980, c51.*

*The applicant acknowledges that in the event a permit is issued, any departure from the conditions imposed by the Council of the Corporation of the City of Windsor, or plans and specifications approved is prohibited and could result in the permit being revoked. The applicant further agrees that if the Heritage Alteration Permit is revoked for any cause of irregularity, in the relation to non-conformance with the said agreements, By-Laws, acts or regulations that, in consideration of the issuance of the permit, all claims against the City for any resultant loss or damage are hereby expressly waived.*

**APPLICANT** Signature(s) ALLEN DJORDJEVIC Date 1/15/2023  
\_\_\_\_\_ Date \_\_\_\_\_





**DO NOT COMPLETE BELOW – STAFF USE ONLY**

**Approval Record**

Date Received by Heritage Planner: \_\_\_\_\_

Building Permit Application Date, if needed: \_\_\_\_\_

Application Approval (City Council):  
 Development & Heritage Standing Committee: \_\_\_\_\_  
 City Council: \_\_\_\_\_

Application Approval (City Planner):  
 Heritage Planner: \_\_\_\_\_  
 Staff Decision Appealed to City Council: \_\_\_\_\_  
 If so, Date to City Council: \_\_\_\_\_  
 Council Decision Appealed: \_\_\_\_\_

Additional Notes / Conditions:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**DECISION**

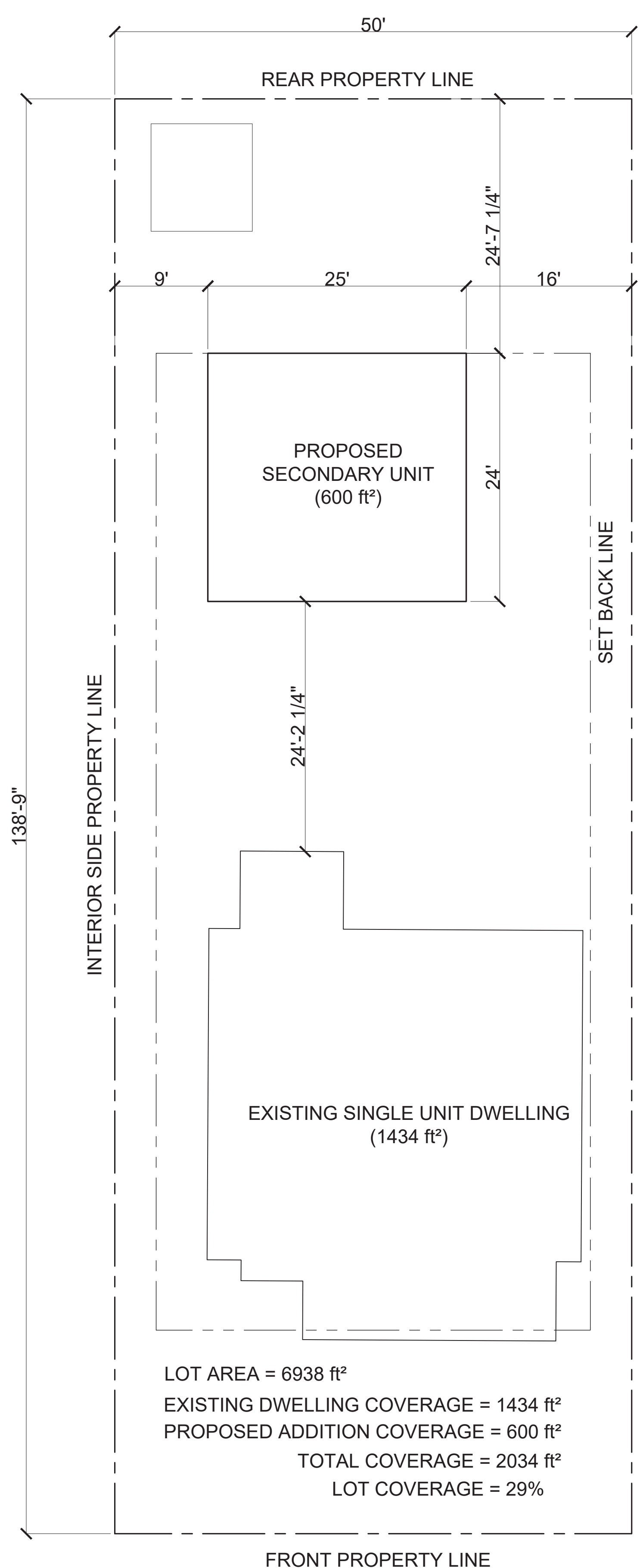
Heritage Permit No.: \_\_\_\_\_ Date: \_\_\_\_\_

Council Motion or City Planner's Signature: \_\_\_\_\_

Please contact Heritage Planning to request inspections at [ktang@citywindsor.ca](mailto:ktang@citywindsor.ca)

**CONTACT INFORMATION**

Planning Department - Planning Policy  
 Corporation of the City of Windsor  
 Suite 320 - 350 City Hall Square West  
 Windsor ON N9A 6S1  
 planningdept@citywindsor.ca  
 519-255-6543 x 6179  
 519-255-6544 (fax)  
 http://www.citywindsor.ca



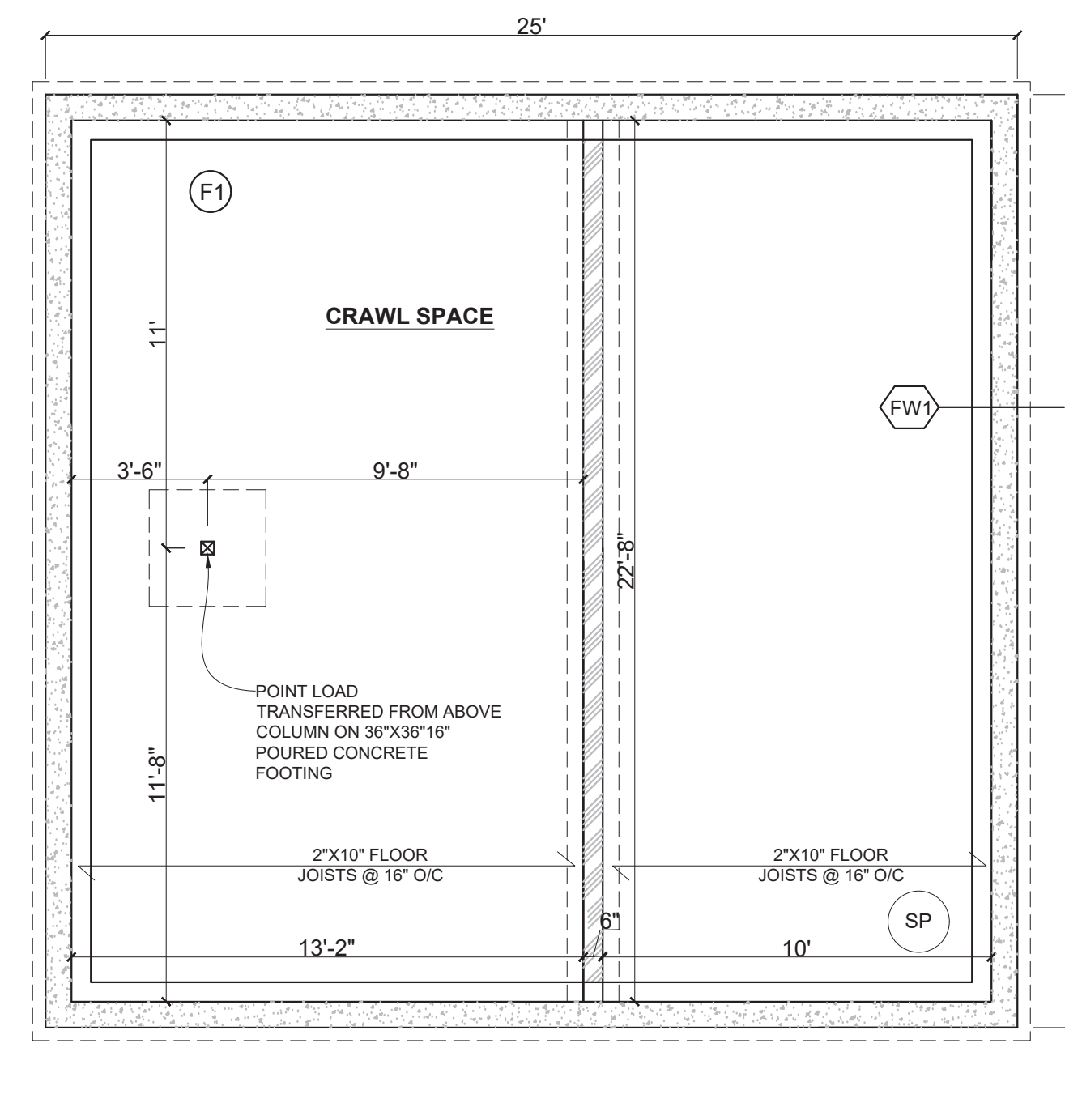
LOT AREA = 6938 ft<sup>2</sup>  
 EXISTING DWELLING COVERAGE = 1434 ft<sup>2</sup>  
 PROPOSED ADDITION COVERAGE = 600 ft<sup>2</sup>  
 TOTAL COVERAGE = 2034 ft<sup>2</sup>  
 LOT COVERAGE = 29%

<p><b>LEGEND</b></p> <p>(FW1) BITUMINOUS DAMP PROOFING 8" POURED CONCRETE FOUNDATION WALL, R20 BLANKET INSULATION, ON 20"X8" POURED CONCRETE FOOTING ON UNDISTURBED SOIL</p> <p>(W1) EXTERIOR WALL - SIDES &amp; REAR SIDING - AS PER OWNER 7/16" O.S.B. EXTERIOR GRADE SHEETING 2X6 WOOD STUDS @ 24" O.C. R20 BATT INSULATION COVERED WITH 6 MIL POLY V.B &amp; 1/2" DRYWALL</p> <p>(W2) EXTERIOR WALL - SIDES &amp; REAR 4" BRICK VENEER 1" AIR SPACE 7/16" O.S.B. EXTERIOR GRADE SHEETING 2X6 WOOD STUDS @ 24" O.C. R20 BATT INSULATION COVERED WITH 6 MIL POLY V.B &amp; 1/2" DRYWALL</p>	<p>LOAD BEARING INTERIOR WALL 2X6 WOOD STUDS @ 16" O/C W/ SINGLE BOTTOM PLATE AND DOUBLE TOP PLATE OVER LINTELS 2X6 WOOD BLOCKING @ 3'-11" O/C HORIZONTAL</p> <p>LOAD BEARING INTERIOR WALL 2X6 WOOD STUDS @ 16" O/C W/ SINGLE BOTTOM PLATE AND DOUBLE TOP PLATE OVER LINTELS 2X6 WOOD BLOCKING @ 3'-11" O/C HORIZONTAL ON 16" X 8" POURED CONCRETE FOOTING ON UNDISTURBED SOIL</p> <p>EF DENOTES EXHAUST FAN VENTED DIRECTLY TO EXTERIOR AS PER O.B.C REQUIREMENTS.</p> <p># DENOTES NEW INTERIOR DOOR SIZE. SITE VERIFY</p> <p>RH DENOTES RANGE HOOD VENTED DIRECTLY TO EXTERIOR AS PER O.B.C REQUIREMENTS.</p>	<p>SP SUMP PUMP C/W COVER TO RESIST REMOVAL BY CHILDREN AND SEALED TO MAINTAIN CONTINUITY OF THE AIR BARRIER SYSTEM</p> <p>CH CRAWL SPACE ACCESS HATCH 32"X24" MINIMUM. INSTALLED AS PER OBC REQUIREMENTS.</p> <p>P1 INTERIOR PARTITION 1/2" DRYWALL ON BOTH SIDES OF 2"X4" WOOD STUDS @ 16" O/C</p>	<p>SD DENOTES SMOKE ALARM C/W CO<sup>2</sup> DETECTOR. REFER TO GENERAL NOTES.</p> <p>A/H ATTIC ACCESS HATCH 32"X24" MINIMUM. INSTALLED AS PER OBC REQUIREMENTS.</p>
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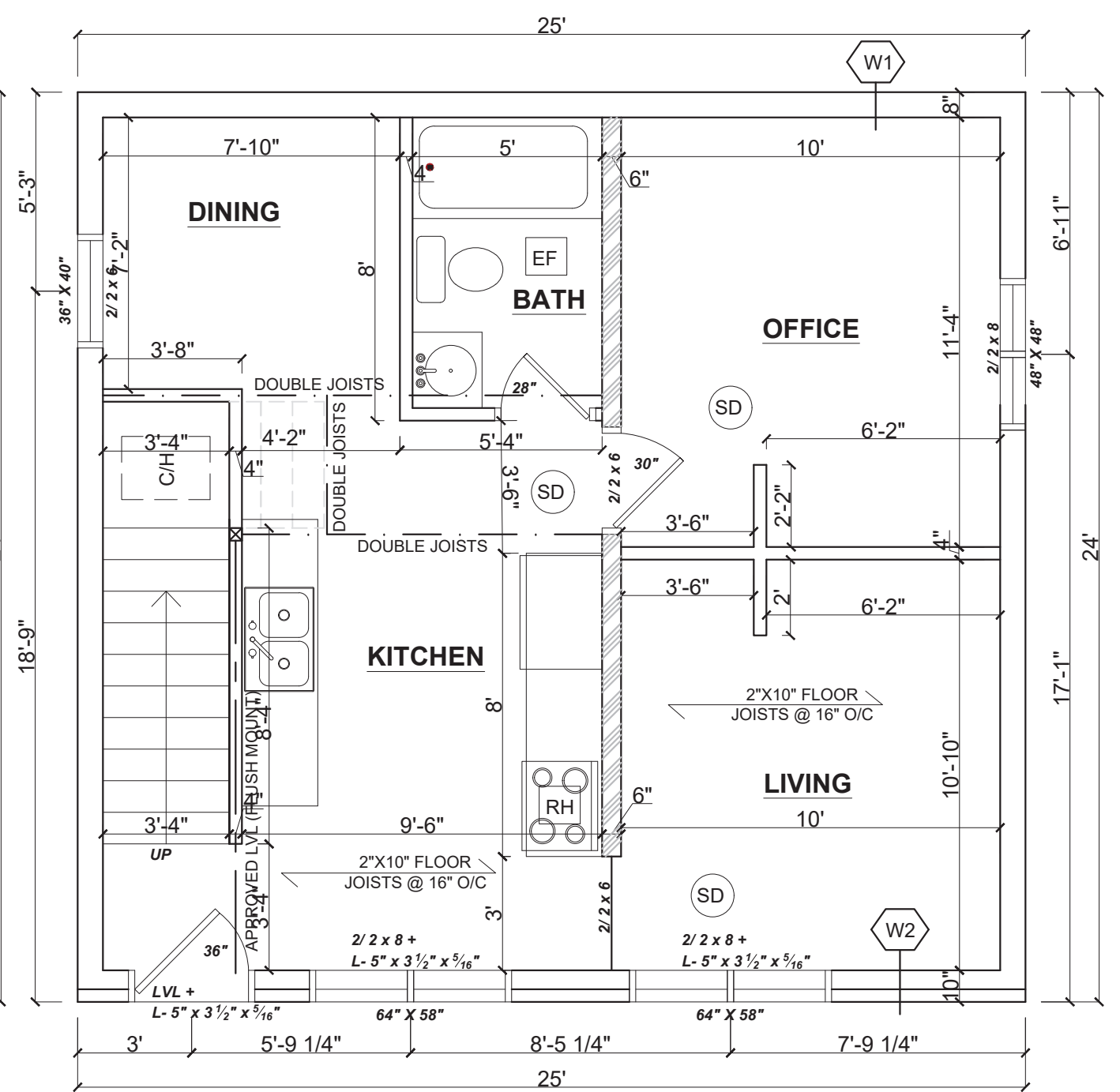
**NOTES**

1. MECHANICAL AND ELECTRICAL SERVICES DONE BY OTHERS.

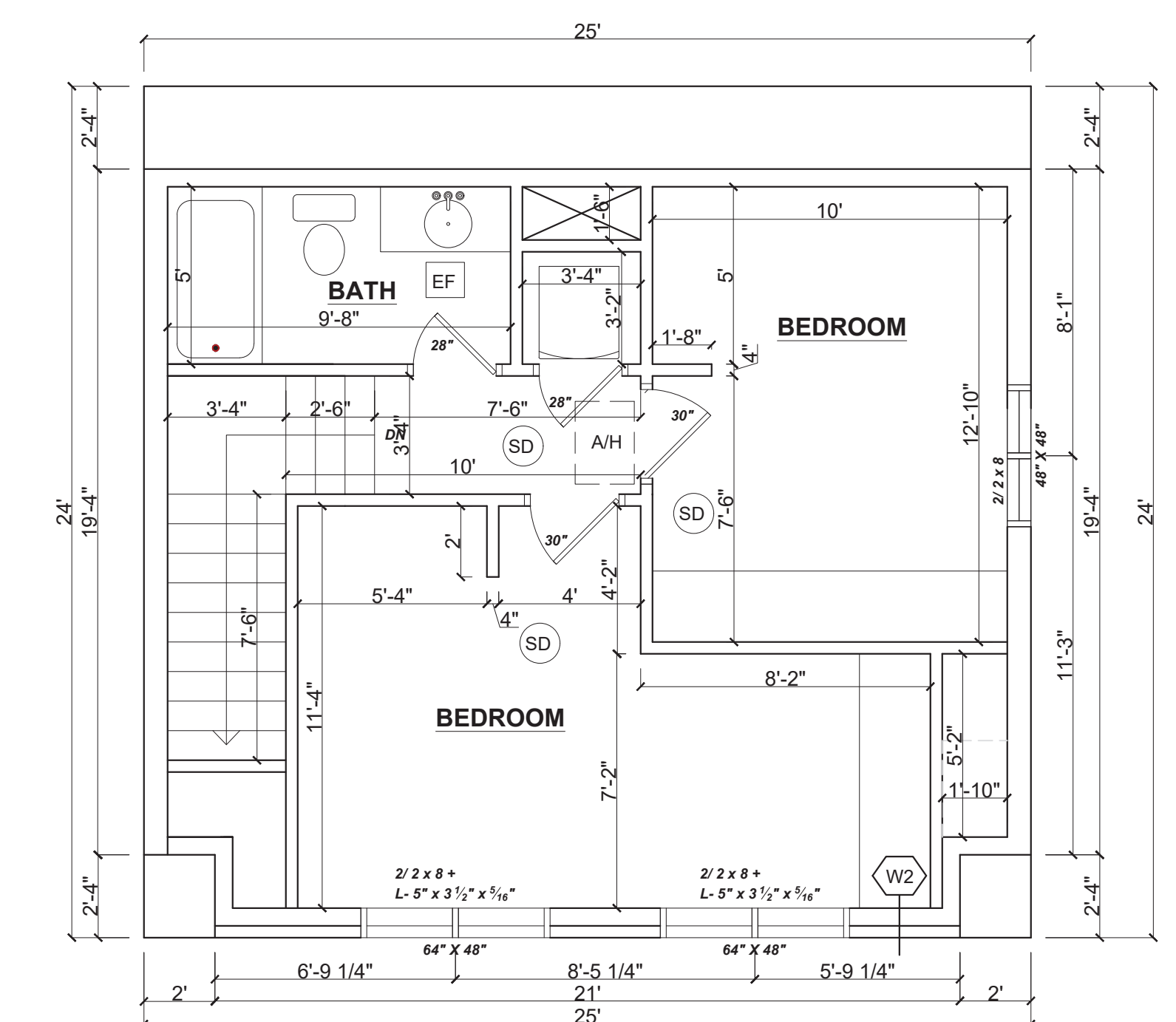
SECOND FLOOR GFA = 475 ft<sup>2</sup>  
 MAIN FLOOR GFA = 600 ft<sup>2</sup>  
 TOTAL GFA = 1075 ft<sup>2</sup>



**FOUNDATION PLAN**



**MAIN FLOOR PLAN**



**SECOND FLOOR PLAN**

<p style="text-align: center;"><b>GENERAL NOTES</b></p> <p><u>CODE AND PROCEDURES</u></p> <p>THESE PLANS HAVE BEEN PREPARED IN ACCORDANCE WITH THE CURRENT EDITION OF THE ONTARIO BUILDING CODE. THE OWNER / BUILDER IS RESPONSIBLE FOR ENSURING THAT ANY CHANGES TO THE CODE ARE COMPLIED WITH AND ALL AMENDMENTS ARE INCORPORATED IN THE CONSTRUCTION OF THIS PLAN. ALL WORK SHALL CONFORM TO LOCAL CODES AND BYLAWS. IT IS THE OWNER/BUILDERS RESPONSIBILITY TO NOTIFY AG DESIGN OF ANY REQUIREMENTS THAT EXCEED THE ONTARIO BUILDING CODE.</p> <p><u>CONCRETE</u></p> <p>THE COMPRESSIVE STRENGTH OF CONCRETE AFTER 28 DAYS SHALL NOT BE LESS THAN:          - 32 MPA (4650 PSI) WITH 5 TO 8 % AIR ENTRAINMENT FOR GARAGE FLOORS, CARPORTS FLOORS AND ALL EXTERIOR FLATWORK.          - 20 MPA (2900 PSI) FOR INTERIOR FLOORS OTHER THEN THOSE FOR GARAGES AND CARPORTS          - 15 MPA FOR FOUNDATION WALLS, COLUMNS, FOOTINGS, PIERS AND OTHER APPLICATIONS</p> <p>SITE BATCHED CONCRETE SHALL CONFORM TO THE ONTARIO BUILDING CODE REQUIREMENTS.</p> <p>WHEN THE AIR TEMPERATURE IS BELOW 5°C CONCRETE SHALL BE KEPT AT A TEMPERATURE OF NOT LESS THAN 10°C OR MORE THAN 25°C WHILE BEING PLACED AND MAINTAINED AT A TEMPERATURE OF NOT LESS THAN 10°C FOR 72 HOURS AFTER PLACING. NO FROZEN MATERIAL OR ICE SHALL BE USED IN THE CONCRETE.</p> <p><u>FOOTINGS</u></p> <p>FOOTINGS AND PADS ARE TO BE PLACED ON UNDISTURBED SOIL, ROCK, OR COMPACTED GRANULAR FILL, TO AN ELEVATION BELOW FROST PENETRATION WITH A MINIMUM SOIL BEARING CAPACITY OF 75 KPA. IT IS THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO VERIFY THE SOIL BEARING CAPACITY PRIOR TO CONSTRUCTION. IF A LESSER BEARING CAPACITY IS ENCOUNTERED IT IS THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO HAVE THE FOUNDATION REDESIGNED BY A QUALIFIED PROFESSIONAL TO SUIT SITE CONDITION.</p> <p>WHERE WATER TABLE LEVELS ARE WITHIN A DISTANCE BELOW THE BEARING SURFACE LESS THAN OR EQUAL TO THE WIDTH OF THE FOOTING, THE FOOTINGS SHALL BE DOUBLED IN WIDTH UNDER WALLS AND DOUBLED IN AREA UNDER POSTS.</p> <p><u>FOUNDATION WALLS</u></p> <p>FOUNDATION WALLS TO EXTEND A MINIMUM 8" ABOVE FINISHED GRADE.</p> <p>GRADE LINES ON PLANS ARE ASSUMED, OWNER/CONTRACTOR TO VERIFY.</p> <p>WHERE EXTERIOR FINISHED GROUND LEVEL IS AT A HIGHER ELEVATION THAN THE GROUND LEVEL INSIDE THE FOUNDATION WALLS SHALL BE DAMP PROOFED &amp; WHERE HYDROSTATIC PRESSURE OCCURS WATER PROOFING IS REQUIRED.</p>	<p><u>ROOF FRAMING</u></p> <p>ROOF SHEETING SHALL BE INSTALLED WITH THE SURFACE GRAIN AT RIGHT ANGLES TO THE ROOF FRAMING JOINTS PERPENDICULAR TO ROOF RIDGE SHALL BE STAGGERED WITH EDGES SUPPORTED ON TRUSSES, IF TONGUED AND GROOVED EDGE PANEL TYPE SHEETING IS NOT USED THAN EDGES PARALLEL TO THE ROOF RIDGE SHALL BE SUPPORTED BY METAL 1" CLIPS OR NOT LESS THAN 1.5"X1.5" BLOCKING SECURELY NAILED BETWEEN FRAMING MEMBERS.</p> <p>VENTILATION OF ROOF SPACE TO BE VENTED TO A MINIMUM OF OF 1/150 OF INSULATED ROOF AREA.</p> <p><u>MECHANICAL &amp; ELECTRICAL</u></p> <p>MECHANICAL AND ELECTRICAL SERVICES DONE BY OTHERS.</p> <p><u>SMOKE ALARMS</u></p> <p>SMOKE ALARMS SHALL CONFORM TO CAN/ULC-S531 "SMOKE ALARMS"</p> <p>SMOKE ALARMS SHALL BE INSTALLED ON OR NEAR THE CEILING AND BE INSTALLED AS PER CAN/ULC-S553 "INSTALLATION OF SMOKE ALARMS"</p> <p>SMOKE ALARMS SHALL HAVE A VISUAL SIGNALLING COMPONENT CONFORMING TO THE REQUIREMENTS IN 18.5.3. OF NFPA 72, "NATIONAL FIRE ALARM AND SIGNALING CODE"</p> <p>SMOKE ALARMS SHALL BE INSTALLED WITH PERMANENT CONNECTIONS TO AN ELECTRICAL CIRCUIT. C/W BATTERY BACKUP AS PER O.B.C REQUIREMENTS</p> <p>ALL SMOKE ALARMS SHALL BE INTERCONNECTED SO THE ACTIVATION OF ONE ALARM WILL CAUSE ALL ALARMS TO SOUND</p> <p><u>STEEL LINTELS SUPPORTING MASONRY VENEER</u></p> <p>STEEL LINTELS SUPPORTING MASONRY VENEER OVER OPENINGS SHALL HAVE EVEN AND LEVEL BEARING AND SHALL HAVE NOT LESS THAN 6" LENGTH OF BEARING AT END SUPPORTS, AND BEAR ON MASONRY, CONCRETE OR STEEL.</p> <p>STEEL ANGLE LINTELS SHALL BE PRIMED OR PAINTED OR OTHERWISE PROTECTED FROM CORROSION</p> <p><u>DEADBOLT</u></p> <p>DOORS THAT REQUIRE A DEADBOLT SHALL BE EQUIP WITH A DEADBOLT LOCK WITH A CYLINDER HAVING NO MORE THAN FIVE PINS AND A BOLT THROW NOT LESS THAN 25MM LONG, PROTECTED WITH A SOLID OR HARDENED FREE-TURNING RING OR BEVELED CYLINDER HOUSING</p> <p><u>WOOD FRAMING GENERAL</u></p> <p>ALL WOOD FRAMING SHALL COMPLY WITH SECTION 9.23 OF THE ONTARIO BUILDING CODE.</p> <p>ALL STRUCTURAL FRAMING LUMBER SHALL BE GRADE STAMPED AS SPRUCE - PINE - FIR (S-P-F) NO 2 OR BETTER WITH A MOISTURE CONTENT OF 19% OR LESS AT TIME OF CONSTRUCTION.</p> <p>WOOD FRAMING MEMBERS THAT ARE NOT TREATED WITH A WOOD PRESERVATIVE AND BEAR ON CONCRETE OR IN DIRECT CONTACT WITH THE GROUND SHALL BE SEPARATED WITH A 6 MIL POLY OR TYPE 'S' ROLL ROOFING.</p> <p>ALL NOTCHING AND DRILLING OF FRAMING MEMBERS SHALL CONFORM TO SUBSECTION 9.23.5 OF THE ONTARIO BUILDING CODE.</p> <p>FLUSHED FRAMED WOOD MEMBERS SHALL BE SUPPORTED WITH APPROPRIATE JOIST HANGERS AND FASTENERS.</p>
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**STAIR AND GUARD INFORMATION**

STAIR DIMENSIONS

STAIRS SHALL HAVE A WIDTH OF NOT LESS THAN 34"

THE CLEAR HEIGHT OVER STAIRS SHALL BE NOT LESS THAN 6'-4"

RISERS SHALL HAVE A UNIFORM HEIGHT IN ANY ONE FLIGHT WITH A MAXIMUM TOLERANCE OF 1/8" BETWEEN ADJACENT TREADS AND 3/8" BETWEEN THE TALLEST AND SHORTEST RISERS IN A FLIGHT.

TREADS SHALL HAVE A UNIFORM RUN WITH A MAXIMUM TOLERANCE OF 1/8" BETWEEN ADJACENT TREADS, AND 3/8" BETWEEN THE DEEPEST AND SHALLOWEST TREADS IN A FLIGHT

HANDRAILS

THE HEIGHT OF HANDRAILS ON STAIRS AND RAMPS SHALL BE NOT LESS THAN 34" AND NOT MORE THAN 38"

GUARDS

THE MINIMUM HEIGHT OF GUARDS SHALL BE NOT LESS THAN 36"

ALL GUARDS SHALL BE CONSTRUCTED AS PER SB-7 REQUIREMENTS

CONTRACTOR MUST VERIFY ALL DIMENSIONS ON THE JOB AND REPORT ANY DISCREPANCY TO DESIGNER BEFORE PROCEEDING WITH WORK  
 THIS DESIGNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR ERRORS OR OMISSIONS NOT REPORTED BY THE CONTRACTOR OR HIS SUBSIDIARIES  
 THIS DESIGNER ASSUMES NO RESPONSIBILITY FOR THE CONTRACTOR OR HIS SUBSIDIARIES FAILURE TO CARRY OUT THE WORK ACCORDING TO THESE PLANS, SPECIFICATIONS AND RELATED DOCUMENTS.  
 CONSTRUCTION MUST COMPLY WITH THE LATEST STANDARDS OF THE ONTARIO BUILDING CODE AND ANY OTHER APPLICABLE LAWS.  
 ALL DRAWINGS AND SPECIFICATION ARE THE PROPERTY OF THE DESIGNER AND ARE PROTECTED BY COPYRIGHT.

I Ashley Kozachanko declare that I take responsibility for the design of this plan. I am qualified and registered with the Ministry of Municipal Affairs and Housing.



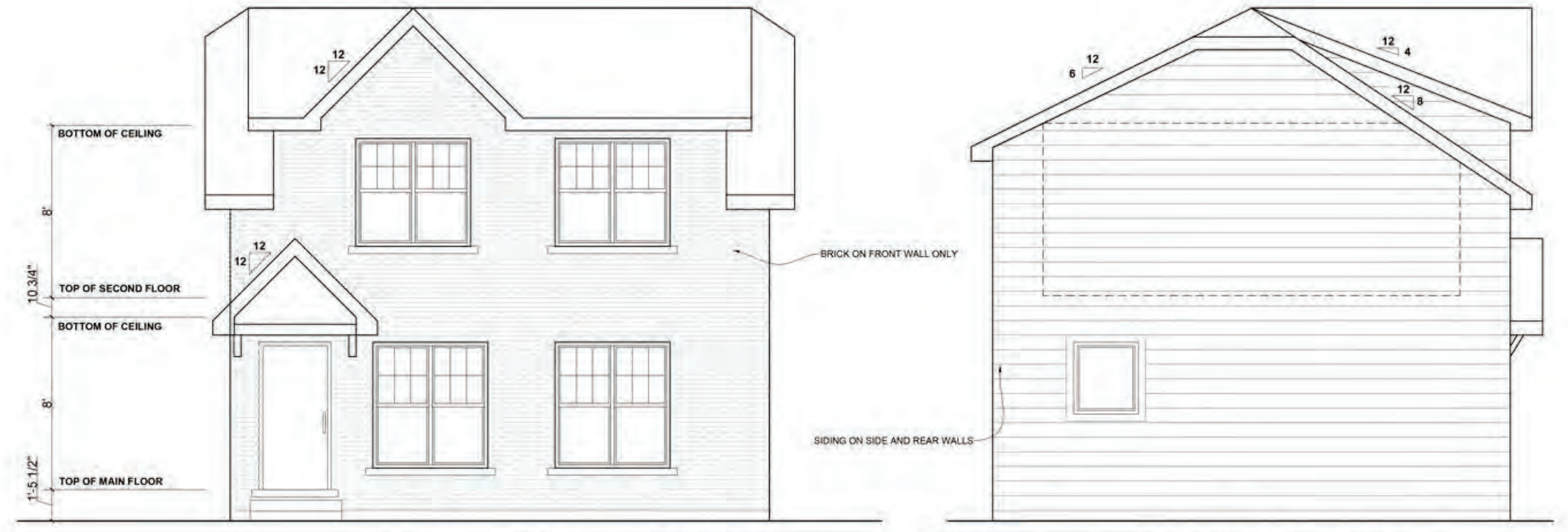
**DETACHED ADU**  
 436 ASKING AVENUE  
 Windsor, ON

Date: February 10, 2023  
 Scale: 1/4" = 1'-0"  
 Project No.: 060/22  
 Drawing No.:

**SITE PLAN, FLOOR PLANS & GENERAL NOTES**



BUILDING PERSPECTIVE



FRONT ELEVATION

FRONT ELEVATION  
TOTAL WINDOW AREA: 94 SQ.FT  
TOTAL WALL AREA: 417 SQ.FT

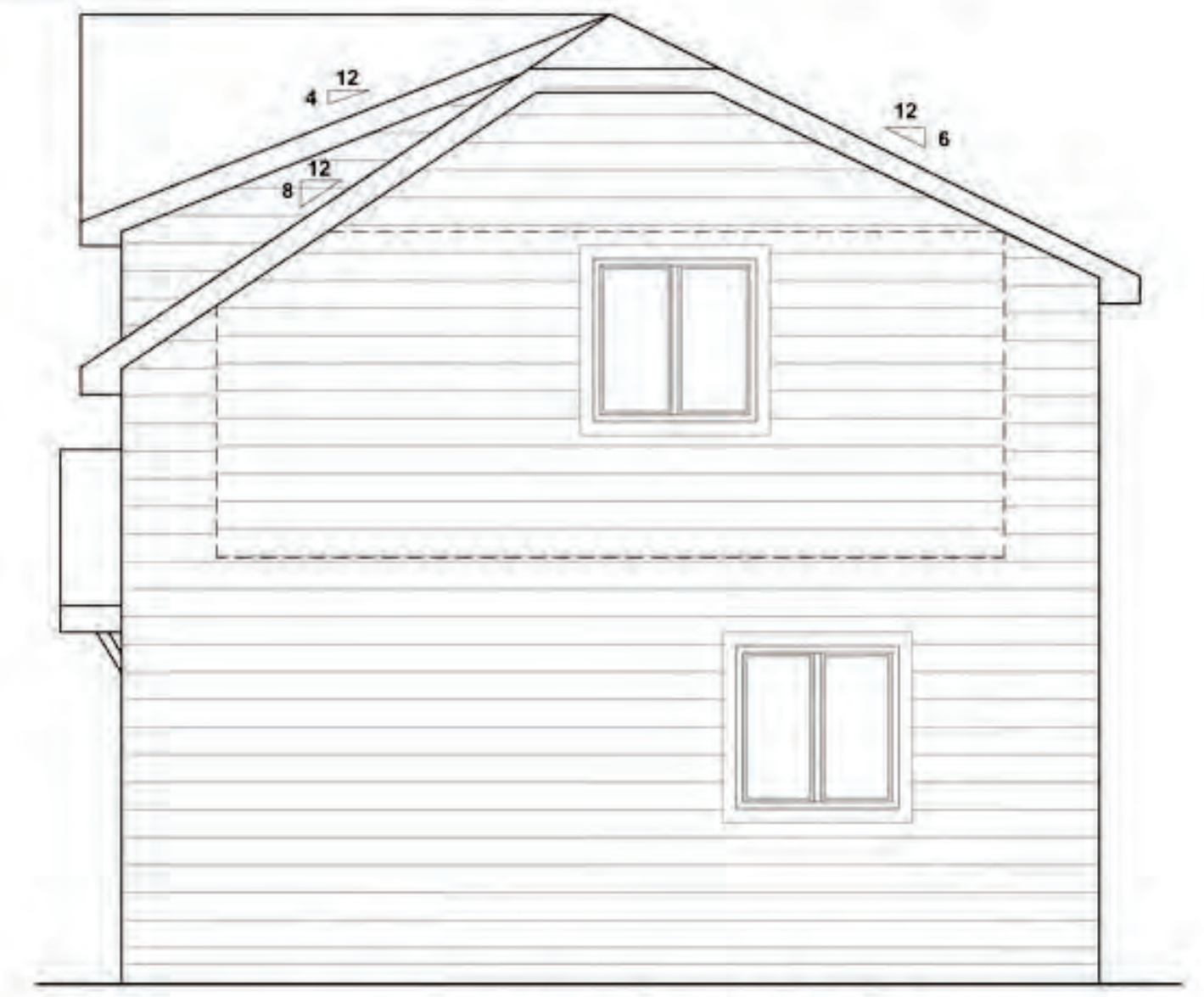
LEFT SIDE ELEVATION

SIDE ELEVATION  
TOTAL WINDOW AREA: 10 SQ.FT  
TOTAL WALL AREA: 421 SQ.FT



REAR ELEVATION

REAR ELEVATION  
TOTAL WINDOW AREA: 0 SQ.FT  
TOTAL WALL AREA: 417 SQ.FT



RIGHT SIDE ELEVATION

SIDE ELEVATION  
TOTAL WINDOW AREA: 32 SQ.FT  
TOTAL WALL AREA: 421 SQ.FT



FRONT ELEVATION



SIDE ELEVATION



LEFT SIDE ELEVATION EXISTING DWELLING

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I Ashley Kozachanko declare that I take responsibility for the design of this plan. I am qualified and registered with the Ministry of Municipal Affairs and Housing.  
Individual BCIN: 37168 Firm BCIN: 43361



DETACHED ADU  
436 ASKING AVENUE  
Windsor, ON  
ELEVATIONS

Date : February 10, 2023  
Scale : 1/4" = 1'-0"  
Project No. : 060/22  
Drawing No. :  
A-2.0

**BRICK SPECIFICATIONS**



**CANYON**  
SIZES: PREMIUM PLUS



**CHURCH HILL**  
SIZES: PREMIUM PLUS

**SIZE SPECIFICATIONS**



**Premier Plus**  
Length 257 mm (10 1/8")  
Height 79 mm (3 1/8")  
Depth 90 mm (3 1/2")  
Bricks per square foot 3.9  
Bricks per square meter 42

BRAMPTON, ONTARIO PLANT	Weight/Cube (kg)	Weight/Cube (lb)	Weight/Brick (kg)	Weight/Brick (lb)	Bricks/Cube	Bricks/m <sup>2</sup>	Bricks/ft <sup>2</sup>
Premier Plus	1,160	2,552	2.5	5.5	464	42.0	3.9

**NOTES**

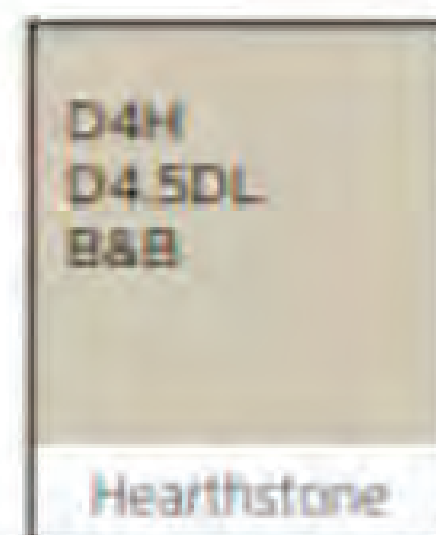
- Refer to your local building codes for proper installation of product.
- All Brampton Brick's clay brick products fully meet or exceed the latest version of the following standards: ASTM C216 and the Can/CSA A82 specifications.
- Sizes are available only in standard stock products. Please refer to individual colors for standard stock item sizes available.

**ROOF SPECIFICATIONS**



**CERTAINTED LANDMARK SHINGLES**  
COLOR - WEATHERED WOOD

**MITTEN VINYL SIDING SPECIFICATIONS**



**COLOR - HEARTHSTONE**  
SENTRY 44 SERIES  
D4H  
D4.5DL  
B&B

**WINDOW SPECIFICATIONS**



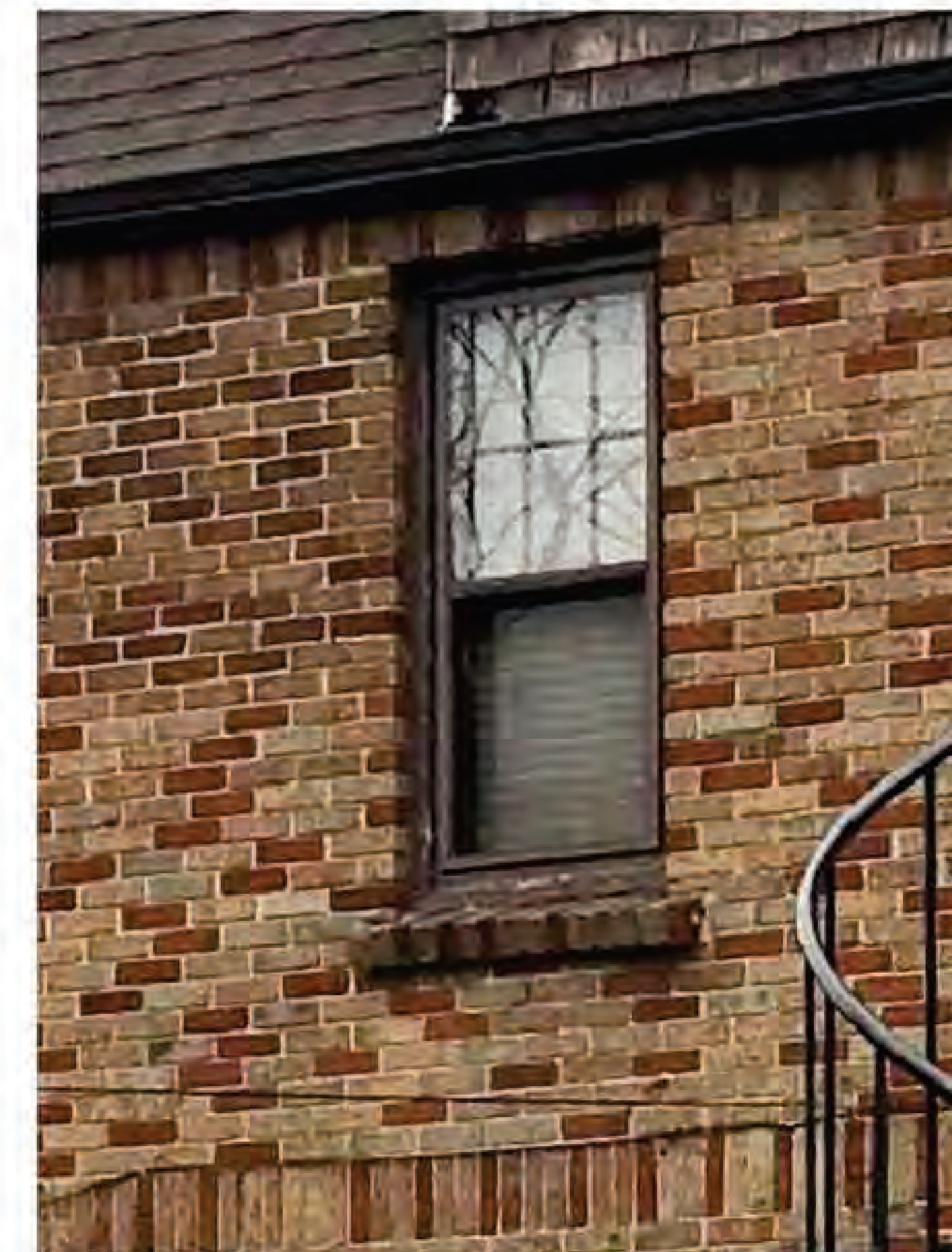
**PELLA® IMPERVIA®**

**Fiberglass Single-Hung Window**

Pella Impervia mulled single-hung windows include two units joined by their frames in the factory. This doubles the size of a single unit, creating a more expansive look. Made from the strongest material for windows, Pella's exclusive fiberglass provides lasting durability and sleek, timeless style.<sup>16</sup> Single-hung windows have a moveable bottom sash for ventilation with a top sash that remains fixed. Achieve your design vision with a variety of popular features and options to choose from.

- Two fiberglass single-hung windows mulled together as a combined unit.
- Fiberglass material is tested beyond industry standards to perform from -40°F to 180°F.
- Equal sightlines deliver a clean, consistent aesthetic unlike other single-hung designs that trade off aesthetic details.
- Product #401002

**EXISTING BUILDING PICTURES**



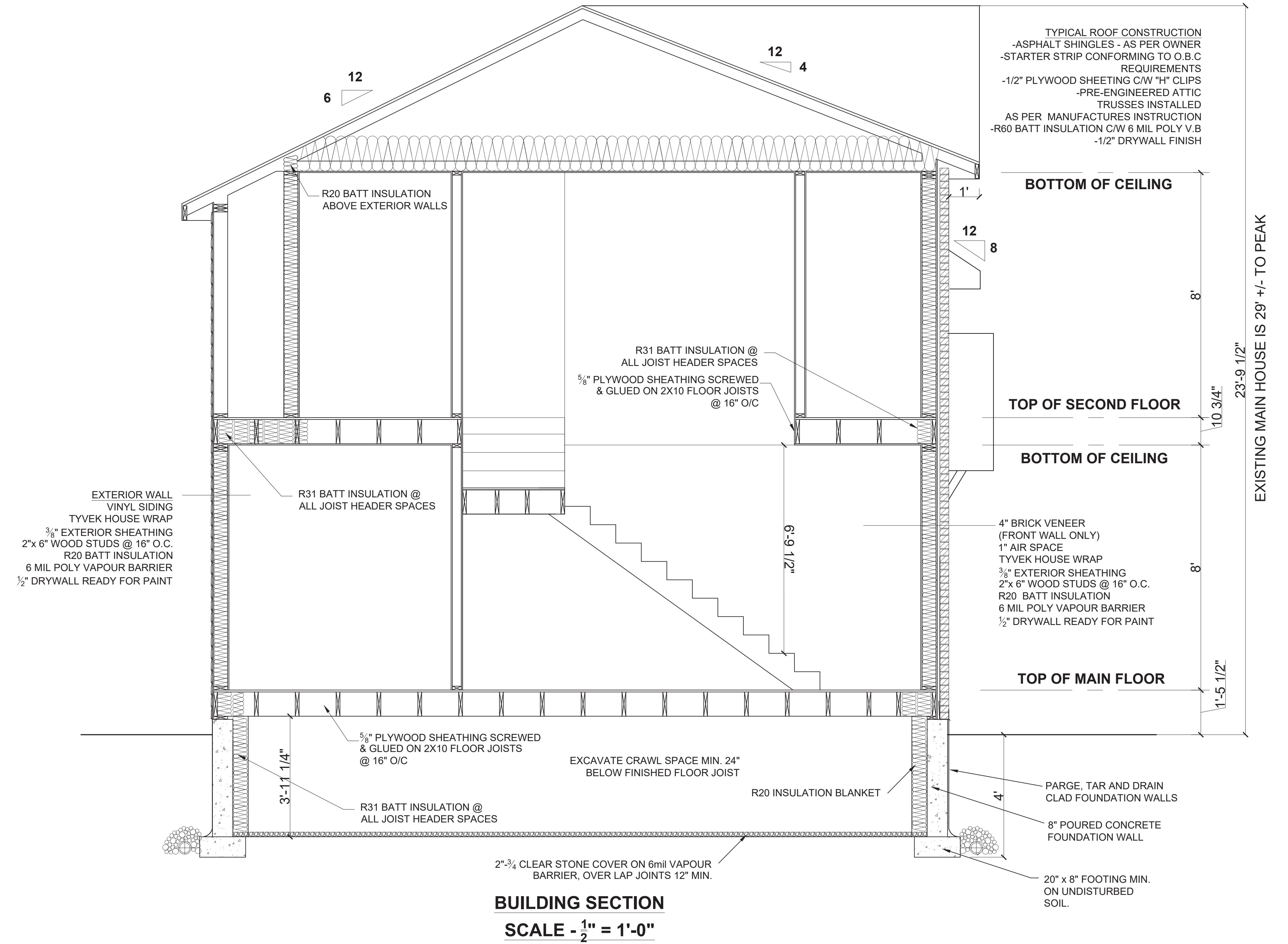
CONTRACTOR MUST VERIFY ALL DIMENSIONS ON THE JOB AND REPORT ANY DISCREPANCY TO DESIGNER BEFORE PROCEEDING WITH WORK.  
THIS DESIGNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR ERRORS OR OMISSIONS NOT DISCOVERED BY THE CONTRACTOR OR HIS SUBCONTRACTORS.  
THIS DESIGNER WILL BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS ON HIS DRAWINGS AND SPECIFICATIONS, BUT NOT FOR THE CONTRACTOR OR HIS SUBCONTRACTORS FAILURE TO CARRY OUT THE WORK ACCORDING TO THESE PLANS, SPECIFICATIONS AND RELATED DOCUMENTS.  
CONTRACTOR MUST COMPLY WITH THE LATEST REQUIREMENTS OF THE CANADIAN BUILDING CODE AND ANY OTHER APPLICABLE LAWS.  
ALL DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY OF THIS FIRM AND WILL BE REPRODUCED BY THIS FIRM.

I, Ashley Kozachnik declare that I take responsibility for the design of the plan. I am qualified and registered with the Ministry of Municipal Affairs and Housing.  
Individual BCIN: 37168 Firm BCIN: 43361



**DETACHED ADU**  
436 ASKING AVENUE  
Windsor, ON  
ELEVATIONS

Date: February 10, 2023  
Scale: 1/4" = 1'-0"  
Project No.: 060/22  
Drawing No.: **A-2.1**



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 THIS DESIGNER ASSUMES NO RESPONSIBILITY FOR THE CONTRACTOR OR HIS SUBTRADEES FAILURE TO CARRY OUT THE WORK ACCORDING TO THESE PLANS, SPECIFICATIONS AND RELATED DOCUMENTS.  
 CONSTRUCTION MUST COMPLY WITH THE LATEST STANDARDS OF THE ONTARIO BUILDING CODE AND ANY OTHER APPLICABLE LAWS.  
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I Ashley Kozachanko declare that I take responsibility for the design of this plan. I am qualified and registered with the Ministry of Municipal Affairs and Housing.  
 Individual BCIN: 37168 Firm BCIN: 43361



**DETACHED ADU**  
 436 ASKING AVENUE  
 Windsor, ON  
**BUILDING SECTION**

Date: February 13, 2023  
 Scale: 1/4" = 1'-0"  
 Project No.: 060/22  
 Drawing No.: **A-3.0**

## APPENDIX 'C' – Additional Photos of 436 Askin Avenue



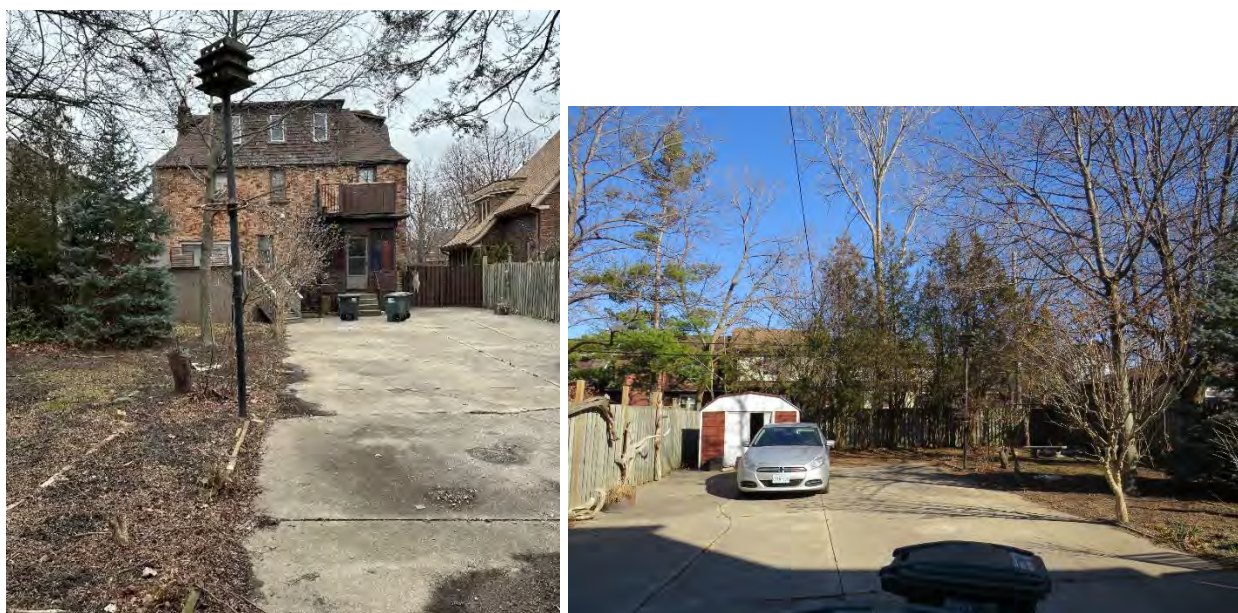
View of the front facade of 436 Askin Avenue from Askin Avenue looking east (photo from Property Owner taken in January 2023).



Views of the front facade of 436 Askin Avenue from Askin Avenue looking east down the left and right side yards of the property. The proposed ADU would be screened from view at these angles (photos taken in February 2023).



Views of the left and right side yards of 436 Askin Avenue from the sidewalk of Askin Avenue looking east. The proposed ADU would be mostly screened from view at these angles (photos from Property Owner taken in January 2023).



Views of the rear yard of 436 Askin Avenue with the paved driveway and parking area, looking west toward the existing dwelling (photo from Property Owner taken in January 2023) and east toward the rear property line (photo taken in February 2023) respectively. The proposed ADU would be located in this rear yard.



**TAB 4**



## CITY OF WINDSOR MINUTES 02/06/2023

### Development & Heritage Standing Committee Meeting

Date: Monday, February 6, 2023

Time: 4:30 o'clock p.m.

#### Members Present:

##### Councillors

Ward 1 - Councillor Fred Francis

Ward 4 - Councillor Mark McKenzie

Ward 7 – Councillor Angelo Marignani

Ward 9 - Councillor Kieran McKenzie

Ward 10 - Councillor Jim Morrison (Chairperson)

##### Members

Member Arbour

Member Fratangeli

Member Grenier

Member Pidgeon

Member Polewski

Member Tape

##### Members Regrets

Member Saka

Member Miller

#### **PARTICIPATING VIA VIDEO CONFERENCE ARE THE FOLLOWING FROM ADMINISTRATION:**

Sandra Gebauer, Council Assistant

#### **ALSO PARTICIPATING IN COUNCIL CHAMBERS ARE THE FOLLOWING FROM ADMINISTRATION:**

Jelena Payne, Commissioner – Economic Development & Innovation

Thom Hunt, City Planner / Executive Director of Planning & Development

Wira Vendrasco, Deputy City Solicitor – Legal & Real Estate

James Chacko, Executive Director, Parks

Michael Cooke, Manager, Planning Policy

# Minutes

## Development & Heritage Standing Committee

Monday, February 6, 2023

Page 2 of 20

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Rob Vani, Manager, Inspections /Deputy Chief Building Official  
Rob Perissinotti, Development Engineer  
Frank Garardo, Planner III - Policy & Special Studies  
Justina Nwaesei, Planner III – Subdivisions  
Adam Szymczak, Planner III - Zoning  
Laura Strahl, Planner III - Special Projects  
Stefan Fediuk, Landscape Architect  
Greg Atkinson, Planner III – Economic Development  
Tracy Tang, Planner II – Revitalization & Policy Initiatives  
Anna Ciacelli, Deputy City Clerk / Supervisor of Council Services

### 1. CALL TO ORDER

The Deputy Clerk calls the meeting of the Development & Heritage Standing Committee to order at 4:33 o'clock p.m., and calls for nominations from the floor for the position of Chairperson.

Councillor Kieran McKenzie nominates Councillor Jim Morrison for the position of Chairperson; Councillor Jim Morrison accepts the nomination. There being no further nominations the Deputy Clerk calls for a vote. All members vote in favour.  
Councillor Jim Morrison assumes the Chair.

The Deputy Clerk calls for nominations from the floor for the position of Vice Chair.

Councillor Fred Francis nominates Councillor Kieran McKenzie for the position of Vice-Chair. Councillor Kieran McKenzie accepts the nomination. There being no further nominations the Deputy Clerk calls for a vote. All members vote in favour.  
Carried.

### 8. ADOPTION OF THE MINUTES

#### 8.1. Minutes of the Development and Heritage Standing Committee of its meeting held January 9, 2023

Moved by: Member Joseph Fratangeli  
Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 480**

That the minutes of the Development & Heritage Standing Committee meeting held January 9, 2023 **BE ADOPTED** as presented.

Carried.

# Minutes

Development & Heritage Standing Committee  
Monday, February 6, 2023

Page 3 of 20

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## 9. PRESENTATIONS AND DELEGATIONS (COMMITTEE ADMINISTRATIVE MATTERS)

### 9.1. Heritage Videos (2) presented by Heritage Planner

#### Tracy Tang, Planner II – Revitization & Policy Initiatives

Tracy Tang, Planner II – Revitalization & Policy Initiatives, appears before the Development & Heritage Standing Committee to present two (2) heritage videos on behalf of Kristina Tang, Heritage Planner. T. Tang informs the Committee members that the City of Windsor is celebrating heritage in February, in conjunction with National and Provincial heritage celebrations such as Heritage Day and Ontario Heritage Week. In recent years, the Communications Department has worked with Heritage Planning staff to create a series of Heritage Videos highlighting heritage conservation efforts at buildings and structures, and their stories. A new heritage webpage has been launched to showcase all of these videos and will be shared on the City's social media pages. T. Tang presents to the Committee members the story of the restoration of the Strathcona Building and the discovery and display of the Walker Power Building Turntable.

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Fred Francis

Decision Number: **DHSC 467**

That the two (2) videos presented by the Heritage Planner dated February 6, 2023 featuring the story of the restoration of the Strathcona Building and the discovery and display of the Walker Power Building Turntable **BE RECEIVED** for information.

Carried.

Clerk's File: MBA2023

## 10. HERITAGE ACT MATTERS

### 10.1. Request for Demolition of Greenhouses at Lanspeary Park - 1250 Langlois Avenue (Ward 4)

Councillor Marignani inquires about the level of deterioration of the structures and whether these greenhouses could be repurposed. James Chacko, Executive Director of Parks, appears before the Development & Heritage Standing Committee regarding the administrative report "Request for Demolition of Greenhouses at Lanspeary park – 1250 Langlois Avenue (Ward 4)" and informs the Committee members that the Parks Department undertook a number of studies and through a series of reports in 2017 and 2018 Administration brought forward two options for Council's consideration, which were to refurbish the existing green houses or to tear them down and rebuild

# Minutes

## Development & Heritage Standing Committee

### Monday, February 6, 2023

in a new location. Council's direction was to tear down relocate the greenhouses, which has now been done at Jackson Park.

Member Tape inquires as to whether a more vigorous assessment of Greenhouse number 2, could be undertaken, indicating that this greenhouse's original home was on the Willistead Manor property. Member Tape also asks whether the Parks Department has considered reinstating this particular greenhouse back to its original location. J. Chacko indicates that due to the overall condition of the structure, it would not withstand being moved and rebuilt. He indicates that although the greenhouse came from Willistead Park, it is not the original greenhouse that was part of the Willistead Manor property. J. Chacko also indicates that as per the recommendation of the Heritage Architect and as per Council Direction greenhouse # 2 will be catalogued and commemorated with signage on-site.

Member Fratangeli inquires about the City of Windsor's preventative maintenance programs. J. Chacko indicates that the City of Windsor does have an asset management plan. As it relates to this particular facility, J. Chacko indicates that there was staff occupying it and therefore repairs were made and the facility was maintained as best it could for a structure its age.

Councillor Kieran McKenzie inquires about the Fieldstone structure and whether a use has been identified. J. Chacko indicates that the Lanspeary Park Master Plan is in the process of being developed and that they are looking at some way to incorporate it into the park. J. Chacko indicates that two rounds of public consultation have been completed and that a complete conceptual master plan will come to Council later this year.

Moved by: Councillor Fred Francis  
Seconded by: Councillor Kieran McKenzie

Decision Number: **DHSC 468**

- I. That Council **BE INFORMED** of the proposed demolition of the Lanspeary Park Greenhouse Complex, at 1149 Giles Blvd East and 1219 Pierre Avenue;
- II. That the fieldstone structure (former comfort station part of the greenhouse complex) at Lanspeary Park **REMAIN** on the Windsor Municipal Heritage Register and **BE PROTECTED** from demolition activities of the rest of the Lanspeary greenhouse complex;
- III. That Administration **INCORPORATE** commemoration of the demolished greenhouse complex.

Carried.

Report Number: S 14/2023  
Clerk's File: SB2023

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## Development & Heritage Standing Committee Monday, February 6, 2023

### 10.2. Request for Heritage Alteration Permit for Willistead Manor, 1899 Niagara Street (Ward 4)

Moved by:-Councillor Fred Francis

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 469**

- I. That a Heritage Permit at Willistead Manor, 1899 Niagara Street, **BE GRANTED**, for removal and alterations to the playground as per Appendix B; and,
- II. That the City Planner or his designate **BE DELEGATED** the authority to approve further changes associated with the proposed scope of work.

Carried.

Report Number: S 11/2023

Clerk's File:SR/12667

### 10.3. 749 and 753 Walker Road, Semi-Detached Houses - Heritage Permit Request (Ward 4)

Member Tate asks whether the Building Department has conducted a review in terms of spatial separation concerns. Robert Vani, Manager of Inspections appears before the Development & Heritage Standing Committee regarding the administrative report entitled, „749 and 753 Walker Road, Semi-Detached Houses – Heritage Permit Request (Ward 4),“ and indicates that the Building Department has not received any applications and has not conducted any code review with separations. T. Tang adds that the application underwent a zoning by-law review for compliance and that the applicant had applied for a minor variance and at that time it was determined that all of the requirements of the zoning by-laws were met and that the only variance required was the setback from side lot line, which was then approved by the Committee of Adjustment.

Moved by: Councillor Fred Francis

Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 470**

- I. That the Heritage Permit at 749 Walker Road, Semi-Detached House, **BE GRANTED** for the erection of one rear detached garage with one second floor additional dwelling unit per Appendix B of this report; and,
- II. That the Heritage Permit at 753 Walker Road, Semi-Detached Houses, **BE GRANTED** for the removal of an accessory structure and erection of one rear detached garage with one second floor additional dwelling unit per Appendix B of this report; and,
- III. That the Heritage Permit approvals **BE SUBJECT** to the following approval conditions prior to work start:

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- 
- a. Submission of satisfactory product details and samples (including material and colour selections);
  - b. Provision of satisfactory architectural drawings by qualified designers;
  - c. Determination that the work is satisfactory to meet Building code compliance; and,
- IV. That the City Planner or designate **BE DELEGATED** the authority to approve any further proposed changes associated with the proposed scope of work for the erection of the rear detached garages with second floor additional dwelling units.

Carried.

Report Number: S 12/2023

Clerk's File: MBA/3430

## 2. DISCLOSURES OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None disclosed.

## 3. REQUEST FOR DEFERRALS, REFERRALS OR WITHDRAWALS

None presented.

## 4. COMMUNICATIONS

None presented.

There being no further business the meeting of the Development & Heritage Standing Committee (*Heritage Act* Matters) portion is adjourned at 4:55 o'clock p.m.

The Chairperson calls the *Planning Act* Matters portion of the Development & Heritage Standing Committee meeting to order at 5:00 o'clock p.m.

## 5. ADOPTION OF THE PLANNING ACT MINUTES

### 5.1. Minutes of the January 9, 2023 Development & Heritage Standing Committee (Planning Act Matters)

Moved by: Councillor Angelo Marignani

Seconded by: Councillor Mark McKenzie

That the *Planning Act* minutes of the Development & Heritage Standing Committee meeting held January 9, 2023 **BE ADOPTED** as presented.

Report Number: SCM 21/2023

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## 6. PRESENTATION DELEGATIONS (PLANNING ACT MATTERS)

None presented.

## 7. PLANNING ACT MATTERS

### 7.1. Rezoning – HD Development Group – 1850 North Service Road – Z-021/22 ZNG/6784 - Ward 10

Moved by: Councillor Kieran McKenzie  
Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 463**

1. That Zoning By-law 8600 **BE AMENDED** by changing the zoning of Part of Lot 95, Sandwich East Concession 2 (McNiff's Survey), designated as Parts 1 & 2, Plan 12R28716 (known municipally as 1850 North Service Road; Roll No. 070-200-02020), situated on the north side of North Service Road, west of Byng Road from Green District 1.2 (GD1.2) to Residential District 3.3 (RD3.3).
2. That the Site Plan Approval Officer **BE DIRECTED**:
  - a) To incorporate the following into site plan approval of the required site plan control agreement:
    - 1) Mitigation measures identified in the Road Traffic and Stationary Noise Impact Study prepared by JJ Acoustic Engineering Ltd and dated January 17, 2022 subject to the approval of the City Planner;
    - 2) Requirements of the City of Windsor - Engineering Department - Right-Of-Way Division in Appendix D to Report S 105/2022, subject to the approval of the City Engineer.
  - b) To review and consider the comments from municipal departments and external agencies in Appendix D to Report S 105/2022.

Carried.

Report Number: S 105/2022 & AI 1/2023  
Clerk's File: Z/14429

### 7.2. Rezoning - Damon & Kelly Winney - 966 California Ave - Z 041/22 ZNG/6926 - Ward 2

Moved by: Councillor Angelo Marignani  
Seconded by: Member Anthony Arbour

Decision Number: **DHSC 464**

- I. That Zoning By-law 8600 **BE AMENDED** for Plan 50; Lot 88; N PT Lot 87 municipally known as 966 California Avenue, by adding a site-specific exception to Section 20(1) as follows:  
459. **SOUTHEAST CORNER OF CALIFORNIA AVENUE AND DAVIS STREET**



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For the lands comprising Plan 50; Lot 88; N PT Lot 87, a *semi-detached dwelling* shall be an additional permitted use and shall be subject to the following additional provisions:

- a) Lot Area – minimum 432.0 m<sup>2</sup>
- b) Lot Width – minimum 12.0 m

Further, for a *semi-detached dwelling*, two *dwelling units* in a *semi-detached dwelling unit* and one *dwelling unit* in an *accessory building* which is accessory to a *semi-detached dwelling* shall be additional permitted uses and shall be subject to the provisions in Sections 5.99.80.3 and 5.99.80.5.

[ZDM4; ZNG/6926]

Carried.

Report Number: S 7/2023

Clerk's File: Z/14506

### 7.3. Rezoning – Hussain Alameri – 3857 Wyandotte Street East - Z-033/22 ZNG/6868 - Ward 5

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 465**

That Zoning By-law 8600 **BE AMENDED** by changing the zoning of Con 1, PT LOT 103, PLAN 61, N PT LOT 1 (known municipally as 3857 Wyandotte Street East; Roll No.: 3739-010-060-09000-0000), situated on the south side of Wyandotte Road East, west of George Avenue, by adding a site specific exception to Section 20(1) as follows:

#### 461. **SOUTH SIDE OF WYANDOTTE STREET EAST, WEST OF GEORGE AVENUE**

For the lands comprising of Con 1, PT LOT 103, PLAN 61, N PT LOT 1 (known municipally as 3857 Wyandotte Street East; Roll No.: 3739-010-060-09000-0000), a *motor vehicle dealership* shall be an additional permitted use and the following additional provisions shall apply:

- a) Required parking spaces – minimum – 18
- b) Parking space separation from a street – minimum – 3.0 m
- c) The parking or storing of a motor vehicle in the parking space separation is prohibited.

[ZDM 6/10, ZNG/6868]

Carried.

Report Number: S 1/2023

Clerk's File: Z/14514

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### **7.4. Official Plan Amendment and Zoning By-law Amendment for the southerly 1.295 ha portion of the lands municipally known as 2400 Banwell Road; Applicant: Maple Leaf Homes Ltd.; File Nos. OPA 156 [OPA/6702]; Z-010/22 [ZNG/6701]; Ward 7**

Moved by: Councillor Fred Francis

Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 466**

- I. That the City of Windsor Official Plan Volume II – Secondary Plan, East Riverside Planning Area **BE AMENDED** by changing the land use designation of the land located on the east side of Banwell Road, between McNorton Street and VIA Rail Corridor, described as Part of Block 1, Plan 12M-428, designated as PART 2, Plan 12R-29004, from ***Business Park to Banwell Road Mixed Use Corridor***;
- II. That the City of Windsor Official Plan, Volume II, Part 1 – Special Policy Areas, **BE AMENDED** by adding site specific policies as follows:
  - 1.X **EAST SIDE OF BANWELL ROAD, BETWEEN MCNORTON STREET AND VIA RAIL CORRIDOR**
    - 1.X.1 The property described as Part of Block 1, Plan 12M-428, designated as PART 2, Plan 12R-29004, located on the east side of Banwell Road, between McNorton Street and VIA Rail Corridor, is designated on Schedule A: Planning Districts and Policy Areas in Volume I – The Primary Plan.
    - 1.X.2 Notwithstanding the policy in section 2.7.5.5 of the Official Plan, Volume II, a maximum building height of 20m shall be permitted on the subject property.
    - 1.X.3 Policy 2.7.5.6 of the Official Plan, Volume II, *Exterior Lot Line Development* shall not apply to a development on a property for which the east limit of Banwell Road is the only exterior lot line;
- III. That an amendment to the Zoning By-law 8600 **BE APPROVED** to change the zoning of the land located on the east side of Banwell Road, between McNorton Street and VIA Rail Corridor, described as Part of Block 1, Plan 12M-428, designated as PART 2, Plan 12R-29004, from Manufacturing District 1.4 (MD1.4) to Commercial District 2.2 with a holding symbol (HCD2.2), subject to the following additional site-specific holding provisions:

**“H460 EAST SIDE OF BANWELL ROAD, BETWEEN MCNORTON STREET AND VIA RAIL CORRIDOR**

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For the land comprising Part of Block 1, Plan 12M-428, designated as PART 2, Plan 12R-29004, a *Combined Use Building* is subject to the following additional regulations:

- a) Sections 15.2.5.4 and 15.2.5.15 of by-law 8600 shall not apply;
- b) The following additional provisions shall apply:
  - .3 Lot Coverage – maximum - 35%
  - .4 Building Height – maximum - 20.0 m
  - .5 Front Yard Depth – minimum - 6.0 m
  - .6 Building Setback – minimum
    - From the *rear lot line* to the nearest part of the building
    - (a) 10m or less in height - 7.5 m
    - (b) Above 10m in height - 22.5 m
  - .8 Landscape Open Space Yard – minimum - 35% of *lot area*
  - .13 Dwelling Unit Density – dwelling units per hectare – maximum
    - 110 units per ha
  - .90 A *parking space* is prohibited in any *front yard* and within that section of the required *rear yard*, 2.5m from the rear lot line.
  - .95 A new mid-block vehicular access is prohibited along the east limit of Banwell Road, between McNorton and the VIA Rail Corridor.
- c) Non-residential use shall have a minimum gross floor area of 350 m<sup>2</sup> and shall be located at street level along the west wall of the building fronting onto Banwell Road;
- d) A minimum separation of 30.0 m shall be maintained between the railway right-of-way and a residential, commercial, institutional or recreational *use*;
- e) An earth berm having a minimum height of 2.50 m and slopes of 2.5 to 1 or greater, shall be constructed continuously adjacent to the common boundary line between the lot and the railway right of way and maintained in good practice; and
- f) A chainlink fence having a minimum height of 1.830 m shall be erected continuously along the common boundary line between the lot and the railway right-of-way.

[ZDM 15; ZNG/6701]

- IV. That the holding (H) symbol **BE REMOVED** when the applicant/owner submits an application to remove the holding (H) symbol and the following conditions are satisfied:
  1. The applicant/owner submit a water servicing report for the subject development, to the satisfaction of the City Engineer and ENWIN Ltd.;
  2. The applicant/owner obtain any required easement(s) associated with water servicing access from existing watermain on McNorton Street or Tranquility Avenue, per the recommendations contained in the water servicing report; and
  3. The applicant/owner obtain easement(s) for vehicular access through the northerly lands containing the existing church building.

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- V. That the Site Plan Approval Officer **BE DIRECTED** to incorporate the following requirements and other requirements found in Appendix D of this Report, in the Site Plan Approval process and the Site Plan Agreement for the proposed development on the subject land:
- a) Sanitary Sampling Manhole;
  - b) Parkland dedication of 5% (cash-in-lieu) of the subject vacant parcel;
  - c) Noise mitigation measures as recommended in the Road & Rail Traffic and Stationary Noise Impact Study (dated Oct. 24, 2022, Revised Jan. 10, 2023, prepared by J.J Acoustic Engineering Ltd (JJAЕ), including warning clauses for rail and road traffic impacts;
  - d) Safety measures per section 7.2.8.8 (d), OP Vol. I;
  - e) Preservation of some existing trees per Landscape Architect’s comment in Appendix D of this report;
  - f) Enbridge Gas minimum separation requirements;
  - g) Adequate clearance from existing ENWIN’s pole lines and power lines;
  - h) Canada Post multi-unit policy;
  - i) SAR mitigation measures as in the attached Appendix F to this report; and
  - j) Sight-triangle for Banwell Road and VIA at-grade crossing.
- VI. That the City Planner **BE DIRECTED** to undertake a house-keeping amendment to the City of Windsor Official Plan Volume II – Secondary Plan, East Riverside Planning Area, Schedule ER-2, Land Use Plan, by changing the land use designation of the land located on the east side of Banwell Road, between McNorton Street and VIA Rail Corridor, described as Part of Block 1, Plan 12M-428, designated as PART 1, Plan 12R-29004, from **Business Park** to **Banwell Road Mixed Use Corridor**
- VII. That administration from the Traffic Operations and Engineering Departments **BE REQUESTED** to be in attendance at the Council meeting when this matter is scheduled to be dealt with, in order to be available to address the concerns regarding traffic that were raised at the February 6, 2023 meeting of the Development and Heritage Standing Committee.

Carried.

Report Number: S 13/2023  
Clerk’s File: Z/14510

## 11. ADMINISTRATIVE ITEMS

### 11.1. Downtown Windsor Enhancement Strategy and Community Improvement Plan – Grant Extensions, Ward 3

#### Larry Horwitz, Owner of 511 Pelissier Street

Larry Horwitz, Owner of 511 Pelissier Street, appears before the Development & Heritage Standing Committee regarding the administrative report “Downtown Windsor Enhancement Strategy and Community Improvement Plan – Grant Extensions, Ward 3” and requests that the Committee consider his project a catalyst project and approve his application for an additional 5-year extension

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for the Building/Property Improvement Tax Increment Grant Program, indicating that the project satisfies the criteria.

#### Laura Strahl, Planner III – Special Projects

Laura Strahl, Planner III - Special Projects, appears before the Development & Heritage Standing Committee regarding the administrative report “Downtown Windsor Enhancement Strategy and Community Improvement Plan – Grant Extensions, Ward 3” and indicates that based on the review of the materials and information submitted, administration does not recommend that the project be considered as a catalyst project as it does not meet the criteria.

Moved by: Councillor Fred Francis

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 471**

- I. That CR57/2020, CR37/2021, CR151/2021, CR310/2021, CR285/2020 **BE AMENDED** to extend the project completion deadline to one (1) year from Council approval of Report S6/2023;
- II. That Item VIII of CR310/2021 **BE AMENDED** to extend the deadline for the applicant to sign the grant agreement to one year from Council approval of Report S6/2023;
- III. That Items I and II of CR37/2021 **BE DELETED** and the following **BE SUBSTITUTED** therefor:
- IV. That the request made by 5021089 Ontario Inc (Owner) for the proposed
  - i. development at 477 Pelissier Street to participate in the New Residential
  - ii. Development Grant Program **BE APPROVED** for \$32,500 towards eligible cost of creating thirteen (13) new residential units pursuant to the Downtown Windsor Enhancement Strategy and Community Improvement Plan;
- V. That the request made by 5021089 Ontario Inc (Owner) for the proposed
  - i. development at 477 Pelissier Street to participate in the Building/Property
  - ii. Improvement Tax Increment Grant Program **BE APPROVED** for 100% of the municipal portion of the tax increment resulting from the proposed development of thirteen (13) new residential units and one (1) office unit in an existing building for five (5) years in accordance with the Downtown Windsor Enhancement Strategy and Community Improvement Plan;
- VI. Grant funds in the amount of \$15,000 under the New Residential Development Grant Program **BE TRANSFERRED** from the CIP Reserve Fund 226 to the City Centre Community Development Planning Fund (Project #7011022) when the work is completed at 477 Pelissier Street.

Carried.

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### 11.2. Closure of east/west alley between Chilver Road and north/south alley, Ward 4, SAA-6884

#### David Mady, V.P Real Estate Development, Rosati Group

David Mady, V.P Real Estate Development, Rosati Group, appears before the Development & Heritage Standing Committee regarding the administrative report “Closure of east/west alley between Chilver Road and north/south alley, Ward 4, SAA-6884” and is available for questions.

Councillor Marignani requests clarification for the purpose of the alley closure. Mr. Mady indicates that the plan is to expand the building to the south, which requires the use of a portion of the alley and also to activate the alley for the use of tenants of the building.

Moved by: Councillor Angelo Marignani

Seconded by: Councillor Fred Francis

Decision Number: **DHSC 472**

- I. That the 4.57-metre-wide east/west alley located between Chilver Road and the north/south alley situated between Wyandotte Street East and Tuscarora Street, and shown on Drawing No. CC-1821 *attached* hereto as Appendix “A”, **BE ASSUMED** for subsequent closure;
- II. That the 4.57-metre-wide east/west alley located between Chilver Road and the north/south alley situated between Wyandotte Street East and Tuscarora Street, and shown on Drawing No. CC-1821 *attached* hereto as Appendix “A”, **BE CLOSED AND CONVEYED** to the owner of the abutting property known municipally as 1801-1833 Wyandotte Street East (legally described as Part of Lots 1 & 2, Plan 479) and as necessary, in a manner deemed appropriate by the City Planner, subject to the following:
  - a. Easement, subject to there being accepted in the City’s standard form and in accordance with the City’s standard practice, be granted to:
    - i. Bell Canada to protect existing aerial facilities;
    - ii. Enbridge Gas to protect existing underground infrastructure;
    - iii. EnWin Utilities Ltd. to accommodate the pole, anchors and existing overhead plant;
    - iv. MNSi for existing aerial infrastructure;
    - v. Rosati Development Corp. for access to repair and maintain the north face of the existing building at the property known municipally as 624-634 Chilver Road (legally described as Part of Lots 1 & 2 & Part of Closed Alley, Plan 479);
    - vi. Rosati Development Corp. for pedestrian access from the north exit door off of the northerly main floor commercial unit in the existing building at the property known municipally as 624-634 Chilver Road (legally described as Part of Lots 1 & 2 & Part of Closed Alley, Plan 479);
    - vii. Rosati Development Corp. for use of the 5.49 metre section of the alley at its easterly terminus by the occupants of the existing building at the property known municipally as 624-634 Chilver Road (legally described as Part of Lots 1 & 2 & Part of Closed Alley, Plan 479) for the storage of refuse containers; and

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- viii. The Corporation of the City of Windsor for access to repair and maintain the existing circa 1920 300 millimetre vitrified clay combined sewer with manhole.
  - b. Driveway Permit be obtained to keep and maintain the driveway approach **OR** to remove the redundant approach off of Chilver Road to City Standards.
  - III. That Conveyance Cost **BE SET** as follows:
  - IV. For alley conveyed to abutting lands zoned CD2.2: \$20.00 per square foot without easements and \$10.00 per square foot with easements.
  - V. That The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1821, *attached* hereto as Appendix "A".
  - VI. That The City Solicitor **BE REQUESTED** to prepare the necessary by-law(s).
  - VII. That The Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign all necessary documents approved as to form and content satisfactory to the City Solicitor.
  - VIII. That the matter **BE COMPLETED** electronically pursuant to By-law Number 366-2003.
- Carried.

Report Number: S 143/2022  
Clerk's File: SAA2023

### **11.5. Brownfield Redevelopment Community Improvement Plan (CIP) applications submitted by 2798315 Ontario Inc. and 1068414 Ontario Inc. for property located at 1969 Wyandotte Street East, 626 Argyle Road, 2090 Brant Street, 420 Devonshire Road, and 480-500 Argyle Road (Ward 4)**

#### **David Mady, V.P Real Estate Development, Rosati Group**

David Mady, V.P Real Estate Development, Rosati Group, appears before the Development & Heritage Standing Committee regarding the administrative report "Brownfield Redevelopment Community Improvement Plan (CIP) applications submitted by 2798315 Ontario Inc. and 1068414 Ontario Inc. for property located at 1969 Wyandotte Street East, 626 Argyle Road, 2090 Brant Street, 420 Devonshire Road, and 480-500 Argyle Road (Ward 4)" and is available for questions.

Moved by: Councillor Mark McKenzie

Seconded by: Councillor Angelo Marignani

#### Decision Number: **DHSC 475**

- I. That the requests made by 2798315 Ontario Inc. and 1068414 Ontario Inc. to participate in the Environmental Site Assessment Grant Program **BE APPROVED** for the completion of a proposed Phase II Environmental Site Assessment Study and other eligible studies, if required (e.g. delineation of contaminants) for three separate projects located at the following properties, pursuant to the City of Windsor Brownfield Redevelopment Community Improvement Plan:
  - a. 1969 Wyandotte Street East;
  - b. 626 Argyle Road; and
  - c. 2090 Brant Street, 420 Devonshire Road, and 480-500 Argyle Road.
- II. That the City Treasurer **BE AUTHORIZED** to issue payment up to a maximum of \$61,525 based upon the completion and submission of a Phase II Environmental Site Assessment and

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other eligible studies, if required as follows, completed in a form acceptable to the City Planner and City Solicitor:

- a. 1969 Wyandotte Street East – maximum of \$18,425;
- b. 626 Argyle Road—maximum of \$18,100; and
- c. 2090 Brant Street, 420 Devonshire Road, and 480-500 Argyle Road—maximum of \$25,000.

III. That the grant funds in the amount of \$61,525 under the Environmental Site Assessment Grant Program **BE TRANSFERRED** from the CIP Reserve Fund 226 to Brownfield Strategy Remediation (project 7069003) when the eligible work is completed to the satisfaction of the City Planner; and,

IV. That should the proposed Phase II Environmental Site Assessment Study and/or other eligible studies not be completed within two (2) years of Council approval, the approval **BE RESCINDED** and the funds be uncommitted and made available for other applications.

Carried.

Report Number: S 3/2023  
Clerk's File: SPL2023

### **11.7. Amendment to Sign By-law 250-04 related to Billboards and Electronic Billboards, File No. SGN-003/22 – City Wide**

#### **Nathan Jankowski, Manager, Permits & Legislation, Pattison Outdoor Advertising and Scott Stover, Leasing Representative, Pattison Outdoor Advertising**

Nathan Jankowski, Manager, Permits & Legislation, Pattison Outdoor Advertising and Scott Stover, Leasing Representative, Pattison Outdoor Advertising, appear before the Development & Heritage Standing Committee regarding the administrative report “Amendment to Sign By-law 250-04 related to Billboards and Electronic Billboards, File No. SGN-003/22 – City Wide” and are available for questions.

#### **David Meikle, President, Signal Out of Home**

David Meikle, President, Signal Out of Home, appears before the Development & Heritage Standing Committee regarding the administrative report “Amendment to Sign By-law 250-04 related to Billboards and Electronic Billboards, File No. SGN-003/22 – City Wide” and is available for questions.

#### **Shawna Petzold – General Manager – Permit World Consulting Services Inc., Applicant/Interested Party**

Shawna Petzold – General Manager – Permit World Consulting Services Inc., Applicant/Interested Party, appears before the Development & Heritage Standing Committee regarding the administrative report “Amendment to Sign By-law 250-04 related to Billboards and Electronic Billboards, File No. SGN-003/22 – City Wide” and is available for questions.

#### **Lee A. Beekman, Real Estate Development Manager, Outfront**



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Lee A. Beekman, Real Estate Development Manager, Outfront, appears before the Development & Heritage Standing Committee regarding the administrative report "Amendment to Sign By-law 250-04 related to Billboards and Electronic Billboards, File No. SGN-003/22 – City Wide" and is available for questions.

Councillor Kieran McKenzie inquires as to whether the review being undertaken by the Planning Division could be accelerated. Stefan Fediuk, Landscape Architect, appears before the Development & Heritage Standing Committee regarding the administrative report Amendment to Sign By-law 250-04 related to Billboards and Electronic Billboards and indicates that the intent is to complete the study earlier but at this time they are not certain how long the consultations will take with the various billboard consultants.

In response to an inquiry by Councillor Francis regarding the reason for the review, S. Fediuk indicates that the requests are coming in quickly and explains that with the passing of Bill 23 and the multi-use uses that have been created with the intensification program that was passed last year, there are more residences in the same areas where we have allowed billboard signs. The review must be undertaken to look at the distances between residences and the billboards. S. Fediuk adds that the moratorium will take into consideration all billboards.

Councillor Morrison inquires about the billboards that were approved and installed within the last year and asks whether more would be considered for approval while the review is ongoing. S. Fediuk indicates that the recommendation is to put a moratorium on permits so that so that billboards will not be installed that will be in conflict with the future by-law amendments.

Moved by: Councillor Fred Francis

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 477**

- I. That City Council **DIRECT** the Planning Division to undertake a comprehensive review and update of the Sign By-law 250-2004, related to Paper Copy Billboard and Electronic Change Copy Billboard Ground and Wall Signs on private property; and,
- II. That City Council **APPROVE** a one-year moratorium on permits for the installation of New Billboards and retrofitting of existing Paper Copy Billboards to Electronic Change Copy Billboards to allow for the Planning Division to complete its review; and,
- III. That the Planning Division **PROVIDE** Council with recommendations for Amendments to the Sign By-law related to Paper Copy Billboard and Electronic Change Copy Billboard Ground and Wall Signs, for a decision by Council prior to the expiry date of the moratorium: and,
- IV. That Administration **PROVIDE** a status update of the review being undertaken at the August 23<sup>rd</sup>, 2023 meeting of the Development & Heritage Standing Committee meeting.

Carried.

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### 11.8. North Neighbourhood Development, Phase 7 – 1027458 Ontario Ltd.- Cost Sharing for Sanitary Sewer Oversizing - Ward 7

#### Karl Tanner, Partner, Dillon Consulting Limited

Karl Tanner, Partner, Dillon Consulting Limited, Outfront, appears before the Development & Heritage Standing Committee regarding the administrative report “North Neighbourhood Development, Phase 7 – 1027458 Ontario Ltd.- Cost Sharing for Sanitary Sewer Oversizing - Ward 7” and is available for questions.

Moved by: Councillor Angelo Marignani

Seconded by: Councillor Mark McKenzie

#### Decision Number: **DHSC 478**

- I. That Council **APPROVE** a cost sharing payment to 1027458 Ontario Ltd. estimated at \$147,800.00, excluding HST (final payment to be based on actual construction costs), for sanitary sewer oversizing costs for Lublin Ave and the sewer extension and additional restoration required to provide future service for privately owned lands on Wyandotte Street East (Benefiting Properties) shown on Appendix ‘A’ (C-3705) as part of the North Neighbourhood Development, Phase 7, to be funded from Project ID #7035119 – New Infrastructure Development; and,
- II. That Administration **BE DIRECTED** to recover the costs noted in I. above from the Benefiting Properties prior to the issuance of building permits for those lands, plus an annual interest rate applied from the date the services constructed are accepted onto maintenance by the Corporation based on the Infrastructure Ontario Construction Loan rate at the time that payment is made and the project is deemed substantially performed and accepted onto maintenance (currently 4.75%), plus 1%; and,
- III. That the application of section 78 of Bylaw 93-2012 (the Purchasing Bylaw) **BE WAIVED** with respect to the cost sharing related to sanitary sewer oversizing for the North Neighbourhood Development, Phase 7, to allow a cost sharing agreement value greater than \$100,000.00 without the issuance of an RFT.

Carried.

Report Number: C 5/2023

Clerk’s File: SW2023

### 11.3. Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by The Walker Power Building Inc. for 325 Devonshire Road (Ward 4)

Moved by: Councillor Mark McKenzie

Seconded by: Councillor Kieran McKenzie

**Minutes**  
**Development & Heritage Standing Committee**  
**Monday, February 6, 2023**

Decision Number: **DHSC 473**

- I. That the request made by The Walker Power Building Inc. to participate in the Brownfield Tax Assistance Program **BE APPROVED** for remediation and redevelopment at 325 Devonshire Road for up to 3 years pursuant to the City of Windsor Brownfield Redevelopment Community Improvement Plan; and,
- II. That, Administration **BE DIRECTED** to prepare a tax cancellation by-law to implement the Brownfield Tax Assistance Program in accordance with the *Municipal Act* and that the appropriate information and material be sent to the Minister of Finance requesting relief from the education portion of the taxes for 325 Devonshire Road in accordance with the Provincial Brownfield Financial Tax Incentive Program; and,
- III. That the request made by The Walker Power Building Inc. to participate in the Brownfield Rehabilitation Grant Program **BE APPROVED** for 70% of the municipal portion of the tax increment resulting from the remediation and redevelopment at 325 Devonshire Road for up to 10 years or until 100% of the eligible costs are repaid pursuant to the City of Windsor Brownfield Redevelopment Community Improvement Plan; and,
- IV. That the submission of the following material, satisfactory to the City Planner, **BE CONDITIONS** of approval:
  - a. Written acknowledgement from the Ministry of Environment, Conservation and Parks that a Record of Site Condition has been filed in the Environmental Site Registry; and
  - b. All final copies of Archaeological Assessments and letter from the Ministry of Citizenship and Multiculturalism that the Stage 4 Archaeological Assessment has been entered into the Ontario Public Register of Archaeological Reports.
- V. That, Administration **BE DIRECTED** to prepare an agreement between The Walker Power Building Inc. and/or persons or companies that have legally been assigned the right to receive grant payments and the City to implement the Brownfield Tax Assistance and Brownfield Rehabilitation Grant Programs in accordance with all applicable policies, requirements, and provisions contained within the Brownfield Redevelopment Community Improvement Plan to the satisfaction of the City Planner as to content, the City Solicitor as to legal form, and the CFO/City Treasurer as to financial implications; and,
- VI. That the CAO and City Clerk **BE AUTHORIZED** to sign the Brownfield Tax Assistance and Rehabilitation Grant Agreements; and,
- VII. That the approval to participate in the Brownfield Tax Assistance and Brownfield Rehabilitation Grant Programs **EXPIRE** if the grant agreements are not signed by applicant within one year following Council approval. The City Planner may extend the deadline for one year upon request from the applicant.

Carried.

# Minutes

## Development & Heritage Standing Committee

Monday, February 6, 2023

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### 11.4. Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by Lakefront Heights Inc. for part of 10835 Riverside Drive East (Ward 7)

Moved by: Councillor Fred Francis

Seconded by: Councillor Kieran McKenzie

Decision Number: **DHSC 474**

- I. That the request made by Lakefront Heights Inc. to participate in the Environmental Site Assessment Grant Program **BE APPROVED** for the completion of a proposed Phase II Environmental Site Assessment Study and other eligible study, if required (e.g. delineation of contaminants or remedial work plan) for property located on the southern part of 10835 Riverside Drive East pursuant to the City of Windsor Brownfield Redevelopment Community Improvement Plan;
- II. That the City Treasurer **BE AUTHORIZED** to issue payment up to a maximum of \$15,000 based upon the completion and submission of a Phase II Environmental Site Assessment and up to an additional maximum of \$10,000 (total of \$25,000) based upon the completion a second eligible study (e.g. delineation of contaminants or Remedial Work Plan) completed in a form acceptable to the City Planner and City Solicitor;
- III. That the grant funds in the amount of \$25,000 under the Environmental Site Assessment Grant Program **BE TRANSFERRED** from the CIP Reserve Fund 226 to Brownfield Strategy Remediation (project 7069003) when the eligible work is completed to the satisfaction of the City Planner;
- IV. That should the proposed Phase II Environmental Site Assessment Study and/or other eligible study not be completed within two (2) years of Council approval, the approval **BE RESCINDED** and the funds be uncommitted and made available for other applications.

Carried.

Report Number: S 149/2022

Clerk's File: SPL2023

# Minutes

Development & Heritage Standing Committee  
Monday, February 6, 2023

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## 11.6. Amendment to Sign By-law 250-04 for 5515 Maplewood Drive, File No. SGN-005/22 - Ward #1

Moved by: Councillor Fred Francis  
Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 476**

That the application for a Site Specific Amendment to the Windsor Sign By-law 250-2004, to allow for the installation of a Ground Sign on the municipal right-of way in front of 5515 Maplewood Drive, **BE DENIED.**

Carried.

Report Number: C 220/2022  
File Number: SBS2023

## 12. COMMITTEE MATTERS

### 12.1. Minutes of the International Relations Committee of its meeting held November 23, 2022

Moved by: Councillor Fred Francis  
Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 479**

That the minutes of the International Relations Committee meeting held November 23, 2022 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 331/2022

## 13. QUESTION PERIOD

None registered.

## 14. ADJOURNMENT

There being no further business, the meeting of the Development & Heritage Standing Committee is adjourned at 8:34 o'clock p.m.

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Ward 10 - Councillor Jim Morrisson  
(Chairperson)

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Deputy City Clerk / Supervisor  
of Council Services

**Development & Heritage Standing Committee  
(Planning Act Matters)**

**Date: Monday, February 6, 2023  
Time: 4:30 o'clock p.m.**

**Members Present:**

**Councillors**

Ward 1 - Councillor Fred Francis  
Ward 4 - Councillor Mark McKenzie  
Ward 7 – Councillor Angelo Marignani  
Ward 9 - Councillor Kieran McKenzie  
Ward 10 - Councillor Jim Morrison (Chairperson)

**Members**

Member Arbour  
Member Fratangeli  
Member Grenier  
Member Pidgeon  
Member Polewski  
Member Tape

**Members Regrets**

Member Saka  
Member Miller

**PARTICIPATING VIA VIDEO CONFERENCE ARE THE FOLLOWING FROM  
ADMINISTRATION:**

Sandra Gebauer, Council Assistant

**ALSO PARTICIPATING IN COUNCIL CHAMBERS ARE THE FOLLOWING FROM  
ADMINISTRATION:**

Jelena Payne, Commissioner – Economic Development & Innovation  
Thom Hunt, City Planner / Executive Director of Planning & Development  
Wira Vendrasco, Deputy City Solicitor – Legal & Real Estate  
James Chacko, Executive Director, Parks

# MINUTES

## Development & Heritage Standing Committee

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Michael Cooke, Manager, Planning Policy  
Rob Vani, Manager, Inspections /Deputy Chief Building Official  
Rob Perissinotti, Development Engineer  
Frank Garardo, Planner III - Policy & Special Studies  
Justina Nwaesei, Planner III – Subdivisions  
Adam Szymczak, Planner III - Zoning  
Laura Strahl, Planner III - Special Projects  
Stefan Fediuk, Landscape Architect  
Greg Atkinson, Planner III – Economic Development  
Tracy Tang, Planner II – Revitalization & Policy Initiatives  
Anna Ciacelli, Deputy City Clerk / Supervisor of Council Services

### 1. CALL TO ORDER

The Deputy Clerk calls the meeting of the Development & Heritage Standing Committee to order at 4:33 o'clock p.m., and calls for nominations from the floor for the position of Chairperson.

Councillor Kieran McKenzie nominates Councillor Jim Morrison for the position of Chairperson; Councillor Jim Morrison accepts the nomination. There being no further nominations the Deputy Clerk calls for a vote. All members vote in favour.  
Councillor Jim Morrison assumes the Chair.

The Deputy Clerk calls for nominations from the floor for the position of Vice Chair.

Councillor Fred Francis nominates Councillor Kieran McKenzie for the position of Vice-Chair. Councillor Kieran McKenzie accepts the nomination. There being no further nominations the Deputy Clerk calls for a vote. All members vote in favour.  
Carried.

### 2. DISCLOSURES OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None disclosed.

### 3. REQUEST FOR DEFERRALS, REFERRALS OR WITHDRAWALS

None presented.

### 4. COMMUNICATIONS

None presented.

# MINUTES

## Development & Heritage Standing Committee

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There being no further business the meeting of the Development & Heritage Standing Committee (*Heritage Act* Matters) portion is adjourned at 4:55 o'clock p.m.

The Chairperson calls the *Planning Act* Matters portion of the Development & Heritage Standing Committee meeting to order at 5:00 o'clock p.m.

### 5. ADOPTION OF THE PLANNING ACT MINUTES

#### 5.1. Minutes of the January 9, 2023 Development & Heritage Standing Committee (Planning Act Matters)

Moved by: Councillor Angelo Marignani  
Seconded by: Councillor Mark McKenzie

That the *Planning Act* minutes of the Development & Heritage Standing Committee meeting held January 9, 2023 **BE ADOPTED** as presented.

Report Number: SCM 21/2023



# MINUTES

## Development & Heritage Standing Committee

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### 6. PRESENTATION & DELEGATIONS (*PLANNING ACT MATTERS*)

None presented.

### 7. PLANNING ACT MATTERS

#### 7.1. Rezoning – HD Development Group – 1850 North Service Road – Z-021/22 ZNG/6784 - Ward 10

Mr. Szymczak (Planner) presents item.

Mr. Szymczak makes note of a correction in the staff report - the lot frontage should be 100m not 143 m. The correction impact has no change on the analysis report. Mr. Szymczak states at there is additional information from questions raised at the previous standing committee on January 9, 2023.

Mr. Szymczak states that Applicant submitted a revised Site Plan with Buildings A, B, D & E shifted to the West by 15 to 20m. Building C remains mostly unchanged. All garages have been relocated between the buildings and easterly lot line (Byng Road).

Jackie Lassaline presents item and is available for questions. Ms. Lassaline makes note of the changes to the Site Plan.

Hadar Habib, HD Development (Applicant) – is available for questions.

Amy Grady, resident (2911 Byng Rd.) – has concerns with shadow study.

Grant Debroe, resident (3047 Byng Rd.) – has various concerns with the development including; traffic, shadow study and quality of life for area residents.

Dora Ferro, resident (3032 Manford Ave.)- has concerns with traffic.

Anna Sovran, resident (2927 Byng Rd.) – has concerns with car pollution and light pollution.

Gino Sovran, resident (2927 Byng Rd.) – has concerns with traffic, privacy, noise and pollution.

Keri Shaw, resident (2911 Byng Rd.) – has concerns with this type of development in the area.

Leah Bechard, resident (2982 Conservation Dr.) – has concerns with traffic.

Adriano Bertolissio, resident (2952 Byng Rd.) – has various concerns with parking, snow management and quality of life.

Councilor Mackenzie asks if the lights can be directed away from the residents and focus on the area that needs to be illuminated. Ms. Lassaline answers that the lighting for the development will

# MINUTES

## Development & Heritage Standing Committee

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be Dark Sky compliant. Ms. Lassaline states that the lights will be concentrated down on the area and will not spill out on the properties and it will be a part of Site Plan Review.

Councilor Marignani asks if there will be a fence put up to mitigate lights from vehicles spilling into residents' yards. Ms. Lassaline answers that there will be a board fence placed where there are chain link fences and this will ensure no lights will spill onto other properties. Ms. Lassaline states that the garages will also act as a buffer from the residents' yards.

Councilor Francis asks Mr. Szymczak what changes have the Applicants made since the DHSC meeting held on January 9<sup>th</sup>, 2023. Mr. Szymczak answers that the Applicants made changes based on the Recommendations from the January 9<sup>th</sup> meeting. Mr. Szymczak states that the 4 buildings, 2 most northerly and the 2 most southerly were shifted anywhere from 15-20 meters to the west. Councilor Francis asks if the buildings would be closer to the Fogolar Furlan. Mr. Szymczak confirms that they will be closer to the Fogolar Furlan and 55 feet away from the Byng properties. Mr. Szymczak states that in addition the Applicant shifted the parking garages between the buildings.

Councilor Francis asks Administration why the second access is not recommended. Mr. Szymczak states that another Transportation Impact Study would need to be completed. A Transportation Impact Study was already completed and states that a second access is not required and access to North Service Road is sufficient.

Councilor Francis asks if a secondary access was a possibility would it create more traffic on Byng Rd. Mr. Szymczak answers that more traffic on Byng Road would be a possibility.

Moved by: Councillor Kieran McKenzie  
Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 463**

1. That Zoning By-law 8600 **BE AMENDED** by changing the zoning of Part of Lot 95, Sandwich East Concession 2 (McNiff's Survey), designated as Parts 1 & 2, Plan 12R28716 (known municipally as 1850 North Service Road; Roll No. 070-200-02020), situated on the north side of North Service Road, west of Byng Road from Green District 1.2 (GD1.2) to Residential District 3.3 (RD3.3).
2. That the Site Plan Approval Officer **BE DIRECTED**:
  - a) To incorporate the following into site plan approval of the required site plan control agreement:
    - 1) Mitigation measures identified in the Road Traffic and Stationary Noise Impact Study prepared by JJ Acoustic Engineering Ltd and dated January 17, 2022 subject to the approval of the City Planner;
    - 2) Requirements of the City of Windsor - Engineering Department - Right-Of-Way Division in Appendix D to Report S 105/2022, subject to the approval of the City Engineer.
  - b) To review and consider the comments from municipal departments and external agencies in Appendix D to Report S 105/2022.

**MINUTES****Development & Heritage Standing Committee**

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Carried.

Report Number: S 105/2022 &amp; AI 1/2023

Clerk's File: Z/14429

**7.2. Rezoning - Damon & Kelly Winney - 966 California Ave - Z 041/22  
ZNG/6926 - Ward 2**

Adam Szymczak (Planner) is available for questions.

Tracey Pillon-Abbs (Agent) is available for questions.

Moved by: Councillor Angelo Marignani

Seconded by: Member Anthony Arbour

Decision Number: **DHSC 464**I. That Zoning By-law 8600 **BE AMENDED** for Plan 50; Lot 88; N PT Lot 87 municipally known as 966 California Avenue, by adding a site-specific exception to Section 20(1) as follows:**459. SOUTHEAST CORNER OF CALIFORNIA AVENUE AND DAVIS STREET**For the lands comprising Plan 50; Lot 88; N PT Lot 87, a *semi-detached dwelling* shall be an additional permitted use and shall be subject to the following additional provisions:a) Lot Area – minimum 432.0 m<sup>2</sup>

b) Lot Width – minimum 12.0 m

Further, for a *semi-detached dwelling*, two *dwelling units* in a *semi-detached dwelling unit* and one *dwelling unit* in an *accessory building* which is accessory to a *semi-detached dwelling* shall be additional permitted uses and shall be subject to the provisions in Sections 5.99.80.3 and 5.99.80.5.

[ZDM4; ZNG/6926]

Carried.

Report Number: S 7/2023

Clerk's File: Z/14506

**7.3. Rezoning – Hussain Alameri – 3857 Wyandotte Street East - Z-033/22  
ZNG/6868 - Ward 5**

Mr. Garardo (Planner) is available for questions.

Councillor Mackenzie asks how they intent to offload vehicles onto the lot.

Mr. Peterson (Designer) answers that this development will be used car dealership and there is no need to offload vehicles.

**MINUTES****Development & Heritage Standing Committee**

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Moved by: Councillor Kieran McKenzie  
 Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 465**

That Zoning By-law 8600 **BE AMENDED** by changing the zoning of Con 1, PT LOT 103, PLAN 61, N PT LOT 1 (known municipally as 3857 Wyandotte Street East; Roll No.: 3739-010-060-09000-0000), situated on the south side of Wyandotte Road East, west of George Avenue, by adding a site specific exception to Section 20(1) as follows:

**461. SOUTH SIDE OF WYANDOTTE STREET EAST, WEST OF GEORGE AVENUE**

For the lands comprising of Con 1, PT LOT 103, PLAN 61, N PT LOT 1 (known municipally as 3857 Wyandotte Street East; Roll No.: 3739-010-060-09000-0000), a *motor vehicle dealership* shall be an additional permitted use and the following additional provisions shall apply:

- a) Required parking spaces – minimum – 18
- b) Parking space separation from a street – minimum – 3.0 m
- c) The parking or storing of a motor vehicle in the parking space separation is prohibited.

[ZDM 6/10, ZNG/6868]

Carried.

Report Number: S 1/2023  
 Clerk's File:Z/14514

**7.4. Official Plan Amendment and Zoning By-law Amendment for the southerly 1.295 ha portion of the lands municipally known as 2400 Banwell Road; Applicant: Maple Leaf Homes Ltd.; File Nos. OPA 156 [OPA/6702]; Z-010/22 [ZNG/6701]; Ward 7**

Ms. Nwaesei (Planner) presents item.

Mr. Pillon-Abbs (Agent) presents item and is available for questions

Tony Chau, Bruno Cacilhas and Peter Valente – available for questions.

Safa and Warda Boulis (area residents, 2461 Tranquility) has concerns with traffic, parking, shadow study, privacy, and the value of homes diminishing in the area, noise pollution, flooding.

Gwen Pawloski, resident (2459 Waterford Ave.) – has concerns with parking, traffic, privacy, building height and size of the building.

# MINUTES

## Development & Heritage Standing Committee

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Russel Pearson, resident (249 Waterford Ave.) - has various concerns with the proposed development and states there are too many high rise buildings being proposed/built.

Shouvik Raychoudhury, resident (2413 Tranquility Ave.) – has concerns with parking backing onto their backyard, parking overflow to their residential Street, noise pollution, the shadow study, safety, parking

Monika Kurti, resident (2440 Tranquility Ave.) has concerns with loss of sunlight per shadow study, house values, flooding, crime, increase in traffic volume.

Kim Anber – Chair, Building Committee Banwell Community Church – has concerns with parking and the possibility of shared access, the possibility of having to move garbage disposals.

Karen Sereres, resident – (2397 Tranquility Ave.) – has concerns with garbage disposal locations and cites rat infestation from existing church garbage, traffic – accidents at Mc/Hugh/Banwell intersection, shadowing, noise, lighting and sewers. Questions the need for commercial space/use in the proposed development, the proposed increase in height from 4 to 8 storeys, the loss of Windsor's green space, the adequacy of existing sewers to accommodate the proposed development.

Aaron Blata (Professional Traffic Operations Engineer– RC Spencer & Associates) – has no concerns with the Right-Out, Right-In access. Mr. Blata states that the residents on Tranquility and Waterford will not be impacted by this development with regards to the U-turns. McNorton will be used and approximately 53% of that traffic might do a U-turn on Banwell when trying to leave.

Councilor Marignani asks Ms. Nwaesei to speak on the concerns raised regarding the rail line being adjacent to the development. Ms. Nwaesei answers that there were numerous requirements from Via Rail; such as 30-meter separation and fencing which are both incorporated in the provisions. Ms. Nwaesei states there was another report from Via Rail in Montreal which states concerns such as; site lines and design concerns which will be addressed during the Site Plan process.

Councilor Marignani asks if the concern with site line is visibility of vehicular traffic travelling Southbound on Banwell Road. Ms. Nwaesei confirms and states that the concern would need to be resolved at the Site Plan stage. Ms. Nwaesei states the height of the building, the proximity to the rail line is a concern and there are guidelines to follow.

Councilor McKenzie asks Administration to speak on why the Applicant is requesting a 22-metre height building when what is being recommended is 20 meters. Ms. Nwaesei answers currently MD 1.4 allows a maximum of 20 meters. Ms. Nwaesei states that anything over 20 meters would undermine the concerns raised by area residents.

Councilor McKenzie asks if there will sound barrier around the rail line. Ms. Nwaesei states that it is not required. Councilor McKenzie asks if there is someone who could recommend a sound barrier. Ms. Nwaesei answers that at Site Plan review stage conditions can be imposed.

# MINUTES

## Development & Heritage Standing Committee

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Councilor Marginari asks how can traffic flow be improved. Ms. Nwaesei answers Banwell road has a classification that is intended for a higher volume of traffic; that classification is class II arterial road. Ms. Nwaesei states that too many access points is not desired as it would interrupt the traffic flow and we want to encourage a certain level of volume of traffic.

Councilor Margiani asks Mr. Chau if residents were informed of the sound pollution from the rail line. Mr. Chau answers that it was not discussed with the developer. Ms. Pillon-Abbs adds that a Noise Consultant prepared a noise impact study and mitigations were suggested; central air conditioning, noise warning clause and special building components such as; walls, glass material.

Councilor Margiani asks if soundproof glass would be an option. Mr. Chau answers that as per the Sound Study Guide patio doors and windows would be upgraded to mitigate sound from Via Rail.

Mr. Chau states that after consultation with the developers they have agreed to a height of 20 meters.

Moved by: Councillor Fred Francis

Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 466**

- I. That the City of Windsor Official Plan Volume II – Secondary Plan, East Riverside Planning Area **BE AMENDED** by changing the land use designation of the land located on the east side of Banwell Road, between McNorton Street and VIA Rail Corridor, described as Part of Block 1, Plan 12M-428, designated as PART 2, Plan 12R-29004, from ***Business Park to Banwell Road Mixed Use Corridor***,
- II. That the City of Windsor Official Plan, Volume II, Part 1 – Special Policy Areas, **BE AMENDED** by adding site specific policies as follows:

### 1.X **EAST SIDE OF BANWELL ROAD, BETWEEN MCNORTON STREET AND VIA RAIL CORRIDOR**

1.X.1 The property described as Part of Block 1, Plan 12M-428, designated as PART 2, Plan 12R-29004, located on the east side of Banwell Road, between McNorton Street and VIA Rail Corridor, is designated on Schedule A: Planning Districts and Policy Areas in Volume I – The Primary Plan.

1.X.2 Notwithstanding the policy in section 2.7.5.5 of the Official Plan, Volume II, a maximum building height of 20m shall be permitted on the subject property.

1.X.3 Policy 2.7.5.6 of the Official Plan, Volume II, *Exterior Lot Line Development* shall not apply to a development on a property for which the east limit of Banwell Road is the only exterior lot line;

**MINUTES****Development & Heritage Standing Committee**

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- III. That an amendment to the Zoning By-law 8600 **BE APPROVED** to change the zoning of the land located on the east side of Banwell Road, between McNorton Street and VIA Rail Corridor, described as Part of Block 1, Plan 12M-428, designated as PART 2, Plan 12R-29004, from Manufacturing District 1.4 (MD1.4) to Commercial District 2.2 with a holding symbol (HCD2.2), subject to the following additional site-specific holding provisions:

**“H460 EAST SIDE OF BANWELL ROAD, BETWEEN MCNORTON STREET AND VIA RAIL CORRIDOR**

For the land comprising Part of Block 1, Plan 12M-428, designated as PART 2, Plan 12R-29004, a *Combined Use Building* is subject to the following additional regulations:

- a) Sections 15.2.5.4 and 15.2.5.15 of by-law 8600 shall not apply;
- b) The following additional provisions shall apply:
  - .3 Lot Coverage – maximum - 35%
  - .4 Building Height – maximum - 20.0 m
  - .5 Front Yard Depth – minimum - 6.0 m
  - .6 Building Setback – minimum
    - From the *rear lot line* to the nearest part of the building
    - (a) 10m or less in height - 7.5 m
    - (b) Above 10m in height - 22.5 m
  - .8 Landscape Open Space Yard – minimum - 35% of *lot* area
  - .13 Dwelling Unit Density – dwelling units per hectare – maximum - 110 units per ha
  - .90 A *parking space* is prohibited in any *front yard* and within that section of the required *rear yard*, 2.5m from the rear lot line.
  - .95 A new mid-block vehicular access is prohibited along the east limit of Banwell Road, between McNorton and the VIA Rail Corridor.
- c) Non-residential use shall have a minimum gross floor area of 350 m<sup>2</sup> and shall be located at street level along the west wall of the building fronting onto Banwell Road;
- d) A minimum separation of 30.0 m shall be maintained between the railway right-of-way and a residential, commercial, institutional or recreational *use*;
- e) An earth berm having a minimum height of 2.50 m and slopes of 2.5 to 1 or greater, shall be constructed continuously adjacent to the common boundary line between the lot and the railway right of way and maintained in good practice; and
- f) A chainlink fence having a minimum height of 1.830 m shall be erected continuously along the common boundary line between the lot and the railway right-of-way.

[ZDM 15; ZNG/6701]

- IV. That the holding (H) symbol **BE REMOVED** when the applicant/owner submits an application to remove the holding (H) symbol and the following conditions are satisfied:

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## Development & Heritage Standing Committee

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1. The applicant/owner submit a water servicing report for the subject development, to the satisfaction of the City Engineer and ENWIN Ltd.;
  2. The applicant/owner obtain any required easement(s) associated with water servicing access from existing watermain on McNorton Street or Tranquility Avenue, per the recommendations contained in the water servicing report; and
  3. The applicant/owner obtain easement(s) for vehicular access through the northerly lands containing the existing church building.
- V. That the Site Plan Approval Officer **BE DIRECTED** to incorporate the following requirements and other requirements found in Appendix D of this Report, in the Site Plan Approval process and the Site Plan Agreement for the proposed development on the subject land:
- a) Sanitary Sampling Manhole;
  - b) Parkland dedication of 5% (cash-in-lieu) of the subject vacant parcel;
  - c) Noise mitigation measures as recommended in the Road & Rail Traffic and Stationary Noise Impact Study (dated Oct. 24, 2022, Revised Jan. 10, 2023, prepared by J.J Acoustic Engineering Ltd (JJAE), including warning clauses for rail and road traffic impacts;
  - d) Safety measures per section 7.2.8.8 (d), OP Vol. I;
  - e) Preservation of some existing trees per Landscape Architect's comment in Appendix D of this report;
  - f) Enbridge Gas minimum separation requirements;
  - g) Adequate clearance from existing ENWIN's pole lines and power lines;
  - h) Canada Post multi-unit policy;
  - i) SAR mitigation measures as in the attached Appendix F to this report; and
  - j) Sight-triangle for Banwell Road and VIA at-grade crossing.
- VI. That the City Planner **BE DIRECTED** to undertake a house-keeping amendment to the City of Windsor Official Plan Volume II – Secondary Plan, East Riverside Planning Area, Schedule ER-2, Land Use Plan, by changing the land use designation of the land located on the east side of Banwell Road, between McNorton Street and VIA Rail Corridor, described as Part of Block 1, Plan 12M-428, designated as PART 1, Plan 12R-29004, from **Business Park** to **Banwell Road Mixed Use Corridor**
- VII. That administration from the Traffic Operations and Engineering Departments **BE REQUESTED** to be in attendance at the Council meeting when this matter is scheduled to be dealt with, in order to be available to address the concerns regarding traffic that were raised at the February 6, 2023 meeting of the Development and Heritage Standing Committee.

Carried.

Report Number: S 13/2023  
Clerk's File: Z/14510



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## Development & Heritage Standing Committee

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### 8. ADJOURNMENT

There being no further business, the meeting of the Development & Heritage Standing Committee is adjourned at 8:10pm.

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Ward 10 - Councillor Jim Morrisson  
(Chairperson)

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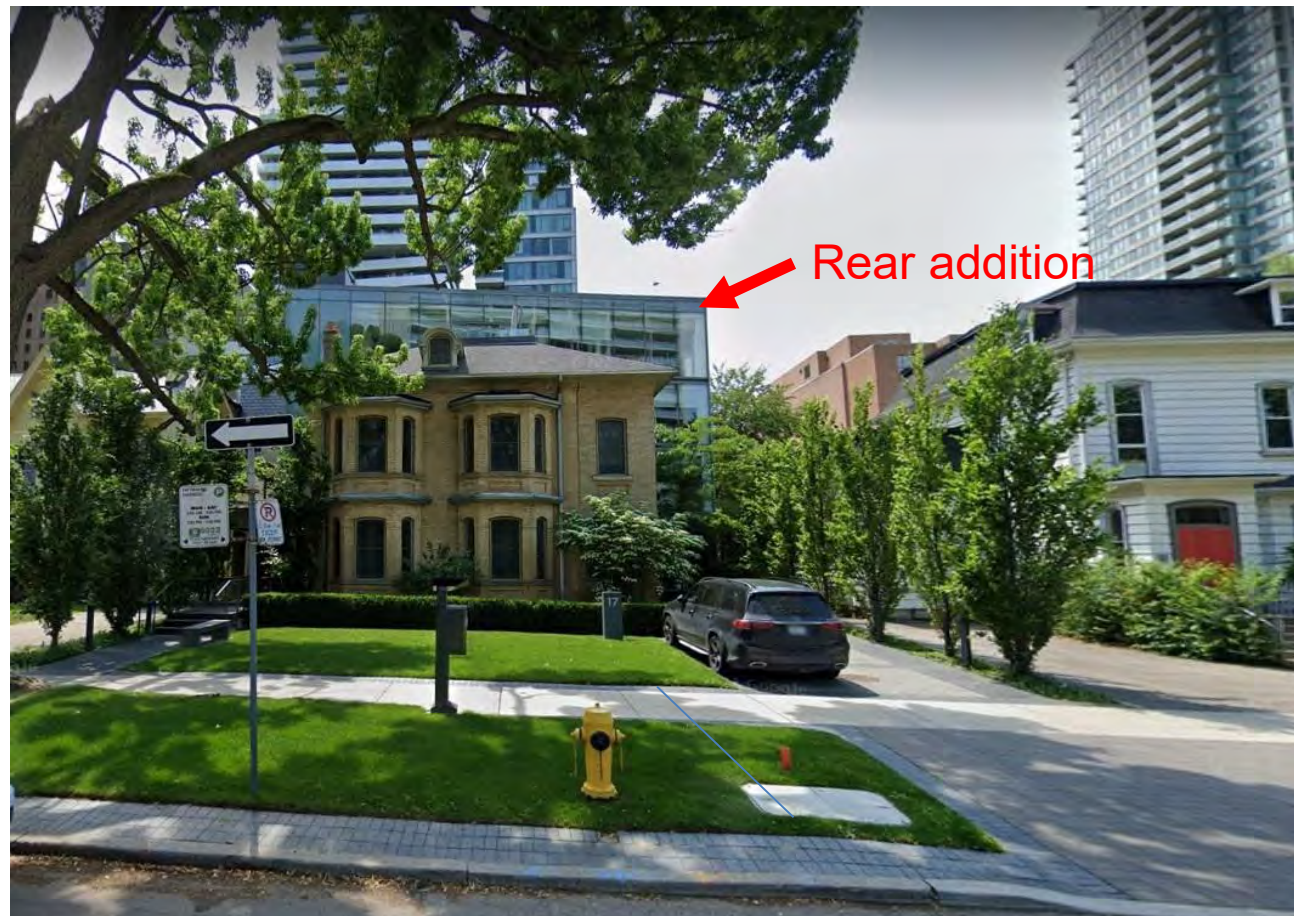
Deputy City Clerk / Supervisor  
of Council Services

**TAB 5**

## PB3.5 29-31 Prince Arthur Avenue

### Precedent

17 Prince Arthur Avenue-  
Precedent received Council approval in 2011  
(source- Google Maps, 2022)





# PB3.5

## Alterations to the Heritage Properties within the East Annex Heritage Conservation District 29- 31 Prince Arthur Avenue



## PB3.5 29-31 Prince Arthur Avenue

### Existing Property



Primary (north) elevation of 29-31 Prince Arthur Avenue  
as viewed from the street (Heritage Planning, 2022)

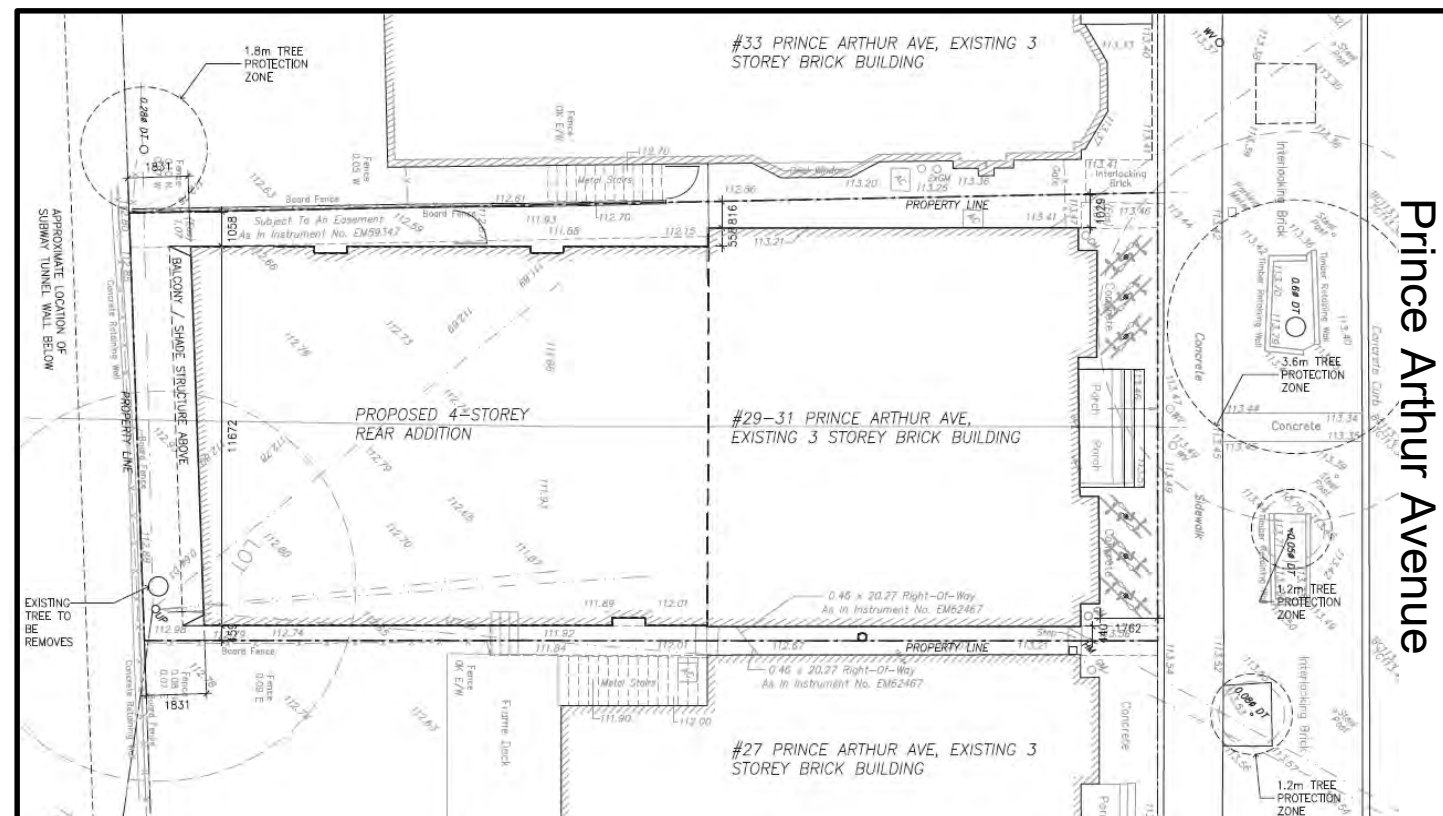


Rear (south) elevation of 29-31 Prince Arthur Avenue  
(ERA Architects, 2022)

# PB3.5 29-35 Prince Arthur Avenue

## Site Plan

Proposed site plan  
(Source – Angela Tsementzis Architects, 2022)  
Annotated by Heritage Planning

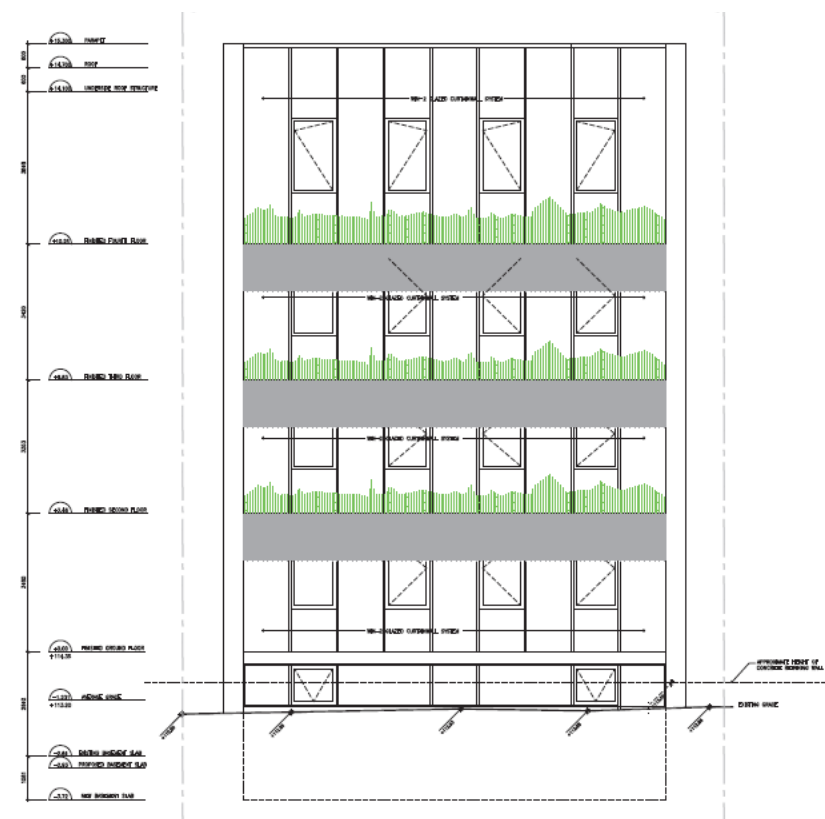


## PB3.5 29-31 Prince Arthur Avenue

### Proposal



Proposed north (primary) elevation  
(Source – Angela Tsementzis Architect, 2022)

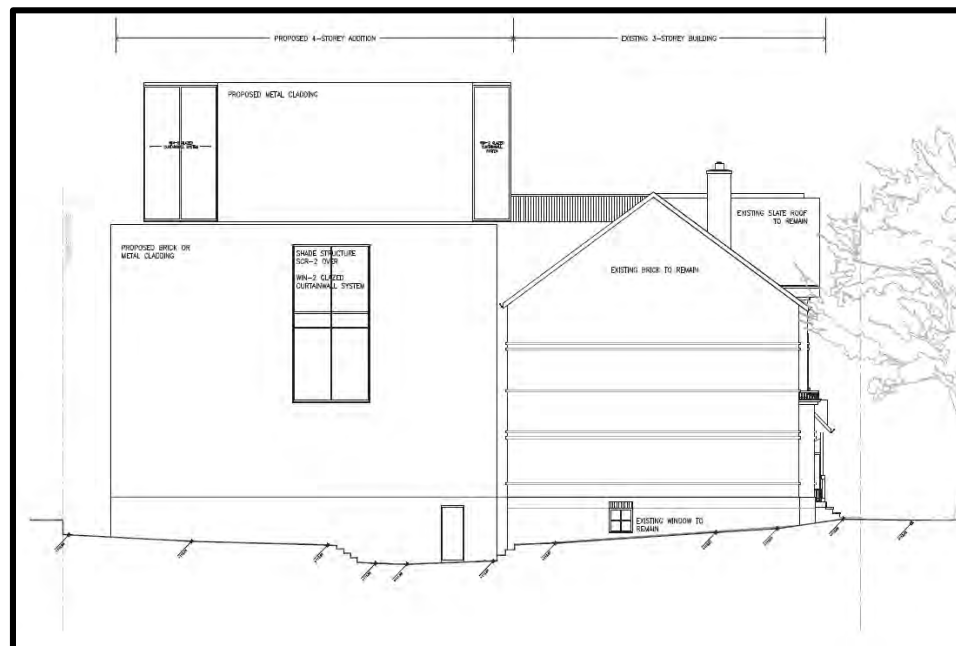


Proposed south (rear) elevation

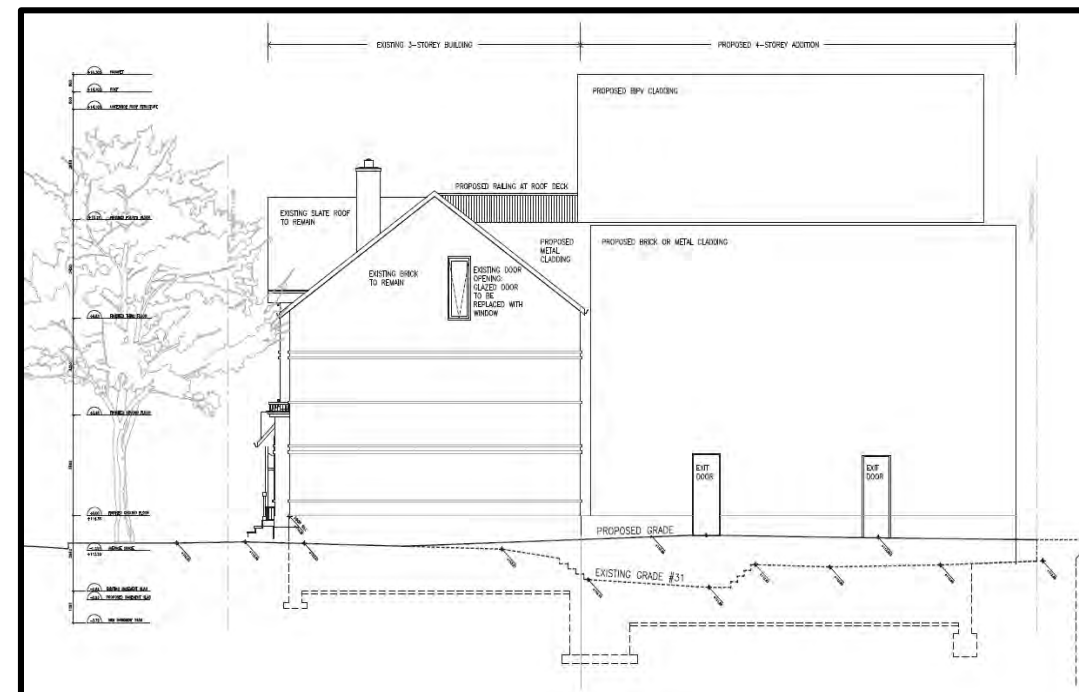


# PB3.5 29-31 Prince Arthur Avenue

## Proposal



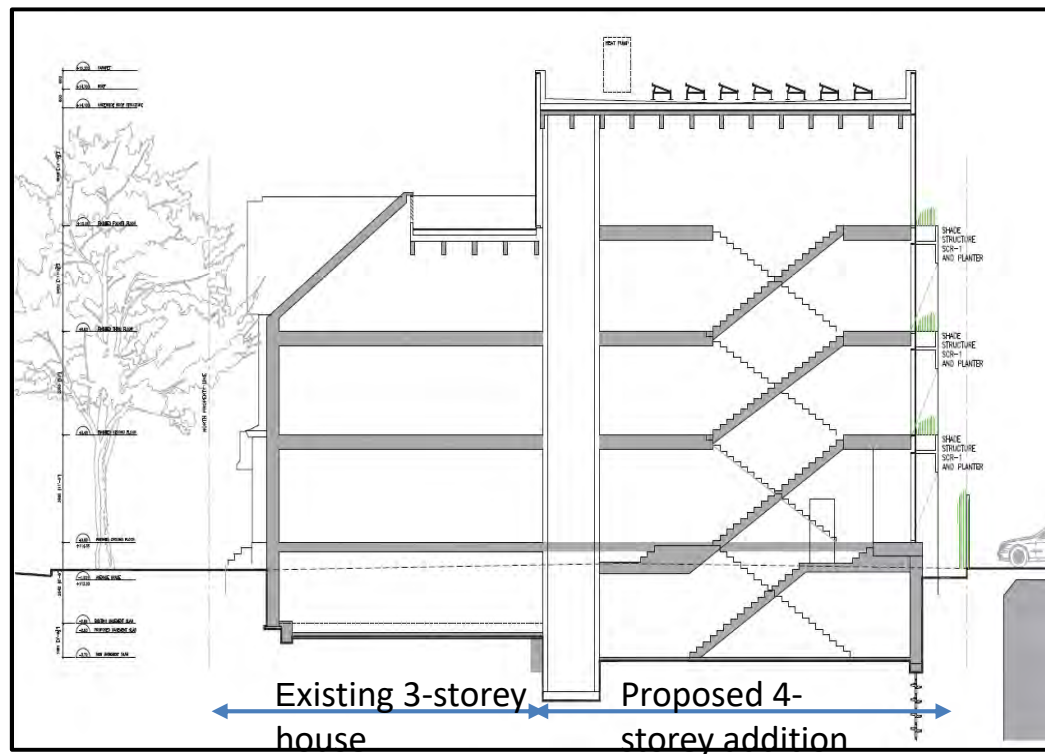
Proposed east elevation  
(Source – Angela Tsementzis Architect, 2022)



Proposed west elevation

## PB3.5 29-31 Prince Arthur Avenue

### Proposal



Key Section (North-South) showing

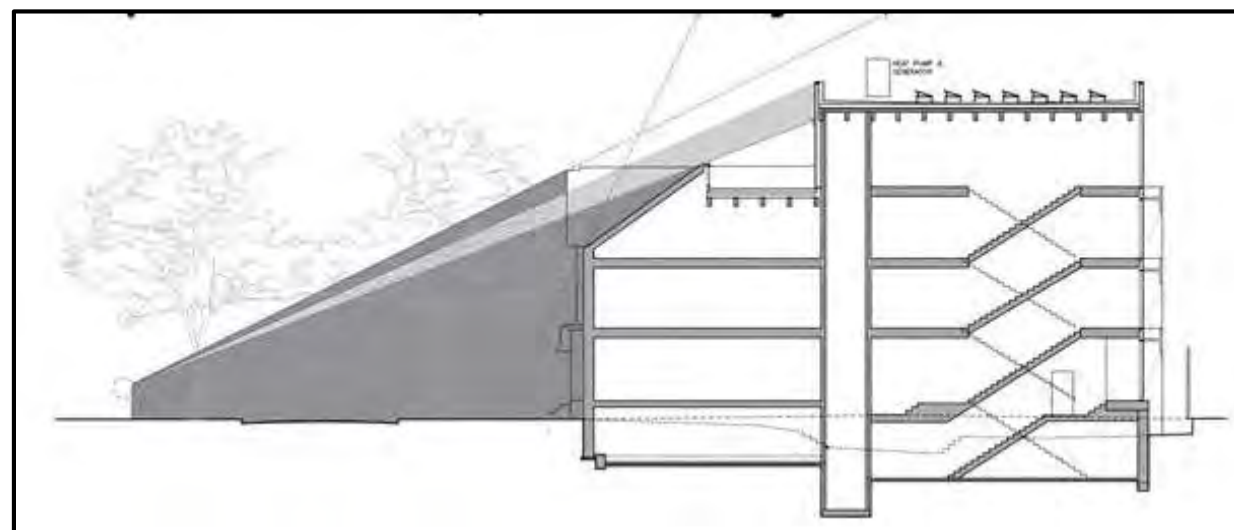
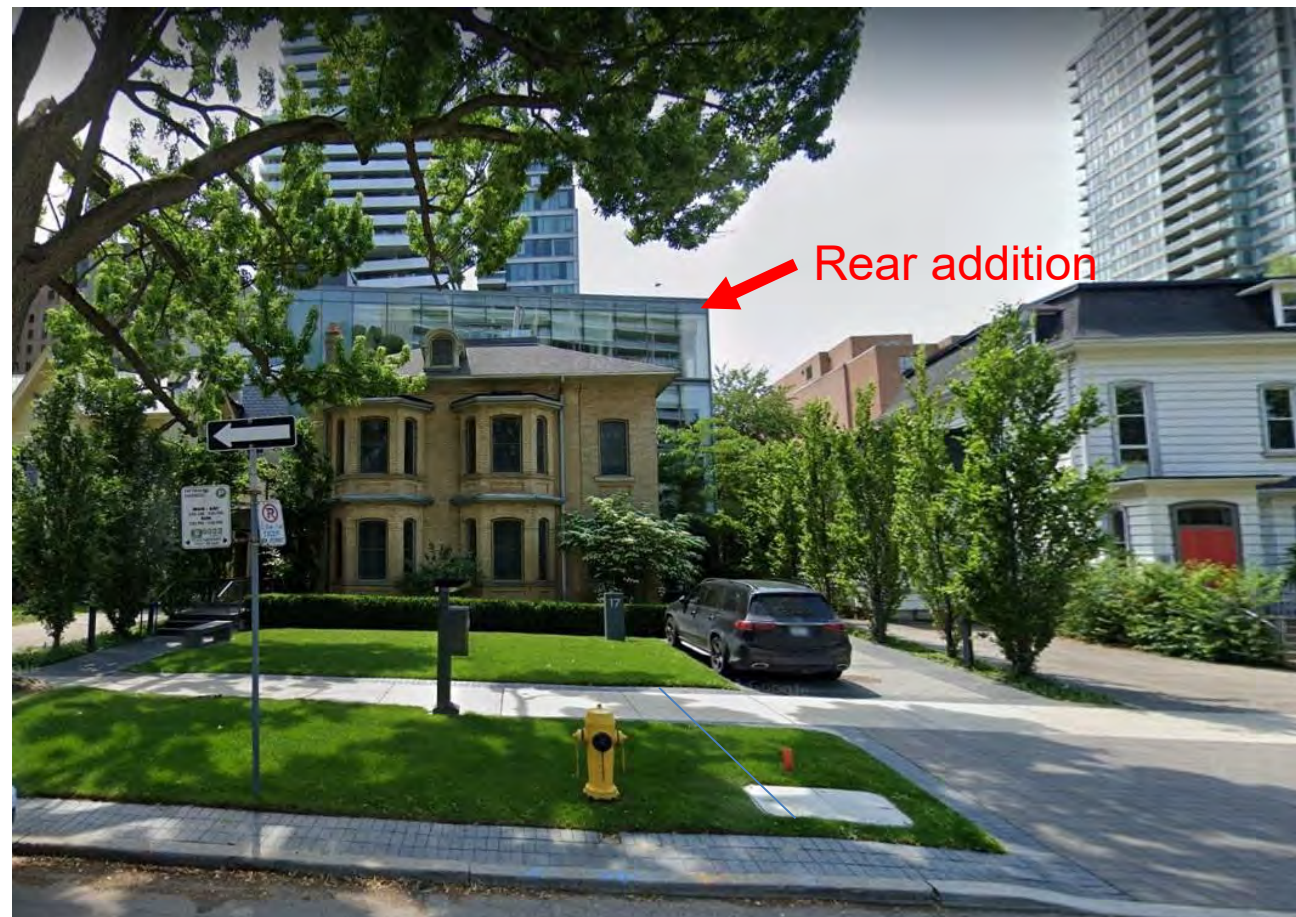


Illustration showing view diagrams from the street.  
The proposed rear addition will have low visibility from the north sidewalk, as it is located beyond dormers of the existing house

## PB3.5 29-31 Prince Arthur Avenue

### Precedent

17 Prince Arthur Avenue-  
Precedent received Council approval in 2011  
(source- Google Maps, 2022)



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**PB3.5**  
**29-31 Prince Arthur Avenue**

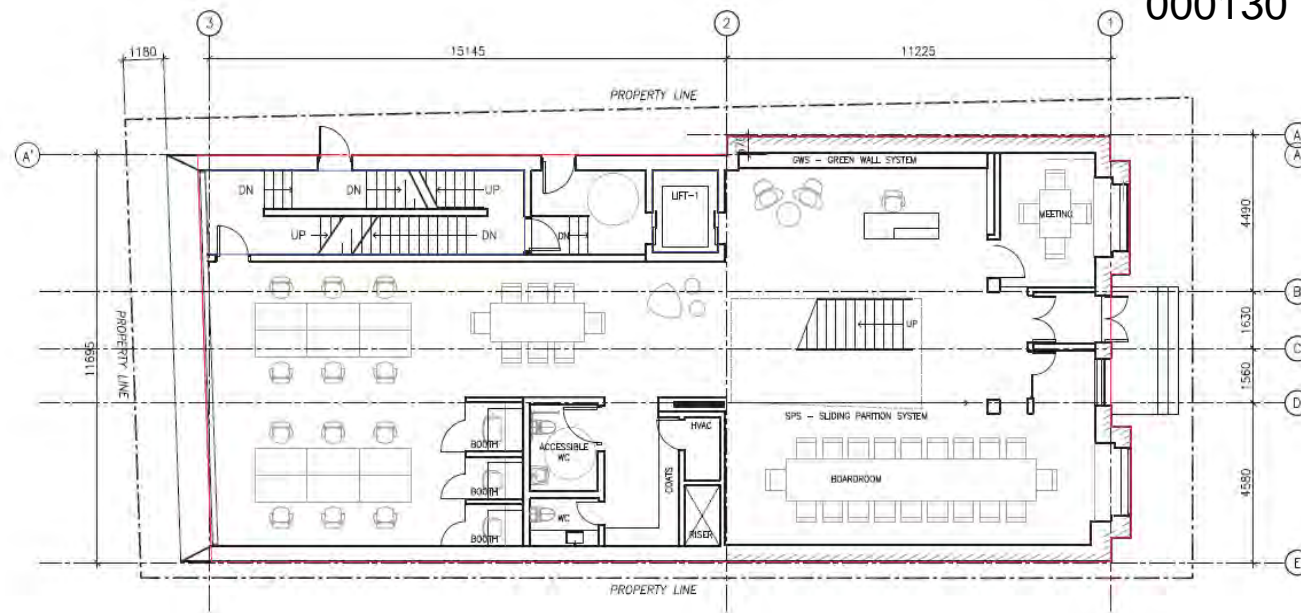
Proposal



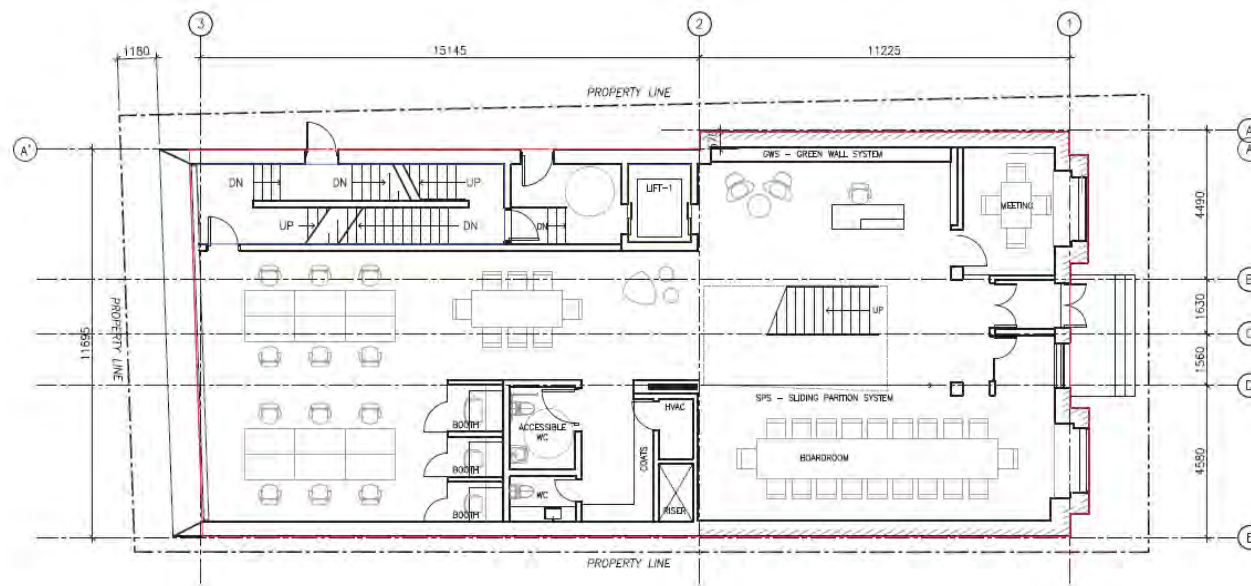
Rendering of proposal  
(Source- Angela Tsementzis Architect, 2022)

# PB3.5 29-31 Prince Arthur Avenue

Ground Floor Plan

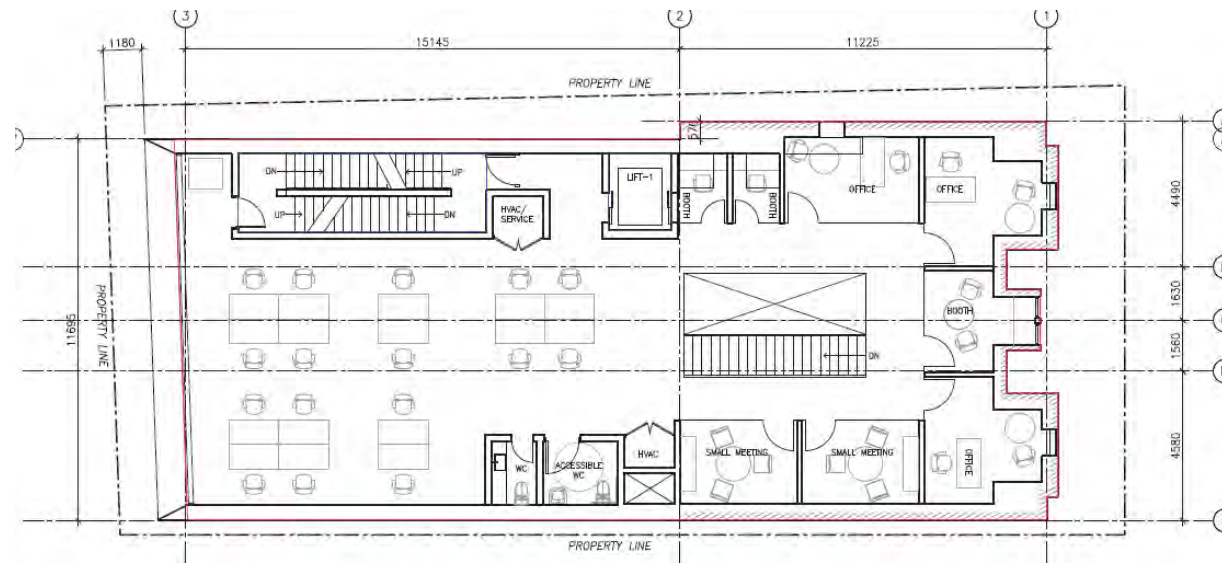


Second Floor Plan

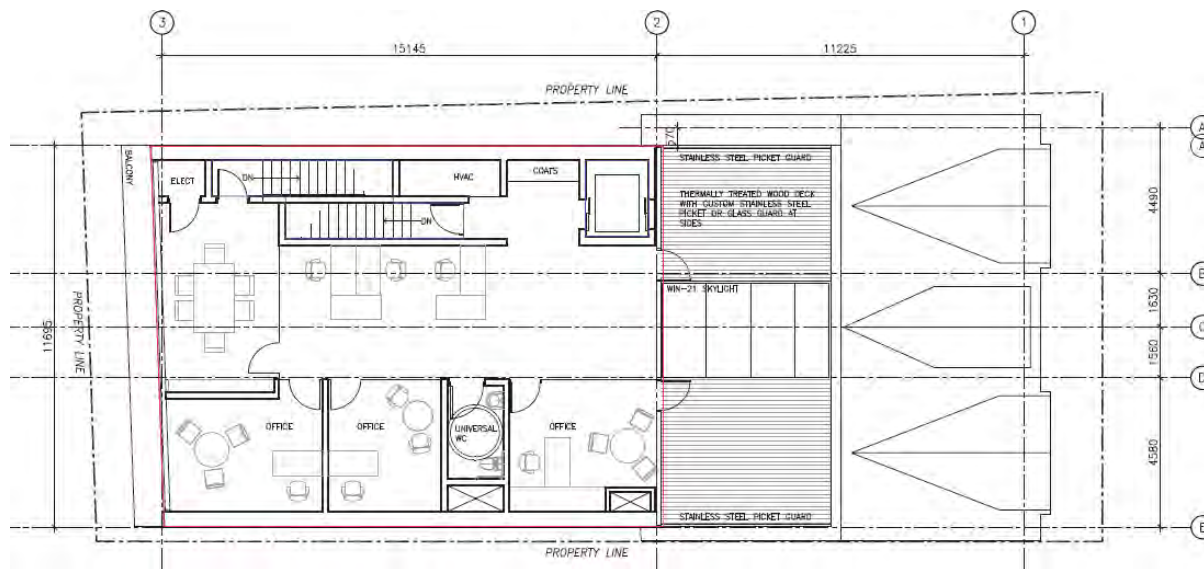


# PB3.5 29-31 Prince Arthur Avenue

Third Floor Plan

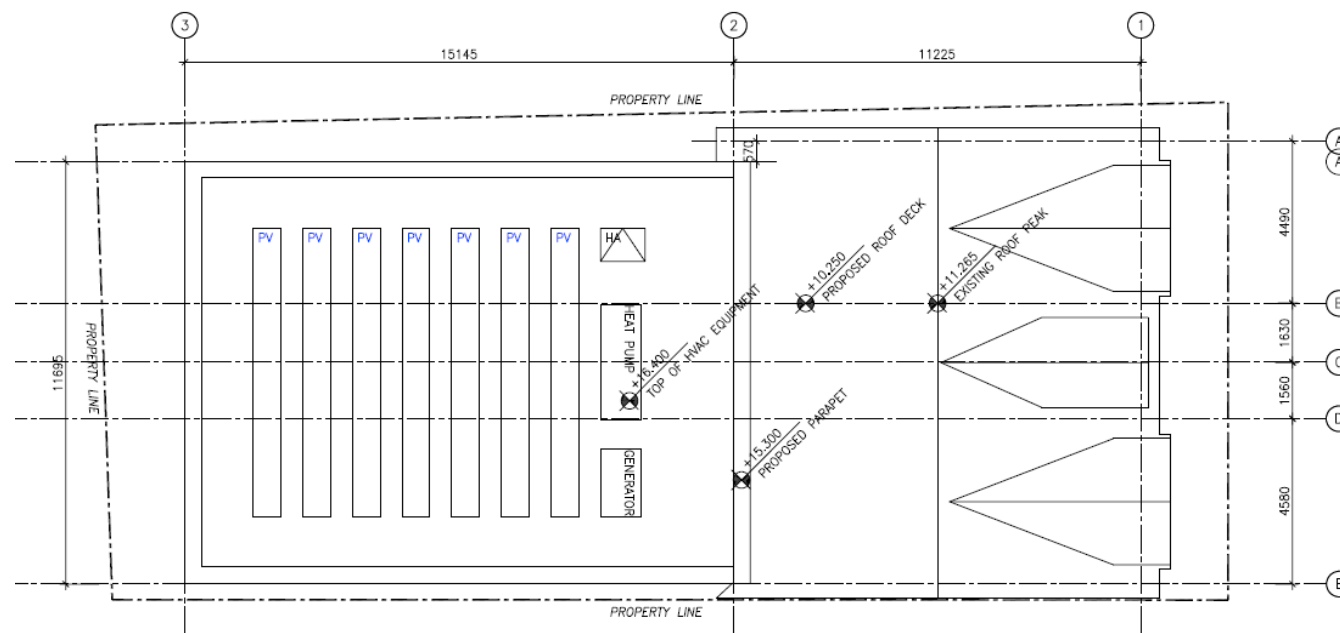


Fourth Floor Plan



# PB3.5

## 29-31 Prince Arthur Avenue



Roof Plan

**TAB 6**



# Minutes

Development & Heritage Standing Committee  
Tuesday, October 13, 2020

## 4. COMMUNICATIONS

None presented.

## 8. ADOPTION OF THE MINUTES

### 8.1. Adoption of the Development & Heritage Standing Committee minutes of its meeting held September 21, 2020

Moved by: Member Baker

Seconded by: Member Fratangeli

THAT the minutes of the Development & Heritage Standing Committee meeting held September 21, 2020 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 279/2020

Clerk's File: MB2020

## 9. PRESENTATIONS AND DELEGATIONS (COMMITTEE ADMINISTRATIVE MATTERS)

See Items 10.1 and 11.1.

## 10. HERITAGE ACT MATTERS

### 10.1. 436 Askin Avenue - Partial Demolition of a Heritage Listed Property (Ward 2)

#### Allan Djordjevic, Applicant

Allan Djordjevic, Applicant, appears via video conference before the Development and Heritage Standing Committee regarding the administrative report "436 Askin Avenue - Partial Demolition of a Heritage Listed Property (Ward 2)" and is available for questions.

#### Sheila Wisdom, Area Resident

Sheila Wisdom, Area Resident, appears via video conference before the Development and Heritage Standing Committee regarding the administrative report "436 Askin Avenue - Partial Demolition of a Heritage Listed Property (Ward 2)" and provides the following concerns and comments:

# Minutes

## Development & Heritage Standing Committee

Tuesday, October 13, 2020

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- Objects to the stated purpose of the demolition, which is to allow for the creation of a duplex on this site.
- The neighbourhood is mixed use with zoning ranging from institutional to commercial to mixed use residential comprised of a combination of families and students.
- The end result of this application, which is the construction of another building on the property, undermines the goal of heritage recognition and preservation.
- It is also out-of-sync with the goals of the Official Plan to develop safe, caring, and diverse neighbourhoods.
- Expresses concern that there is often a strong sewer smell on Askin coming from the sewer grates and wonders what the capacity of the sewers will be to handle the increase not only from this building but also from others that could follow before the city can do infrastructure improvements.
- The block has permit parking and with the number of cars, where will all of the extra tenants park their cars.
- Concerned with fire safety access to a building at the rear of a property as the alley has been closed and blocks access to emergency vehicles.
- On July 13, 2020, City Council passed an Interim Control By-law to prohibit all group homes, lodging houses, and any dwelling with five or more dwelling units to allow Council to review and if deemed appropriate to implement the findings of a study. (This was amended on August 24, 2020 to allow four or more units.)
- The building at 436 Askin could probably accommodate up to six persons. The new building would accommodate at least four for a total of ten.
- Requests that the city consider making Askin Avenue from Riverside to Wyandotte a Heritage Conservation District.

### Helen Martin, Area Resident

Helen Martin, Area Resident, appears via video conference before the Development and Heritage Standing Committee regarding the administrative report “436 Askin Avenue - Partial Demolition of a Heritage Listed Property (Ward 2)” and indicates that she has been a resident of Askin Avenue for thirty years and lives next door to 436 Askin. Ms. Martin expresses concern that a lot of history in the neighbourhood was lost with the closure of Sunset and Patricia Streets and adds that Askin is one of the last areas with prestigious, historic properties in the neighbourhood. Ms. Martin adds that family homes are now lodging homes and the landlord does not reside in these homes. Ms. Martin also expresses concern with the sewer capacity and infrastructure.

### Mike Cardinal, Area Resident

Mike Cardinal, appears via video conference before the Development and Heritage Standing Committee regarding the administrative report “436 Askin Avenue - Partial Demolition of a Heritage Listed Property (Ward 2)” and provides the following comments and concerns:

- He has been a resident on Askin for twenty years.
- This whole stretch of Askin has quality architecture and the homes have been well maintained.

# Minutes

## Development & Heritage Standing Committee

Tuesday, October 13, 2020

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- Some of the larger homes have become student houses with a large number of students residing in them.
- There is an opportunity for Windsor to have a “west end Prado Boulevard” on Askin. Prado Street deserved that protection as does Askin.
- The problem with 436 Askin is the double-duplexing to the rear.
- The addition being proposed is much larger than the current house and takes up almost the entire backyard. (The parking would have to be added off the closed alley.)
- This kind of intensification belongs on the main arteries, not on small residential streets that are very narrow with parked cars.
- The proposed development is nothing short of a lodging house, which at one time required a license.

Councillor Holt inquires as to setbacks and whether this will be coming back to Council for any other reason besides this heritage alteration permit. George Robinson, Planner II – Revitalization & Policy Initiatives, appears via video conference before the Development and Heritage Standing Committee regarding the administrative report “436 Askin Avenue - Partial Demolition of a Heritage Listed Property (Ward 2)” and indicates that parcels currently zoned RD2.1 have permitted uses that include a duplex, semi-detached dwelling, and single unit dwelling. Mr. Robinson explains that the applicant is proposing to convert the existing single unit dwelling to a semi-detached dwelling. Mr. Robinson indicates that a preliminary review by the department is done, and it indicates that the plans as presented do meet the provisions in this zone and semi-detached dwelling as a permitted use. Mr. Robinson adds that in lieu of any amendments to the applicant’s plans, this application would not come back to this Committee or the Committee of Adjustment for any further *Planning Act* approvals.

Member Baker indicates that she stopped by 436 Askin last week and remarks that it is a lovely home in a lovely neighbourhood. She also noticed the smell from the sewers and that there is residential parking. Ms. Baker inquires whether the Planning Department is consulted prior to bringing this to this Committee as there are red flags. Mr. Robinson responds that whenever they receive an initial submission such as this, it is reviewed by the Zoning Coordinator, as well as other development oriented staff members in their department, and adds that the issues that address servicing would come through at the building permit stage. Patrick Winters, Development Engineer, appears via video conference before the Development and Heritage Standing Committee regarding the administrative report “436 Askin Avenue - Partial Demolition of a Heritage Listed Property (Ward 2)” and indicates that existing properties are serviced, and system wide intensification does have an effect on the system eventually. Member Baker advises that she would support moving to designate the house and to create a Heritage Conservation District (HCD) for the area.

Member Foot indicates that the issue should be dealt with from Council’s point of view as far as the re-use of the land goes, as it goes beyond the heritage provisions of the back porch.

Councillor Bortolin inquires as to the Heritage Conservation District and what the process is if that is triggered today. Kristina Tang, Heritage Planner, appears via video conference before the Development and Heritage Standing Committee regarding the administrative report “436 Askin Avenue - Partial Demolition of a Heritage Listed Property (Ward 2)” and indicates the process

# Minutes

## Development & Heritage Standing Committee Tuesday, October 13, 2020

would begin with Council's decision to initiate a Heritage Conservation District (HCD) area study, followed by public consultation and looking at the merits of a Heritage Conservation District as well as determining boundaries.

Councillor Bortolin inquires as to whether this application would have come forward if the area was designated as an HCD, or would the application automatically be denied as an HCD. Ms. Tang indicates that there are provisions within the *Heritage Act* for the initiation of an Interim Control By-law alongside the initiation of an HCD study area. Ms. Tang adds that there are some restrictions to its use so it cannot be used in tandem with the existing Interim Control Bylaw. Ms. Tang indicates that in this case, if you want to halt an application for 436 Askin, some interim control by-law power would have to be enacted.

Councillor Holt inquires as to when something is listed on the Heritage Registry, is it only the structure itself or the entire property and what was the original justification for listing this property on the Heritage Registry. Ms. Tang indicates that the Heritage Register listings are usually for the property and adds that, regarding the powers of the Committee in terms of reviewing the Notice of Intention to remove or demolish buildings or structures so that they are specific to the physical structures, there is no status or authority to regulate any of that design aspect. For example, there are comments about the addition being larger than the existing house; however, there is no authority given by the *Ontario Heritage Act* to regulate the size of the addition.

Councillor Holt inquires whether this Committee could take into account the scaling of the property as a whole when a decision is made to allow for an alteration permit which might inextricably change the entire feeling of the property. Ms. Tang indicates that the *Ontario Heritage Act* does not give powers to regulate alterations for heritage listed properties; these powers are given for designated properties. The only options are to receive the Notice of Intention to demolish or to initiate a Notice of Intention to designate.

Councillor Holt inquires that if this Committee chose to move to designate the actual property, does that designation protect the entire property, which would include the property around it, the relationship to the neighbours, and the access to the alley. Ms. Tang indicates that the designation would specify the property boundaries.

Moved by: Councillor Holt

Seconded by: Member Baker

Decision Number: **DHSC 207**

THAT the report of the Planner II Revitalization & Policy Initiatives and Heritage Planner dated September 25, 2020, entitled "436 Askin Avenue-Partial Demolition of a Heritage Listed Property" **BE RECEIVED**; and,

THAT Administration **BE REQUESTED** to give notice of intention to designate the property located at 436 Askin Ave in accordance with Part IV of the *Ontario Heritage Act*; and,

# Minutes

## Development & Heritage Standing Committee Tuesday, October 13, 2020

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THAT Administration **REPORT BACK** to Council regarding initiation of a Heritage Conservation District for this area; and, that the report include suggestions related to boundaries that may be considered.

Carried.

Report Number: S 53/2020

Clerk's File: MBA2020

There being no further business the meeting of the Development & Heritage Standing Committee (*Heritage Act Matters*) portion is adjourned at 5:21 o'clock p.m.

The Chairperson calls the *Planning Act* Matters portion of the Development & Heritage Standing Committee meeting to order at 5:21 o'clock p.m.

### 5. ADOPTION OF THE *PLANNING ACT* MINUTES

#### 5.1. Minutes of the September 21, 2020 Development and Heritage Standing Committee meeting (*Planning Act Matters*)

Moved by: Member Gyemi

Seconded by: Councillor Sleiman

THAT the *Planning Act* minutes of the Development & Heritage Standing Committee meeting held September 21, 2020 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 288/2020

Clerk's File: MB2020

### 6. PRESENTATION DELEGATIONS (*PLANNING ACT MATTERS*)

See Items 7.1, 7.2, 7.3, and 7.4.

### 7. *PLANNING ACT MATTERS*

#### 7.1. Zoning By-law Amendment Application for 0 Hawthorne Dr., N/E CNR of Hawthorne Dr. and Enterprise Way intersection; Applicant: 2356976 Ontario Inc.; File No. Z-010/20, ZNG/6072; Ward 8

Moved by: Councillor Holt

Seconded by: Member Rondot

**TAB 7**

**CITY OF WINDSOR MINUTES 03/06/2023****Development & Heritage Standing Committee Meeting**

Date: Monday, March 06, 2023

Time: 4:30 PM

**Members Present:****Councillors**

Ward 1 – Councillor Fred Francis

Ward 4 – Councillor Mark McKenzie

Ward 7 - Councillor Angelo Marignani

Ward 9 - Councillor Kieran McKenzie

Ward 10 - Councillor Jim Morrison (Chairperson)

**Members**

Member Arbour

Member Fratangeli

Member Grenier

Member Miller

Member Pidgeon

Member Saka

Member Tape

**Members Regrets**

Member Polewski

**Clerk's Note:** Member Fratangeli participated via video conference (Zoom), in accordance with Procedure By-law 98-2011 as amended, which allows for electronic participation.

**PARTICIPATING VIA VIDEO CONFERENCE ARE THE FOLLOWING FROM ADMINISTRATION:**

Sandra Gebauer, Council Assistant

Jim Abbs, Planner III – Subdivisions

# Minutes

## Development & Heritage Standing Committee Monday, March 06, 2023

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### ALSO PARTICIPATING IN COUNCIL CHAMBERS ARE THE FOLLOWING FROM ADMINISTRATION:

Jelena Payne, Commissioner – Economic Development & Innovation  
 Wira Vendrasco, Deputy City Solicitor – Legal & Real Estate  
 Thom Hunt, City Planner / Executive Director of Planning & Development  
 Michael Cooke, Manager, Planning Policy  
 Rob Vani, Manager, Inspections /Deputy Chief Building Official  
 Patrick Winters, Manager, Corporate Projects  
 Ashley Porter, Clerk Steno Senior  
 Jeff Hagan, Transportation Planning, Senior Engineer  
 Clare Amicarelli, Transportation Planner I  
 Kristina Tang, Heritage Planner  
 Justina Nwaesei, Planner III – Subdivisions  
 Greg Atkinson, Planner III – Economic Development  
 Laura Strahl, Planner III – Special Projects  
 Edwin Chiu, Waterloo – Co-op Planning  
 Aaron Farough, Legal Counsel  
 Brian Nagata, Planner II – Development Review  
 Anna Ciacelli, Deputy City Clerk / Supervisor of Council Services

### Delegations—participating via video conference

Item 7.2 Haider Habib, HD Development Group  
 Item 7.2 Steve Berrill, ADA Architect  
 Item 10.1 Allen Djordevic, Applicant / Area Resident  
 Item 10.1 Helen Martin, Area Resident

### Delegations—participating in person

Item 7.3 Karl Tanner, Dillon Consulting Limited  
 Item 10.1 Frank Butler, Area Resident  
 Item 11.1 Wendy Victory, Victory Reproductive Care



# Minutes

Development & Heritage Standing Committee  
Monday, March 06, 2023

## 1. CALL TO ORDER

Following the reading of the Land Acknowledgement, the Chairperson calls the meeting of the Development & Heritage Standing Committee to order at 4:30 o'clock p.m.

## 2. DISCLOSURES OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None disclosed.

## 3. REQUEST FOR DEFERRALS, REFERRALS OR WITHDRAWALS

None presented.

## 4. COMMUNICATIONS

None presented.

## 8. ADOPTION OF THE MINUTES

### 8.1. Minutes of the Development and Heritage Standing Committee of its meeting held February 6, 2023

Moved by: Member William Tape

Seconded by: Councillor Kieran McKenzie

That the minutes of the Development & Heritage Standing Committee meeting held February 6, 2023 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 60/2023

## 10. HERITAGE ACT MATTERS

### 10.1. 436 Askin Avenue - Heritage Permit Request (Ward 2)

**Allen Djordevic, applicant / area resident**

Allen Djordevic, applicant / area resident appears via video conference before the Development and Heritage Standing Committee regarding the administrative report "463 Askin Avenue – Heritage Permit Request (Ward 2)" and provides a brief history of the application process related to an addition request which was denied at the time. Mr. Djordevic indicates he is now applying for an additional dwelling unit building with extensive consultation with the Heritage Planner and meeting

# Minutes

## Development & Heritage Standing Committee

Monday, March 06, 2023

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all current regulations. Mr. Djordevic provides some background as to his intentions with the unit as well as, some details related to the length of the anticipated construction are provided.

### **Frank Butler, area resident**

Frank Butler, area resident appears before the Development and Heritage Standing Committee and expresses concern regarding the recommendation in the administrative report “463 Askin Avenue – Heritage Permit Request (Ward 2)” and requests deferral of the proposed application to allow for the Heritage Conservation District Heritage Study to be conducted in the Askin area. Mr. Butler indicates he didn’t receive notification related to the proposed application until Wednesday and wasn’t able to meet with surrounding neighbours to formulate a response. Mr. Butler provides information related to the street and the historical significance of the homes on that street including his own. Mr. Butler concludes by providing details related to several concerns since the increase of rental units in the area.

### **Helen Martin, area resident**

Helen Martin, area resident appears via video conference before the Development and Heritage Standing Committee and expresses concern regarding the recommendation in the administrative report “463 Askin Avenue- Heritage Permit Request (Ward 2)” and inquires about a committee that was supposed to be created to address issues such as these as a result of a previous decision of Council related to a request for an addition at this site which was denied by Council at the time. Ms. Martin requests that this issue be deferred until such time as the committee and its function can be determined. Ms. Martin also refers to the University of Windsor Master Plan which is forthcoming and hopes that they will be consulted related to this as well. Ms. Martin cites concerns related to the existing infrastructure system and whether it can tolerate more units in the vicinity as well as the notification timelines related to this application.

Councillor Kieran McKenzie inquires as to the Heritage aspects of the report, and not making a decision about the zoning/planning the ADU complies and that the applicant intends to build the unit consistent with the heritage features and whether the delegates would be satisfied with the applicant’s assurances. Ms. Martin indicates that the licensing aspect is a concern for her as the program is relatively new. Mr. Butler indicates that the diagram doesn’t provide the information related to what type of heritage aspects will be in place and is concerned that allowing the project to go forward without a complete Heritage Study of the area would be concerning. Mr. Djordevic indicates that he is a landlord that will take care and renderings of the completed project were provided when applying and provides details of the plans and drawings.

Councillor Kieran McKenzie inquires about the status of the Heritage Conservation District report for the Askin area. Kristina Tang, Heritage Planner appears before the Development and Heritage Standing Committee regarding the administrative report “463 Askin Avenue – Heritage Permit Request (Ward 2)” and indicates that at the time of the previous application, Council provided direction related to funding and priority to the Walkerville Heritage Conservation District Study (HCD).

# Minutes

## Development & Heritage Standing Committee Monday, March 06, 2023

Councillor Kieran McKenzie indicates that concerns remain related to the preservation of heritage features and whether it is the intention of administration to work closely with the proponent to ensure central heritage features would be consistent for the proposed project and how the process will move forward. Ms. Tang indicates that the proposal was evaluated, based on merit with Heritage content in mind and it does meet heritage standards, and administration is in agreement with the recommendations presented in the report.

Councillor Kieran McKenzie inquires as to the steps that administration undertakes from what is being proposed to what is implemented. Thom Hunt, City Planner, appears before the Development and Heritage Standing Committee regarding the administrative report "463 Askin Avenue – Heritage Permit Request (Ward 2)" and indicates that the plans will be submitted to the Building Department and the parameters that are met reflect the request. Rob Vani, Manager of Inspections/Deputy Chief Building Official appears before the Development and Heritage Standing Committee regarding the administrative report "463 Askin Avenue – Heritage Permit Request (Ward 2)" and indicates when the permit application comes in they won't release it until the heritage permit comes in satisfactory to the planning department.

Councillor Angelo Marignani inquires as to the sewer capacity in the area and whether this development will have a negative impact on the area. Administration indicates that the addition of one unit will have a minimal effect.

Councillor Fred Francis inquires about the HCD plan for the area. Ms. Tang explains the status of the HCD for the Askin area including that the Walkerville HCD was approved and would be a priority with other studies forthcoming at the direction of Council.

Member Tape inquires about the layout of the proposed structure and the use of siding. Ms. Tang indicates that they met with the proponent and it was determined that the layout of the building is compatible to the heritage context, and is not overly visible due to the lot depth and set back from the street. Ms. Tang adds that administration finds it acceptable and the Heritage integrity of the property is in line with the proposal.

Moved by: Councillor Kieran McKenzie

Seconded by: Member Pidgeon

Decision Number: **DHSC 484**

- I. That the Heritage Permit at 436 Askin Avenue BE GRANTED for the erection of one detached additional dwelling unit per Appendix 'B' of this report; and,
- II. That the Heritage Permit approval BE SUBJECT to the following approval conditions prior to work start:
  - a. Submission of satisfactory product details and samples (including material and colour selections);
  - b. Provision of satisfactory architectural drawings by qualified designers;
  - c. Determination that the work is satisfactory to meet Building code compliance; and

# Minutes

## Development & Heritage Standing Committee

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- III. That the City Planner or designate BE DELEGATED the authority to approve any further proposed changes associated with the proposed scope of work for the erection of one rear detached additional dwelling unit.

Aye Votes: Councillor Kieran McKenzie, and members Miller, Pidgeon, Saka, and Fratangeli.

Nay Votes: Councillors Fred Francis, Mark McKenzie, Angelo Marignani, Jim Morrison, and member Tape.

Abstain: None.

The motion is **put and lost**.

Moved by: Councillor Fred Francis

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 485**

That the report of the Heritage Planner dated February 16, 2023 entitled "436 Askin Avenue – Heritage Permit Request (Ward 2)" **BE REFERRED** back to Administration to provide further information related to analysis of adjacent properties impacted by the proposal; and that this information **BE FORWARDED** to a future meeting of the Development & Heritage Standing Committee Meeting.

Carried.

Councillor Kieran McKenzie and Member Charles Pidgeon voting nay.

Carried.

Report Number: S 25/2023

Clerk's File: MB/13966

There being no further business the meeting of the Development & Heritage Standing Committee (*Heritage Act* matters) portion is adjourned at 5:14 o'clock p.m.

The Chairperson calls the *Planning Act* Matters portion of the Development & Heritage Standing Committee meeting to order at 5:16 o'clock p.m.

## 5. ADOPTION OF THE PLANNING ACT MINUTES

### 5.1. Minutes of the February 6, 2023 Development & Heritage Standing Committee (Planning Act Matters)

Moved by: Member Anthony Arbour

Seconded by: Councillor Mark McKenzie

**Minutes**  
**Development & Heritage Standing Committee**  
**Monday, March 06, 2023**

That the minutes of the Development & Heritage Standing Committee meeting held February 6, 2023 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 61/2023

## **6. PRESENTATION DELEGATIONS (PLANNING ACT MATTERS)**

None presented.

## **7. PLANNING ACT MATTERS**

### **7.1. Zoning By-law Amendment Application for property known as 478 Janette Avenue; Applicant: 1413600 Ontario Ltd.; File No. Z-029/22, ZNG/6847; Ward 3.**

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 481**

- I. That Zoning By-law 8600 **BE AMENDED** for the lands located on the east side of Janette Avenue, between Wyandotte Street West and Park Street West, described as Lot 68 and Pt Lot 67, Plan 274, [PIN 01195-0191 LT], by adding a site specific holding provision to permit “One Multiple Dwelling with a maximum of six dwelling units” as an additional permitted use, subject to additional regulations;

#### **“467. EAST SIDE OF JANETTE AVENUE, BETWEEN WYANDOTTE STREET WEST AND PARK STREET WEST**

For the lands comprising Lot 68 and Pt Lot 67, Plan 274, PIN 01195-0191 LT, “One *Multiple Dwelling* with a maximum of six *dwelling units*” shall be an additional permitted use and the following shall apply:

1. The provisions in Section 11.2.5.4, save and except for section 11.2.5.4.4
  2. Main Building Height - maximum 10.0 m  
[ZDM 3; ZNG/6847]”
- II. That the holding (H) symbol **BE REMOVED** when the applicant/owner submits an application to remove the holding (H) symbol and the following conditions are satisfied:
- a) Official approval of the storm water management calculations;
  - b) Street Opening Permit; and
  - c) Alley Maintenance Contribution of \$5,750.00 paid to the Corporation of the City of Windsor.

Carried.

# Minutes

## Development & Heritage Standing Committee Monday, March 06, 2023

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Report Number: S 26/2023

Clerk's File: Z/14512

### 7.2. Approval of a Plan of Condominium with Exemption under Section 9(3) of the Condominium Act, 4755, 4775 & 4785 Walker Road; Applicant: 5042667 Ontario Ltd.; File# CDM 002-22 [CDM-6829]; Ward 9

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 482**

That the application of 5042667 Ontario Ltd. for an exemption under Section 9(3) of *The Condominium Act* for approval of a plan of condominium (Standard Condominium), comprised of a total of 224 dwelling units and 7 commercial units within three (3) new Multiple Dwelling structures under construction or planned to be constructed, as shown on the attached MAP Nos. CDM-002/22-1, CDM-002/22-2, and CDM-002/22-3A,3B,3C, on parcels legally described as Pt Lot 13, Concession 6, PART 3 and Pt of PART 2 on Plan 12R-17667, and PARTS 6 to 9 on Plan 12R-24241, City of Windsor; located at 4755, 4775 and 4785 Walker Road, **BE APPROVED** for a period of three (3) years.

Carried.

Report Number: C 25/2023

Clerk's File: Z/14505

### 7.3. Official Plan & Zoning Bylaw Amendments, Draft Plan of Subdivision Applications - Z 027-22 [ZNG-6832], OPA 163 [OPA-6833], SDN001/22 [SDN6834] - 1027458 Ontario Inc. - 0 Clover Avenue - NE Corner Florence & Beverly Glen - Ward 7

Moved by: Councillor Angelo Marignani

Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 483**

- I That the City of Windsor Official Plan Volume II – East Riverside Secondary Plan Schedule ER-2 **BE AMENDED** by changing the land use designation of Block 65, Plan 12M-581, City of Windsor from Open Space to Neighbourhood Residential;
- II That the City of Windsor Official Plan Volume II – East Riverside Secondary Plan Schedule ER-2 **BE AMENDED** by changing the land use designation of Blocks 63 and 64, Plan 12M-581, City of Windsor from School Site to Neighbourhood Residential;
- III That an amendment to City of Windsor Zoning By-law 8600 **BE APPROVED**, changing the zoning of Block 65, Plan 12M-581 from Green District 1.1 (GD1.1) to Residential District (HRD) 2.3;

# Minutes

## Development & Heritage Standing Committee

Monday, March 06, 2023

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- IV That a Hold provision **BE APPLIED** to Blocks 63-65, Plan 12M-581 and that it be removed when the conditions contained in Section 5.4 HOLDING ZONE PROVISIONS of City of Windsor Zoning By-law 8600 have been met;
- V That subsection 1 of Section 20 of the City of Windsor Zoning By-law 8600 **BE AMENDED** for the lands described as Block 63-65, Plan 12M-581 by adding site specific regulations as follow:
466. **NORTH EAST CORNER OF FLORENCE AVENUE AND BEVERLEY GLEN STREET**  
 For the lands described as Blocks 63-65, Plan 12M-581, the total area of the *required front yard* occupied by a hard surface for the purpose of a walkway, driveway, *access area*, *parking space*, or any combination thereof, exceeding 60% of the *required front yard* shall be prohibited, and,  
 Lot Coverage – Maximum 50%  
 (ZDM 14; ZNG/6832)
- VI That the application of 1027458 Ontario Inc. for Draft Plan of Subdivision approval of Blocks 63-65 (incl.), Plan 12M-581, City of Windsor; **BE APPROVED** on the following basis:
- A. That this approval applies to the draft plan of subdivision, as shown on the attached Drawing SDN001/22-1, which will facilitate the construction of 117 townhome dwellings and 2 blocks for a greenway/utility corridor.
- B. That the Draft Plan Approval shall lapse on (5 years from the date of approval).
- C. That the Owner Shall submit for approval of the City Planner, a final draft M-Plan, which shall include the names of all road allowances within the plan, as approved by the Corporation.
- D. That the Owner undertakes to provide the following matters prior to the registration of the final Plan of Subdivision:
- a. The Owner will include all items as set out in the results of circularization and other relevant matters set out in CR 233/98 (Standard Subdivision Agreement).
- b. The Owner will create, prior to the issuance of a building permit, the following rights-of-way, in accordance with the approved Plan of Subdivision:
1. 20m right of way for the new Streets “Thunderbay Avenue” and “Ivanhill Avenue”
  2. A right of way for the Court as shown on the Draft Plan of Subdivision west of Thunderbay Avenue, South of Block 28.
- c. The Owner shall agree to fully construct all future municipal right-of-ways, including, but not limited to: pavements, curbs and gutters, utilities and the necessary drainage facilities, according to City of Windsor standard specification for the following road designations:
1. Local Residential Roads: complete with 20 metre right-of-ways. Pavements to be twenty-eight (28) feet (8.6 metres) in width.
  2. Collector Roads:

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## Development & Heritage Standing Committee

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Class 2 Collector - Florence Ave is to be constructed as per the requirements of the Environmental Assessment.

- d. The Owner will provide the following corner cut-offs on the approved Final Plan of Subdivision:

4.6m x 4.6m – Intersection of Thunderbay Avenue and Beverly Glen Street;  
Intersection of Ivanhill Avenue and Beverly Glen Street;  
Intersection of Thunderbay Avenue and Ivanhill Avenue;  
Intersection of Thunderbay Avenue and Clover Avenue;  
Intersection of Beverly Glen Street and Clover Avenue;  
Intersection of Jerome St and Florence Avenue;  
Intersection of Beverly Glen Street and Florence Avenue,

to the satisfaction of the City Planner and the City Engineer.

- e. The Owner will comply with all the following requirements relating to sidewalks:

Sidewalks will be constructed:

On the East Side of Thunderbay Avenue and Ivanhill Avenue;

On the South side of Thunderbay Avenue;

On Florence Avenue as per the Environmental Assessment,

All to the satisfaction of the City Engineer and the City Planner.

- f. The Owner shall agree to retain a Consulting Engineer at its own expense to provide a detailed servicing study report on the impact of the increased flow to the existing municipal sewer systems, satisfactory in content to the City Engineer and prior to the issuance of a construction permit.

- g. The Owner shall agree to:

1. Undertake an engineering analysis to identify stormwater quality and quantity measures as necessary to control any increases in flows in downstream watercourses, up to and including the 1:100 year design storm, to the satisfaction of the Municipality and the Essex Region Conservation Authority.

2. Install stormwater management measures identified above, as part of the development of the site, to the satisfaction of the City Engineer and the Essex Region Conservation Authority.

3. Obtain the necessary permit or clearance from the Essex Region Conservation Authority prior to undertaking site alterations and/or construction activities.

- h. The Owner shall agree to be responsible for the costs associated with the relocation of the sanitary sewer which presently extends south of Elinor Street and through Block 64, Plan 12M-581. All work to be done to the satisfaction of the City Engineer.

- i. The Owner shall agree to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.



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- j. The Owner shall agree that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.
  - k. The Owner shall agree to convey gratuitously to the Corporation Blocks 27 and 28 on the draft Plan of Subdivision (SDN 001/22-1) for the purposes of municipal infrastructure (existing sanitary sewer) to the satisfaction of the City Engineer and the City Planner prior to the issuance of a construction permits.
  - l. The Owner shall agree that a Stage 1 Archaeological Assessment and any further recommended assessments are required to be entered into the Ontario Public Register of Archaeological Reports to the satisfaction of the City Planner and the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries, prior to the issuance of a construction permits.
  - m. The Owner shall agree that a final copy of the archaeological reports will be submitted to the City of Windsor.
  - n. The Owner shall agree to complete an MECP species at risk screening and comply with all requirements, including any required remediation measures, resulting from any study or report submitted to the MECP/MNRF regarding SAR assessment, all at its entire expense, to the satisfaction of the City Planner.

### NOTES TO DRAFT APPROVAL (File: SDN-001/22)

- 1. The applicant is directed to Section 51(39) of *The Planning Act 1990* regarding appeal of any imposed conditions to the Ontario Land Tribunal. Appeals are to be directed to the City Clerk of the City of Windsor.
  - 2. It is the applicant's responsibility to fulfil the conditions of draft approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the City of Windsor, to the attention of the Executive Director/City Planner, quoting the above-noted file number.
  - 3. The applicant should consult with an Ontario Land Surveyor for this proposed plan concerning registration requirements relative to the *Certification of Titles Act*.
  - 4. The final plan approved by the Corporation of the City of Windsor must be registered within thirty (30) days or the Corporation may withdraw its approval under Section 51(59) of *The Planning Act 1990*.
  - 5. All plans of subdivision/condominium are to be prepared and presented in metric units and certified by the Ontario Land Surveyor that the final plan is in conformity to the approved zoning requirements.
- VII That the City Clerk and Licence Commissioner **BE AUTHORIZED** to issue the required notice respecting approval of the draft plan of subdivision under Section 51(37) of *The Planning Act*; and,

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- VIII That prior to the final approval of the plan of subdivision by the Corporation of the City of Windsor, the Executive Director/City Planner shall **BE ADVISED**, in writing, by the appropriate agencies that conditions have been satisfied; and,
- IX That the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign all necessary agreements and documents approved as to form and content satisfactory to the City Solicitor; and,
- X That the proponent **BE REQUESTED** to consider the feasibility of a North/South option off of Thunderbay Avenue.

Report Number: S 24/2023

Clerk's File: Z/14458

There being no further business the meeting of the Development & Heritage Standing Committee (*Planning Act Matters*) portion is adjourned at 5:47 o'clock p.m.

The Chairperson calls the Administrative Items portion of the Development & Heritage Standing Committee meeting to order at 5:48 o'clock p.m.

## 9. PRESENTATIONS AND DELEGATIONS (COMMITTEE ADMINISTRATIVE MATTERS)

### 11. ADMINISTRATIVE ITEMS

#### 11.1. Closure of part of E. C. Row Avenue East right-of-way, west of Banwell Road, Ward 9, SAS-6835

##### Wendy Victory, Victory Reproductive Care

Wendy Victory, Victory Reproductive Care, appears before the Development and Heritage Standing Committee regarding the administrative report "Closure of part of E.C. Row Avenue East right-of-way, west of Banwell Road, Ward 9" and provides details as to their location and expresses concern that the road was closed in August and the meeting is taking place today. Ms. Victory also adds that there is only one access route out of the business park and provides details related to their business, and her concern with the loss of the bus stop for their area. Ms. Victory concludes by expressing concern with the landscape of the area when the battery plant takes shape and requests that Council consider erecting new signage at Lauzon and Twin Oaks for the business park.

Councillor Kieran McKenzie inquires about the signage and whether it's a City owned sign. Patrick Winters, Manager Corporate Projects, appears before the Development and Heritage Standing

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Committee regarding the administrative report “Closure of part of E.C. Row Avenue East right-of-way, west of Banwell Road, Ward 9” and indicates they will investigate ownership of the sign.

Councillor Kieran McKenzie inquires as to the traffic impacts on Lauzon Pkwy and moving forward what is being undertaken to ensure sufficient capacity exists at the intersection. Jeff Hagan, Transportation Planning Senior Engineer, appears before the Development and Heritage Standing Committee regarding the administrative report “Closure of part of E.C. Row Avenue East right-of-way, west of Banwell Road, Ward 9” and indicates a traffic impact study was prepared for the NextStar battery plant and it was determined that it is not over capacity.

Councillor Kieran McKenzie inquires as to whether any upgrades are being contemplated related to capacity issues to the public access part of Twin Oaks on the west side. Mr. Hagan indicates that it is low traffic now during the development, trucks only with no peaks, no rush hour, no major changes, and there will be the eventual widening of Lauzon Parkway in the future.

Councillor Kieran McKenzie inquires about the need to close the road, and whether there is an opportunity for Lauzon to be extended over the rail line to connect to the service road off of Lauzon Parkway to create another entry way to the Twin oaks business park. Mr. Hagan indicates that that is not currently part of the study. Mr. Winters adds that the information related to the new rail line is included in the administrative report but not currently recommended.

Councillor Angelo Marignani inquires whether in the future if there are plans to create a shared pathway or trail in the area. Brian Nagata, Planner II Development Review, appears before the Development and Heritage Standing Committee regarding the administrative report “Closure of part of E.C. Row Avenue East right-of-way, west of Banwell Road, Ward 9” and indicates that a proposed multi-use pathway was outlined in the report, with lands specifically set aside for the trail.

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 486**

- I. That the portion of E. C. Row Avenue East right-of-way shown on Drawing No. CC-1819 (*attached* hereto as Appendix “A”) and described as Parts 12, 13, 15 & 26 on the Draft Reference Plan (*attached* hereto as Appendix “B”), and hereinafter referred to as the “Subject Lands”, **BE ASSUMED** for subsequent closure;
- II. That the Subject Lands **BE CLOSED AND RETAINED** by The Corporation of the City of Windsor and as necessary, in a manner deemed appropriate by the City Planner, subject to the following:
  - a. Easements over Part 15 on the Draft Reference Plan being granted to the following parties, subject to their being accepted in the City’s standard form and in accordance with the City’s standard practice:
    - i. Bell Canada to protect aerial and buried facilities running parallel to the north of the existing two-lane asphalt road.

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- ii. EnWin Utilities Ltd. to accommodate existing hydro pole line with 27,600-volt primary electrical power circuit.
- III. That prior to the closure of the Subject Lands, the Site Plan Agreement for Site Plan Control File No. SPC-2022-11, **BE AMENDED** to add a Special Provision requiring NextStar Energy Inc. to enter into an Access Agreement with Emergency Services (Essex-Windsor EMS, Windsor Fire & Rescue Services and Windsor Police Service), permitting Emergency Services the right to access the Twin Oaks Business Park through the NextStar Energy EV Battery Plant site in the event that the other area roads are impassable.
  - IV. That The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1819 and the Draft Reference Plan.
  - V. That The City Solicitor **BE REQUESTED** to prepare the necessary by-law(s).
  - VI. That the matter **BE COMPLETED** electronically pursuant to By-law Number 366-2003.
  - VII. That the following City of Windsor vacant parcel **BE DECLARED** surplus: Municipal address: 3501 Banwell Road (vacant land situated on the south side of E. C. Row Avenue East, east of 9455 Anchor Drive) Legal Description: Part 3 on the Draft Reference Plan Approximate Lot size: 29.46 metres by 7.37 metres by 29.66 metres by 7.39 metres Lot area: 218.0 square metres.
  - VIII. That the City Solicitor **BE AUTHORIZED** to prepare a by-law to dedicate Part 3 on the Draft Reference Plan as part of the public highway known as E. C. Row Avenue East to facilitate the construction of a cul-de-sac.

Carried.

Report Number: C 155/2022  
Clerk's File: SAA2023

### **11.2. Downtown Windsor Enhancement Strategy and Community Improvement Plan Grant Applications made by Micheal de Rita for 2734844 Ontario Ltd. for 261-267 Pelissier Street, Ward 3**

Moved by: Councillor Fred Francis  
Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 487**

- I. That the request made by 2734844 Ontario Ltd. (Owner) for the proposed development at 261-267 Pelissier Street to participate in:
  - a. the Building/Property Improvement Tax Increment Grant Program **BE APPROVED** for 100% of the municipal portion of the tax increment resulting from the proposed development for up to five (5) years or until 100% of the eligible costs are repaid pursuant to the Downtown Windsor Enhancement Strategy and Community Improvement Plan;

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- b. the Upper Storey Residential Conversion Grant Program **BE APPROVED** for \$50,000 towards eligible costs pursuant to the Downtown Windsor Enhancement Strategy and Community Improvement Plan.
- II. That Administration **BE DIRECTED** to prepare the agreements between the City and 2734844 Ontario Ltd. (Owner) to implement the Building/Property Improvement Tax Increment Grant Program at 261-267 Pelissier Street in accordance with all applicable policies, requirements, and provisions contained within the Downtown Windsor Enhancement Strategy and Community Improvement Plan.
- III. That the CAO and City Clerk **BE AUTHORIZED** to sign the Building/Property Improvement Tax Increment Grant Program at 261-267 Pelissier Street to the satisfaction of the City Planner as to content, the City Solicitor as to legal form, and the CFO/City Treasurer as to financial implications.
- IV. That the grants under Upper Storey Residential Conversion Grant Program for 261-267 Pelissier Street **BE PAID** to 2734844 Ontario Ltd. upon completion of the new residential unit as described in Report S16/2023 within two (2) years of Council approval subject to the satisfaction of the City Planner and Chief Building Official.
- V. That Grant funds in the amount of \$50,000 under the Upper Storey Residential Conversion Grant Program **BE TRANSFERRED** from the CIP Reserve Fund 226 to the City Centre Community Development Planning Fund (Project #7011022) when work is completed.
- VI. That should the project not be completed in two (2) years, City Council **AUTHORIZE** that the funds under the Building/Property Improvement Tax Increment Grant Program and Upper Storey Residential Conversion Grant Program be uncommitted and made available for other applications.
- VII. That the approval to participate in the Building/Property Improvement Tax Increment Grant Program **EXPIRE** if the grant agreement is not signed by applicant within one year following Council approval. The City Planner may extend the deadline for up to one year upon request from the applicant.
- Carried.

Report Number: S 16/2023

Clerk's File: Z/12916

### **11.3. Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by Edna (Windsor) Inc., Walkerville Commercial Centre Inc., and Walkerville Walker Developments Inc for 0 Edna Street, 0 St. Luke Road, and part of 890 Walker Road (Ward 5)**

Moved by: Councillor Fred Francis

Seconded by: Councillor Angelo Marignani

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Decision Number: **DHSC 488**

- I. That the request made by 1026738 Ontario Limited, Walkerville Commercial Centre Inc., and Walkerville Walker Developments Inc. to participate in the Brownfield Rehabilitation Grant Program **BE APPROVED** for 70% (or 100% if LEED certified) of the municipal portion of the tax increment resulting from the proposed redevelopment at 0 Edna Street, 0 St. Luke Road, and part of 890 Walker Road for up to 10 years or until 100% of the eligible costs are repaid pursuant to the City of Windsor Brownfield Redevelopment Community Improvement Plan; and,
- II. That, Administration **BE DIRECTED** to prepare an agreement between 1026738 Ontario Limited, Walkerville Commercial Centre Inc., Walkerville Walker Developments Inc., the City, and any persons legally assigned the right to receive grant payments to implement the Brownfield Rehabilitation Grant Program in accordance with all applicable policies, requirements, and provisions contained within the Brownfield Redevelopment Community Improvement Plan to the satisfaction of the City Planner as to content, the City Solicitor as to legal form, and the CFO/City Treasurer as to financial implications; and,
- III. That the CAO and City Clerk **BE AUTHORIZED** to sign the Rehabilitation Grant Agreement; and,
- IV. That the approval to participate in the Brownfield Rehabilitation Grant Program **EXPIRE** if the agreement is not signed by applicant within one year following Council approval. The City Planner may extend the deadline for up to one year upon request from the applicant.

Carried.

Report Number: S 5/2023

Clerk's File: Z/14535

## 12. COMMITTEE MATTERS

None presented.

## 13. QUESTION PERIOD

None registered.

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## Development & Heritage Standing Committee

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### 14. ADJOURNMENT

There being no further business, the meeting of the Development & Heritage Standing Committee is adjourned at 6:03 o'clock p.m.

Carried.

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Ward 10 - Councillor Jim Morrisson  
(Chairperson)

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Deputy City Clerk / Supervisor  
of Council Services

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### Development & Heritage Standing Committee (Planning Act Matters)

Date: Monday March 6, 2023  
Time: 4:30 pm

#### **MEMBERS PRESENT:**

##### **Members Present:**

##### **Councillors**

Ward 1 – Councillor Fred Francis  
Ward 4 – Councillor Mark McKenzie  
Ward 7 - Councillor Angelo Marignani  
Ward 9 - Councillor Kieran McKenzie  
Ward 10 - Councillor Jim Morrison (Chairperson)

##### **Members**

Member Arbour  
Member Fratangeli  
Member Grenier  
Member Miller  
Member Pidgeon  
Member Saka  
Member Tape

##### **Members Regrets**

Member Polewski

**Clerk's Note:** Member Fratangeli participated via video conference (Zoom), in accordance with Procedure By-law 98-2011 as amended, which allows for electronic participation.

#### **PARTICIPATING VIA VIDEO CONFERENCE ARE THE FOLLOWING FROM ADMINISTRATION:**

Sandra Gebauer, Council Assistant  
Jim Abbs, Planner III – Subdivisions



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**ALSO PARTICIPATING IN COUNCIL CHAMBERS ARE THE FOLLOWING FROM ADMINISTRATION:**

Jelena Payne, Commissioner – Economic Development & Innovation  
 Wira Vendrasco, Deputy City Solicitor – Legal & Real Estate  
 Thom Hunt, City Planner / Executive Director of Planning & Development  
 Michael Cooke, Manager, Planning Policy  
 Rob Vani, Manager, Inspections /Deputy Chief Building Official  
 Patrick Winters, Manager, Corporate Projects  
 Ashley Porter, Clerk Steno Senior  
 Jeff Hagan, Transportation Planning, Senior Engineer  
 Clare Amicarelli, Transportation Planner I  
 Kristina Tang, Heritage Planner  
 Justina Nwaesei, Planner III – Subdivisions  
 Greg Atkinson, Planner III – Economic Development  
 Laura Strahl, Planner III – Special Projects  
 Edwin Chiu, Waterloo – Co-op Planning  
 Aaron Farough, Legal Counsel  
 Brian Nagata, Planner II – Development Review  
 Anna Ciacelli, Deputy City Clerk / Supervisor of Council Services

**Delegations—participating via video conference**

Item 7.2 Haider Habib, HD Development Group  
 Item 7.2 Steve Berrill, ADA Architect  
 Item 10.1 Allen Djordevic, Applicant / Area Resident  
 Item 10.1 Helen Martin, Area Resident

**Delegations—participating in person**

Item 7.3 Karl Tanner, Dillon Consulting Limited  
 Item 10.1 Frank Butler, Area Resident  
 Item 11.1 Wendy Victory, Victory Reproductive Care

**1. CALL TO ORDER**

Following the reading of the Land Acknowledgement, the Chairperson calls the meeting of the Development & Heritage Standing Committee to order at 4:30 o'clock p.m.

**2. DISCLOSURES OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**

None disclosed.

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## 3. REQUEST FOR DEFERRALS, REFERRALS OR WITHDRAWALS

None presented.

## 4. COMMUNICATIONS

None presented.

## 5. ADOPTION OF THE PLANNING ACT MINUTES

### 5.1 Minutes of the Development & Heritage Standing Committee (*Planning Act Matters*) minutes held DATE.

Moved by: Member Anthony Arbour

Seconded by: Councillor Mark McKenzie

That the minutes of the Development & Heritage Standing Committee meeting held February 6, 2023 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 61/2023

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## Development & Heritage Standing Committee

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### 6. PRESENTATION & DELEGATIONS (*PLANNING ACT MATTERS*)

None presented.

### 7. PLANNING ACT MATTERS

#### 7.1 Zoning By-law Amendment Application for property known as 478 Janette Avenue; Applicant: 1413600 Ontario Ltd.; File No. Z-029/22, ZNG/6847; Ward 3

Justina Nwaesei (author), Planner III – available for questions.

Councillor McKenzie inquires if the building is prone to flooding and what can be done to prevent it. Mr. Vani explains that there are requirements that must be met for all new builds. Mr. Vani states that a review is done to ensure the proper infrastructure is in place before a permit is issued.

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 481**

- I. That Zoning By-law 8600 **BE AMENDED** for the lands located on the east side of Janette Avenue, between Wyandotte Street West and Park Street West, described as Lot 68 and Pt Lot 67, Plan 274, [PIN 01195-0191 LT], by adding a site specific holding provision to permit “One Multiple Dwelling with a maximum of six dwelling units” as an additional permitted use, subject to additional regulations;

#### **“467. EAST SIDE OF JANETTE AVENUE, BETWEEN WYANDOTTE STREET WEST AND PARK STREET WEST**

For the lands comprising Lot 68 and Pt Lot 67, Plan 274, PIN 01195-0191 LT, “One *Multiple Dwelling* with a maximum of six *dwelling units*” shall be an additional permitted use and the following shall apply:

1. The provisions in Section 11.2.5.4, save and except for section 11.2.5.4.4
  2. Main Building Height - maximum 10.0 m  
[ZDM 3; ZNG/6847]”
- II. That the holding (H) symbol **BE REMOVED** when the applicant/owner submits an application to remove the holding (H) symbol and the following conditions are satisfied:
    - a) Official approval of the storm water management calculations;
    - b) Street Opening Permit; and

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- c) Alley Maintenance Contribution of \$5,750.00 paid to the Corporation of the City of Windsor.

Carried.

Report Number: S 26/2023  
Clerk's File: Z/14512

**7.2 Approval of a Plan of Condominium with Exemption under Section 9(3) of the Condominium Act, 4755, 4775 & 4785 Walker Road; Applicant: 5042667 Ontario Ltd.; File # CDM 002-22 [CDM-6829]**

Justina Nwaesei (author) – Planner III – presents item.

Haidar Habib, HD Development Group – is available for questions (via zoom)

Steve Berrill, ADA Architect - available for questions (via zoom)

Councillor McKenzie asks Administration what is in place to ensure that the development being proposed is what actually gets built. Ms. Nwaesei answers that the building permit process ensures that all of the requirements are met. Ms. Nwaesei states that at the time of permit issuance there are clauses in the Agreement (SPC Agreement) that will be reviewed and staff will determine if all conditions required to be fulfilled prior to the issuance of permit have been satisfied.

Moved by: Councillor Kieran McKenzie  
Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 482**

That the application of 5042667 Ontario Ltd. for an exemption under Section 9(3) of *The Condominium Act* for approval of a plan of condominium (Standard Condominium), comprised of a total of 224 dwelling units and 7 commercial units within three (3) new Multiple Dwelling structures under construction or planned to be constructed, as shown on the attached MAP Nos. CDM-002/22-1, CDM-002/22-2, and CDM-002/22-3A,3B,3C, on parcels legally described as Pt Lot 13, Concession 6, PART 3 and Pt of PART 2 on Plan 12R-17667, and PARTS 6 to 9 on Plan 12R-24241, City of Windsor; located at 4755, 4775 and 4785 Walker Road, **BE APPROVED** for a period of three (3) years.

Carried.

Report Number: C 25/2023  
Clerk's File: Z/14505

**7.3 Official Plan & Zoning Bylaw Amendments, Draft Plan of Subdivision Applications - Z 027-22 [ZNG-6832], OPA 163 [OPA6833], SDN001/22 [SDN6834] - 1027458 Ontario Inc. - 0 Clover**

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**Avenue - NE Corner Florence & Beverly Glen - Ward 7**

Jim Abbs (author) – Planner III – presents item.

Karl Tanner, Dillon Consulting Limited- available for questions

Councillor McKenzie asks Administration who would be responsible for maintaining the green space. Mr. Abbs answers that it is yet to be determined and that the lands will be identified as Infrastructure or Parkland. In any case, the City of Windsor will be responsible for maintaining the proposed greenway.

Councillor McKenzie asks Mr. Tanner if there was any consideration given to have another laneway (north/south) that can connect people to the waterfront. Mr. Tanner answers that they did look at a connection but it was since removed. Mr. Tanner adds that Jerome St. connects to Eleanor which could connect people to the waterfront.

Moved by: Councillor Angelo Marignani  
 Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 483**

I That the City of Windsor Official Plan Volume II – East Riverside Secondary Plan Schedule ER-2 **BE AMENDED** by changing the land use designation of Block 65, Plan 12M-581, City of Windsor from Open Space to Neighbourhood Residential;

II That the City of Windsor Official Plan Volume II – East Riverside Secondary Plan Schedule ER-2 **BE AMENDED** by changing the land use designation of Blocks 63 and 64, Plan 12M-581, City of Windsor from School Site to Neighbourhood Residential;

III That an amendment to City of Windsor Zoning By-law 8600 **BE APPROVED**, changing the zoning of Block 65, Plan 12M-581 from Green District 1.1 (GD1.1) to Residential District (HRD) 2.3;

IV That a Hold provision **BE APPLIED** to Blocks 63-65, Plan 12M-581 and that it be removed when the conditions contained in Section 5.4 HOLDING ZONE PROVISIONS of City of Windsor Zoning By-law 8600 have been met;

V That subsection 1 of Section 20 of the City of Windsor Zoning By-law 8600 **BE AMENDED** for the lands described as Block 63-65, Plan 12M-581 by adding site specific regulations as follow:

466. **NORTH EAST CORNER OF FLORENCE AVENUE AND BEVERLEY GLEN STREET**

For the lands described as Blocks 63-65, Plan 12M-581, the total area of the *required front yard* occupied by a hard surface for the purpose of a walkway,

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driveway, *access area, parking space*, or any combination thereof, exceeding 60% of the *required front yard* shall be prohibited, and,  
 Lot Coverage – Maximum 50%  
 (ZDM 14; ZNG/6832)

- VI That the application of 1027458 Ontario Inc. for Draft Plan of Subdivision approval of Blocks 63-65 (incl.), Plan 12M-581, City of Windsor; **BE APPROVED** on the following basis:
- A. That this approval applies to the draft plan of subdivision, as shown on the attached Drawing SDN001/22-1, which will facilitate the construction of 117 townhome dwellings and 2 blocks for a greenway/utility corridor.
  - B. That the Draft Plan Approval shall lapse on (5 years from the date of approval).
  - C. That the Owner Shall submit for approval of the City Planner, a final draft M-Plan, which shall include the names of all road allowances within the plan, as approved by the Corporation.
  - D. That the Owner undertakes to provide the following matters prior to the registration of the final Plan of Subdivision:
    - a. The Owner will include all items as set out in the results of circularization and other relevant matters set out in CR 233/98 (Standard Subdivision Agreement).
    - b. The Owner will create, prior to the issuance of a building permit, the following rights-of-way, in accordance with the approved Plan of Subdivision:
      - 1. 20m right of way for the new Streets “Thunderbay Avenue” and “Ivanhill Avenue”
      - 2. A right of way for the Court as shown on the Draft Plan of Subdivision west of Thunderbay Avenue, South of Block 28.
    - c. The Owner shall agree to fully construct all future municipal right-of-ways, including, but not limited to: pavements, curbs and gutters, utilities and the necessary drainage facilities, according to City of Windsor standard specification for the following road designations:
      - 1. Local Residential Roads: complete with 20 metre right-of-ways. Pavements to be twenty-eight (28) feet (8.6 metres) in width.
      - 2. Collector Roads:  
Class 2 Collector - Florence Ave is to be constructed as per the requirements of the Environmental Assessment.
    - d. The Owner will provide the following corner cut-offs on the approved Final Plan of Subdivision:
      - 4.6m x 4.6m – Intersection of Thunderbay Avenue and Beverly Glen Street;  
 Intersection of Ivanhill Avenue and Beverly Glen Street;  
 Intersection of Thunderbay Avenue and Ivanhill Avenue;  
 Intersection of Thunderbay Avenue and Clover Avenue;  
 Intersection of Beverly Glen Street and Clover Avenue;  
 Intersection of Jerome St and Florence Avenue;  
 Intersection of Beverly Glen Street and Florence Avenue,

**Minutes**  
**Development & Heritage Standing Committee**  
**Monday, March 06, 2023**

- to the satisfaction of the City Planner and the City Engineer.
- e. The Owner will comply with all the following requirements relating to sidewalks:  
Sidewalks will be constructed:  
On the East Side of Thunderbay Avenue and Ivanhill Avenue;  
On the South side of Thunderbay Avenue;  
On Florence Avenue as per the Environmental Assessment,  
All to the satisfaction of the City Engineer and the City Planner.
  - f. The Owner shall agree to retain a Consulting Engineer at its own expense to provide a detailed servicing study report on the impact of the increased flow to the existing municipal sewer systems, satisfactory in content to the City Engineer and prior to the issuance of a construction permit.
  - g. The Owner shall agree to:
    - 1. Undertake an engineering analysis to identify stormwater quality and quantity measures as necessary to control any increases in flows in downstream watercourses, up to and including the 1:100 year design storm, to the satisfaction of the Municipality and the Essex Region Conservation Authority.
    - 2. Install stormwater management measures identified above, as part of the development of the site, to the satisfaction of the City Engineer and the Essex Region Conservation Authority.
    - 3. Obtain the necessary permit or clearance from the Essex Region Conservation Authority prior to undertaking site alterations and/or construction activities.
  - h. The Owner shall agree to be responsible for the costs associated with the relocation of the sanitary sewer which presently extends south of Elinor Street and through Block 64, Plan 12M-581. All work to be done to the satisfaction of the City Engineer.
  - i. The Owner shall agree to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.
  - j. The Owner shall agree that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.
  - k. The Owner shall agree to convey gratuitously to the Corporation Blocks 27 and 28 on the draft Plan of Subdivision (SDN 001/22-1) for the purposes of municipal infrastructure (existing sanitary sewer) to the satisfaction of the City Engineer and the City Planner prior to the issuance of a construction permits.

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- i. The Owner shall agree that a Stage 1 Archaeological Assessment and any further recommended assessments are required to be entered into the Ontario Public Register of Archaeological Reports to the satisfaction of the City Planner and the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries, prior to the issuance of a construction permits.
- m. The Owner shall agree that a final copy of the archaeological reports will be submitted to the City of Windsor.
- n. The Owner shall agree to complete an MECP species at risk screening and comply with all requirements, including any required remediation measures, resulting from any study or report submitted to the MECP/MNRF regarding SAR assessment, all at its entire expense, to the satisfaction of the City Planner.

NOTES TO DRAFT APPROVAL (File: SDN-001/22)

1. The applicant is directed to Section 51(39) of *The Planning Act 1990* regarding appeal of any imposed conditions to the Ontario Land Tribunal. Appeals are to be directed to the City Clerk of the City of Windsor.
  2. It is the applicant's responsibility to fulfil the conditions of draft approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the City of Windsor, to the attention of the Executive Director/City Planner, quoting the above-noted file number.
  3. The applicant should consult with an Ontario Land Surveyor for this proposed plan concerning registration requirements relative to the *Certification of Titles Act*.
  4. The final plan approved by the Corporation of the City of Windsor must be registered within thirty (30) days or the Corporation may withdraw its approval under Section 51(59) of *The Planning Act 1990*.
  5. All plans of subdivision/condominium are to be prepared and presented in metric units and certified by the Ontario Land Surveyor that the final plan is in conformity to the approved zoning requirements.
- VII That the City Clerk and Licence Commissioner **BE AUTHORIZED** to issue the required notice respecting approval of the draft plan of subdivision under Section 51(37) of *The Planning Act*; and,
- VIII That prior to the final approval of the plan of subdivision by the Corporation of the City of Windsor, the Executive Director/City Planner shall **BE ADVISED**, in writing, by the appropriate agencies that conditions have been satisfied; and,
- IX That the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign all necessary agreements and documents approved as to form and content satisfactory to the City Solicitor; and,
- X That the proponent **BE REQUESTED** to consider the feasibility of a North/South option off of Thunderbay Avenue.



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Report Number: S 24/2023  
Clerk's File: Z/14458

**8. ADJOURNMENT**

There being no further business, the meeting of the Development & Heritage Standing Committee is adjourned at 5:47 o'clock p.m.

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Ward 10 - Councillor Jim Morrisson  
(Chairperson)

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Deputy City Clerk / Supervisor  
of Council Services

## City of Windsor Minutes 03/06/2023

### Development & Heritage Standing Committee (Planning Act Matters)

Date: Monday March 6, 2023  
Time: 4:30 pm

#### **MEMBERS PRESENT:**

##### **Members Present:**

##### **Councillors**

Ward 1 – Councillor Fred Francis  
Ward 4 – Councillor Mark McKenzie  
Ward 7 - Councillor Angelo Marignani  
Ward 9 - Councillor Kieran McKenzie  
Ward 10 - Councillor Jim Morrison (Chairperson)

##### **Members**

Member Arbour  
Member Fratangeli  
Member Grenier  
Member Miller  
Member Pidgeon  
Member Saka  
Member Tape

##### **Members Regrets**

Member Polewski

**Clerk's Note:** Member Fratangeli participated via video conference (Zoom), in accordance with Procedure By-law 98-2011 as amended, which allows for electronic participation.

#### **PARTICIPATING VIA VIDEO CONFERENCE ARE THE FOLLOWING FROM ADMINISTRATION:**

Sandra Gebauer, Council Assistant  
Jim Abbs, Planner III – Subdivisions

# Minutes

## Development & Heritage Standing Committee

Monday, March 06, 2023

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### **ALSO PARTICIPATING IN COUNCIL CHAMBERS ARE THE FOLLOWING FROM ADMINISTRATION:**

Jelena Payne, Commissioner – Economic Development & Innovation  
 Wira Vendrasco, Deputy City Solicitor – Legal & Real Estate  
 Thom Hunt, City Planner / Executive Director of Planning & Development  
 Michael Cooke, Manager, Planning Policy  
 Rob Vani, Manager, Inspections /Deputy Chief Building Official  
 Patrick Winters, Manager, Corporate Projects  
 Ashley Porter, Clerk Steno Senior  
 Jeff Hagan, Transportation Planning, Senior Engineer  
 Clare Amicarelli, Transportation Planner I  
 Kristina Tang, Heritage Planner  
 Justina Nwaesei, Planner III – Subdivisions  
 Greg Atkinson, Planner III – Economic Development  
 Laura Strahl, Planner III – Special Projects  
 Edwin Chiu, Waterloo – Co-op Planning  
 Aaron Farough, Legal Counsel  
 Brian Nagata, Planner II – Development Review  
 Anna Ciacelli, Deputy City Clerk / Supervisor of Council Services

### **Delegations—participating via video conference**

Item 7.2 Haider Habib, HD Development Group  
 Item 7.2 Steve Berrill, ADA Architect  
 Item 10.1 Allen Djordevic, Applicant / Area Resident  
 Item 10.1 Helen Martin, Area Resident

### **Delegations—participating in person**

Item 7.3 Karl Tanner, Dillon Consulting Limited  
 Item 10.1 Frank Butler, Area Resident  
 Item 11.1 Wendy Victory, Victory Reproductive Care

## **1. CALL TO ORDER**

Following the reading of the Land Acknowledgement, the Chairperson calls the meeting of the Development & Heritage Standing Committee to order at 4:30 o'clock p.m.

## **2. DISCLOSURES OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**

None disclosed.

# Minutes

Development & Heritage Standing Committee

Monday, March 06, 2023

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## 3. REQUEST FOR DEFERRALS, REFERRALS OR WITHDRAWALS

None presented.

## 4. COMMUNICATIONS

None presented.

## 5. ADOPTION OF THE PLANNING ACT MINUTES

### 5.1 Minutes of the Development & Heritage Standing Committee (*Planning Act Matters*) minutes held DATE.

Moved by: Member Anthony Arbour

Seconded by: Councillor Mark McKenzie

That the minutes of the Development & Heritage Standing Committee meeting held February 6, 2023 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 61/2023

# Minutes

## Development & Heritage Standing Committee

Monday, March 06, 2023

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### 6. PRESENTATION & DELEGATIONS (*PLANNING ACT MATTERS*)

None presented.

### 7. PLANNING ACT MATTERS

#### 7.1 Zoning By-law Amendment Application for property known as 478 Janette Avenue; Applicant: 1413600 Ontario Ltd.; File No. Z-029/22, ZNG/6847; Ward 3

Justina Nwaesei (author), Planner III – available for questions.

Councillor McKenzie inquires if the building is prone to flooding and what can be done to prevent it. Mr. Vani explains that there are requirements that must be met for all new builds. Mr. Vani states that a review is done to ensure the proper infrastructure is in place before a permit is issued.

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 481**

- I. That Zoning By-law 8600 **BE AMENDED** for the lands located on the east side of Janette Avenue, between Wyandotte Street West and Park Street West, described as Lot 68 and Pt Lot 67, Plan 274, [PIN 01195-0191 LT], by adding a site specific holding provision to permit “One Multiple Dwelling with a maximum of six dwelling units” as an additional permitted use, subject to additional regulations;

#### **“467. EAST SIDE OF JANETTE AVENUE, BETWEEN WYANDOTTE STREET WEST AND PARK STREET WEST**

For the lands comprising Lot 68 and Pt Lot 67, Plan 274, PIN 01195-0191 LT, “One *Multiple Dwelling* with a maximum of six *dwelling units*” shall be an additional permitted use and the following shall apply:

1. The provisions in Section 11.2.5.4, save and except for section 11.2.5.4.4
  2. Main Building Height - maximum 10.0 m  
[ZDM 3; ZNG/6847]”
- II. That the holding (H) symbol **BE REMOVED** when the applicant/owner submits an application to remove the holding (H) symbol and the following conditions are satisfied:
    - a) Official approval of the storm water management calculations;
    - b) Street Opening Permit; and

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- c) Alley Maintenance Contribution of \$5,750.00 paid to the Corporation of the City of Windsor.

Carried.

Report Number: S 26/2023  
Clerk's File: Z/14512

**7.2 Approval of a Plan of Condominium with Exemption under Section 9(3) of the Condominium Act, 4755, 4775 & 4785 Walker Road; Applicant: 5042667 Ontario Ltd.; File # CDM 002-22 [CDM-6829]**

Justina Nwaesei (author) – Planner III – presents item.

Haidar Habib, HD Development Group – is available for questions (via zoom)

Steve Berrill, ADA Architect - available for questions (via zoom)

Councillor McKenzie asks Administration what is in place to ensure that the development being proposed is what actually gets built. Ms. Nwaesei answers that the building permit process ensures that all of the requirements are met. Ms. Nwaesei states that at the time of permit issuance there are clauses in the Agreement (SPC Agreement) that will be reviewed and staff will determine if all conditions required to be fulfilled prior to the issuance of permit have been satisfied.

Moved by: Councillor Kieran McKenzie  
Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 482**

That the application of 5042667 Ontario Ltd. for an exemption under Section 9(3) of *The Condominium Act* for approval of a plan of condominium (Standard Condominium), comprised of a total of 224 dwelling units and 7 commercial units within three (3) new Multiple Dwelling structures under construction or planned to be constructed, as shown on the attached MAP Nos. CDM-002/22-1, CDM-002/22-2, and CDM-002/22-3A,3B,3C, on parcels legally described as Pt Lot 13, Concession 6, PART 3 and Pt of PART 2 on Plan 12R-17667, and PARTS 6 to 9 on Plan 12R-24241, City of Windsor; located at 4755, 4775 and 4785 Walker Road, **BE APPROVED** for a period of three (3) years.

Carried.

Report Number: C 25/2023  
Clerk's File: Z/14505

**7.3 Official Plan & Zoning Bylaw Amendments, Draft Plan of Subdivision Applications - Z 027-22 [ZNG-6832], OPA 163 [OPA6833], SDN001/22 [SDN6834] - 1027458 Ontario Inc. - 0 Clover**

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**Avenue - NE Corner Florence & Beverly Glen - Ward 7**

Jim Abbs (author) – Planner III – presents item.

Karl Tanner, Dillon Consulting Limited- available for questions

Councillor McKenzie asks Administration who would be responsible for maintaining the green space. Mr. Abbs answers that it is yet to be determined and that the lands will be identified as Infrastructure or Parkland. In any case, the City of Windsor will be responsible for maintaining the proposed greenway.

Councillor McKenzie asks Mr. Tanner if there was any consideration given to have another laneway (north/south) that can connect people to the waterfront. Mr. Tanner answers that they did look at a connection but it was since removed. Mr. Tanner adds that Jerome St. connects to Eleanor which could connect people to the waterfront.

Moved by: Councillor Angelo Marignani  
 Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 483**

- I That the City of Windsor Official Plan Volume II – East Riverside Secondary Plan Schedule ER-2 **BE AMENDED** by changing the land use designation of Block 65, Plan 12M-581, City of Windsor from Open Space to Neighbourhood Residential;
- II That the City of Windsor Official Plan Volume II – East Riverside Secondary Plan Schedule ER-2 **BE AMENDED** by changing the land use designation of Blocks 63 and 64, Plan 12M-581, City of Windsor from School Site to Neighbourhood Residential;
- III That an amendment to City of Windsor Zoning By-law 8600 **BE APPROVED**, changing the zoning of Block 65, Plan 12M-581 from Green District 1.1 (GD1.1) to Residential District (HRD) 2.3;
- IV That a Hold provision **BE APPLIED** to Blocks 63-65, Plan 12M-581 and that it be removed when the conditions contained in Section 5.4 HOLDING ZONE PROVISIONS of City of Windsor Zoning By-law 8600 have been met;
- V That subsection 1 of Section 20 of the City of Windsor Zoning By-law 8600 **BE AMENDED** for the lands described as Block 63-65, Plan 12M-581 by adding site specific regulations as follow:
  - 466. **NORTH EAST CORNER OF FLORENCE AVENUE AND BEVERLEY GLEN STREET**  
 For the lands described as Blocks 63-65, Plan 12M-581, the total area of the *required front yard* occupied by a hard surface for the purpose of a walkway,

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driveway, *access area, parking space*, or any combination thereof, exceeding 60% of the *required front yard* shall be prohibited, and,

Lot Coverage – Maximum 50%  
 (ZDM 14; ZNG/6832)

- VI That the application of 1027458 Ontario Inc. for Draft Plan of Subdivision approval of Blocks 63-65 (incl.), Plan 12M-581, City of Windsor; **BE APPROVED** on the following basis:
- A. That this approval applies to the draft plan of subdivision, as shown on the attached Drawing SDN001/22-1, which will facilitate the construction of 117 townhome dwellings and 2 blocks for a greenway/utility corridor.
  - B. That the Draft Plan Approval shall lapse on (5 years from the date of approval).
  - C. That the Owner Shall submit for approval of the City Planner, a final draft M-Plan, which shall include the names of all road allowances within the plan, as approved by the Corporation.
  - D. That the Owner undertakes to provide the following matters prior to the registration of the final Plan of Subdivision:
    - a. The Owner will include all items as set out in the results of circularization and other relevant matters set out in CR 233/98 (Standard Subdivision Agreement).
    - b. The Owner will create, prior to the issuance of a building permit, the following rights-of-way, in accordance with the approved Plan of Subdivision:
      - 1. 20m right of way for the new Streets “Thunderbay Avenue” and “Ivanhill Avenue”
      - 2. A right of way for the Court as shown on the Draft Plan of Subdivision west of Thunderbay Avenue, South of Block 28.
    - c. The Owner shall agree to fully construct all future municipal right-of-ways, including, but not limited to: pavements, curbs and gutters, utilities and the necessary drainage facilities, according to City of Windsor standard specification for the following road designations:
      - 1. Local Residential Roads: complete with 20 metre right-of-ways. Pavements to be twenty-eight (28) feet (8.6 metres) in width.
      - 2. Collector Roads:  
Class 2 Collector - Florence Ave is to be constructed as per the requirements of the Environmental Assessment.
    - d. The Owner will provide the following corner cut-offs on the approved Final Plan of Subdivision:
      - 4.6m x 4.6m – Intersection of Thunderbay Avenue and Beverly Glen Street;  
Intersection of Ivanhill Avenue and Beverly Glen Street;  
Intersection of Thunderbay Avenue and Ivanhill Avenue;  
Intersection of Thunderbay Avenue and Clover Avenue;  
Intersection of Beverly Glen Street and Clover Avenue;  
Intersection of Jerome St and Florence Avenue;  
Intersection of Beverly Glen Street and Florence Avenue,



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- to the satisfaction of the City Planner and the City Engineer.
- e. The Owner will comply with all the following requirements relating to sidewalks:  
Sidewalks will be constructed:  
On the East Side of Thunderbay Avenue and Ivanhill Avenue;  
On the South side of Thunderbay Avenue;  
On Florence Avenue as per the Environmental Assessment,  
All to the satisfaction of the City Engineer and the City Planner.
  - f. The Owner shall agree to retain a Consulting Engineer at its own expense to provide a detailed servicing study report on the impact of the increased flow to the existing municipal sewer systems, satisfactory in content to the City Engineer and prior to the issuance of a construction permit.
  - g. The Owner shall agree to:
    - 1. Undertake an engineering analysis to identify stormwater quality and quantity measures as necessary to control any increases in flows in downstream watercourses, up to and including the 1:100 year design storm, to the satisfaction of the Municipality and the Essex Region Conservation Authority.
    - 2. Install stormwater management measures identified above, as part of the development of the site, to the satisfaction of the City Engineer and the Essex Region Conservation Authority.
    - 3. Obtain the necessary permit or clearance from the Essex Region Conservation Authority prior to undertaking site alterations and/or construction activities.
  - h. The Owner shall agree to be responsible for the costs associated with the relocation of the sanitary sewer which presently extends south of Elinor Street and through Block 64, Plan 12M-581. All work to be done to the satisfaction of the City Engineer.
  - i. The Owner shall agree to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.
  - j. The Owner shall agree that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.
  - k. The Owner shall agree to convey gratuitously to the Corporation Blocks 27 and 28 on the draft Plan of Subdivision (SDN 001/22-1) for the purposes of municipal infrastructure (existing sanitary sewer) to the satisfaction of the City Engineer and the City Planner prior to the issuance of a construction permits.

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- i. The Owner shall agree that a Stage 1 Archaeological Assessment and any further recommended assessments are required to be entered into the Ontario Public Register of Archaeological Reports to the satisfaction of the City Planner and the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries, prior to the issuance of a construction permits.
- m. The Owner shall agree that a final copy of the archaeological reports will be submitted to the City of Windsor.
- n. The Owner shall agree to complete an MECP species at risk screening and comply with all requirements, including any required remediation measures, resulting from any study or report submitted to the MECP/MNRF regarding SAR assessment, all at its entire expense, to the satisfaction of the City Planner.

NOTES TO DRAFT APPROVAL (File: SDN-001/22)

1. The applicant is directed to Section 51(39) of *The Planning Act 1990* regarding appeal of any imposed conditions to the Ontario Land Tribunal. Appeals are to be directed to the City Clerk of the City of Windsor.
  2. It is the applicant's responsibility to fulfil the conditions of draft approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the City of Windsor, to the attention of the Executive Director/City Planner, quoting the above-noted file number.
  3. The applicant should consult with an Ontario Land Surveyor for this proposed plan concerning registration requirements relative to the *Certification of Titles Act*.
  4. The final plan approved by the Corporation of the City of Windsor must be registered within thirty (30) days or the Corporation may withdraw its approval under Section 51(59) of *The Planning Act 1990*.
  5. All plans of subdivision/condominium are to be prepared and presented in metric units and certified by the Ontario Land Surveyor that the final plan is in conformity to the approved zoning requirements.
- VII That the City Clerk and Licence Commissioner **BE AUTHORIZED** to issue the required notice respecting approval of the draft plan of subdivision under Section 51(37) of *The Planning Act*; and,
- VIII That prior to the final approval of the plan of subdivision by the Corporation of the City of Windsor, the Executive Director/City Planner shall **BE ADVISED**, in writing, by the appropriate agencies that conditions have been satisfied; and,
- IX That the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign all necessary agreements and documents approved as to form and content satisfactory to the City Solicitor; and,
- X That the proponent **BE REQUESTED** to consider the feasibility of a North/South option off of Thunderbay Avenue.

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**Monday, March 06, 2023**

Report Number: S 24/2023  
Clerk's File: Z/14458

**8. ADJOURNMENT**

There being no further business, the meeting of the Development & Heritage Standing Committee is adjourned at 5:47 o'clock p.m.

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Ward 10 - Councillor Jim Morrisson  
(Chairperson)

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Deputy City Clerk / Supervisor  
of Council Services

**TAB 8**

# Understanding Social Inclusion and NIMBYism in Providing Affordable Housing

## INTRODUCTION

The “not in my backyard” syndrome, otherwise known as NIMBYism, is a potential challenge for increasing the affordable housing supply through the National Housing Strategy. While a high proportion of citizens may support, in principle, the construction of affordable housing in their city, they are often less willing to support its construction in their own neighbourhoods. Fostering social inclusion in affordable housing projects is an important goal when helping people in greatest need. It reduces barriers that restrict the resources and opportunities for disadvantaged groups and allows for greater participation in society through better access to resources and opportunities, such as employment, services or education.

Opposition to any type of new housing development has been observed in many localities—and opposition appears to be more intense when projects are to provide social housing in particular. Housing providers, particularly serving those in greatest need, often experience the NIMBY syndrome when developing projects. A survey of developers indicated that the vast majority of respondents had experienced consequences as a result of NIMBYism. Most commonly, this included delays in construction. Delays can kill projects if carrying costs and approval costs become too burdensome for the developers.

## OVERVIEW

In 2018, CMHC commissioned Goss Gilroy Inc. to conduct a research project to better understand what leads to successful social inclusion in mixed-income housing projects and how NIMBYism is overcome. This research was conducted to better understand the relationship between social inclusion and NIMBYism. It is intended to support housing developers and municipalities by identifying promising practices and strategies for fostering inclusion in mixed-income housing projects and overcoming NIMBY.

The research involved a literature review about social inclusion and NIMBYism in the context of social housing development and case studies of affordable housing projects: The Oaks in Ottawa, Ontario; the Steve Cardiff Tiny Home Community in Whitehorse, Yukon; the Rita Thompson Residence in Ottawa, Ontario; Olivia Skye in Vancouver, British Columbia; the Father O’Leary Seniors Complex in Saint John, New Brunswick; the Mixed-Housing Project in Cité Angus, in Montréal, Quebec; and Full Circle Communities in the United States. Lessons learned identify replicable strategies for housing providers and municipalities to encourage the construction of affordable housing in urban areas.

The “not in my backyard” (NIMBY) syndrome is commonly defined as “a person who objects to the occurrence of something if it will affect him or her or take place in his or her locality” (Collins); or “opposition by nearby residents to a proposed building project, esp. a public one, as being hazardous, unsightly, etc. or a person who opposes such a project” (Webster).

There is currently no gold standard measure of social inclusion, nor is there agreement upon the exact definition and indicators of social inclusion.

## Social inclusion

**CMHC’s definition, taken from the National Housing Strategy (NHS) glossary, is as follows:**

Social inclusion is the process of improving the terms on which individuals and groups take part in society—improving the ability, opportunity, and dignity of those disadvantaged on the basis of their identity. It is a situation in which individuals have the resources and opportunities to be involved in society to an extent that is satisfactory to them. Working towards social inclusion means finding and using measures to reduce barriers that restrict the resources and opportunities of disadvantaged groups. Specifically, when building new housing that promotes social inclusion, the United Nations states “housing is not adequate if it is cut off from employment opportunities, health-care services, access to transit, schools, childcare centres and other social facilities, or if located in polluted or dangerous areas.”

## KEY FINDINGS

Behaviours associated with NIMBY attitudes are not necessarily rigid and persistent: they can in fact soften and evolve over time. According to the study, some groups motivated by NIMBY attitudes have gone from antagonistic positions to more strategic and demographic engagement. This can happen when groups engage with other less antagonistic groups.

An ***institutionalized action*** to oppose social housing may take the form of local government actions that restrict the supply of multi-unit housing. Local governments may impose “regulatory barriers” ranging from direct exclusion of multi-family housing development to indirect exclusion by establishing growth boundaries, enacting strict environmental controls, requiring low-density development and thwarting infill development, imposing excessive fees and delaying proposed projects through the permitting pipeline.

***Formal/informal actions*** are often undertaken in the context of formal planning/consultation activities organized by local governments. For example, legal challenges to support or oppose development are a formal mechanism by which a range of actors (such as citizens or developers) can counter NIMBYism (or development). The informal mechanisms are used to dissipate fears about projects, while demonstrating benefits of projects.

***NIMBYism can happen before and after a social housing is built.***

Although NIMBYism is not a major threat after the project has been completed, it can be a major threat to future social housing endeavours, if it leads to negative views from the media. It is also important to note that NIMBYism can mobilize citizens and community groups that oppose mixed-income projects. However, projects can also mobilize—and in some cases create—organizations and alliances of local groups that see many advantages to mixed-income housing in their communities, including employers that seek to ensure affordable housing for their own staff. In addition, While there are limited data on the actual effectiveness of these measures, literature does provide best practices for mitigating NIMBYism, including community involvement in planning, engagement strategies, communication strategies, and policies and legal measures supporting accessible housing.

Drawing from case studies, the following strategies were used by housing stakeholders to prevent, manage and overcome NIMBYism and foster social inclusion in affordable housing projects (see Table 1).

## Communications and relationship building

- ***Early communication about the project*** is important for buy-in, as is continued provision of information along the way in order to prevent or mitigate any negative feedback (for example, about construction, etc.)
- ***Proactive relationship building*** should include outreach to residents and local businesses. Ensuring that management teams are available, in person, to hear residents’ and businesses’ concerns is important.
- ***Being present and demonstrating that project proponents wish to find a solution*** to the discontent expressed by residents concerned about the changes to their neighbourhood is a sound approach.

## Partnerships

- ***Collaborations and partnerships*** with service providers in instances where these are needed help to ensure that the facilities were supported. Partners offer the forms of expertise required to cover all aspects of the projects.
- ***Working with a partner that is part of the construction sector***, who is knowledgeable about the market and the necessary city approvals, is a major success factor.

## Evidenced-based approaches

- ***Using an evidenced-based approach*** helps to gain acceptance for proposed programming.
- ***Project leads of mixed-income projects can also gather data from previous projects to show the benefits and actual impacts on their surroundings***, including the limited or positive impacts on surrounding property values. Such data can limit post-NIMBYism and help present fact-based arguments during meetings of project stakeholders at the zoning amendment stage.

## Project planning

- ***Alignment with a city’s plan to combat housing issues***, such as the City Homelessness Plan in Whitehorse, helped to ensure timely construction of much needed housing.
- Taking time for a meaningful ***consultation process*** in the Cité Angus project, a complex and lengthy consultation process managed by the Montréal’s Office of Public Consultations allowed all parties to present their views, orally and in writing, in an organized fashion. It led to an independent, third-party recommendation to the councillors and the process was deemed highly successful.



**Table 1: Summary Across Case Studies**

Projects	Project Type	Receptiveness	Mitigation	Lessons
<b>The Oaks, Ottawa ON</b>	<ul style="list-style-type: none"> <li>Supportive housing for individuals with complex health needs</li> <li>Low and mid-rise buildings in a residential area</li> <li>55 units, 30 reserved for MAP participants, 15 for aging at home residents, and 10 for individuals with complex mental health needs</li> <li>Funded through grants and subsidies</li> <li>Managed by Shepherds of Good Hope (NPO)</li> </ul>	<ul style="list-style-type: none"> <li>Neighbourhood pushback</li> <li>Concerns about crime and population moving in</li> <li>Concerns about decreases in property value</li> <li>Residents felt taken by surprise</li> </ul>	<ul style="list-style-type: none"> <li>Town hall/public information sessions</li> <li>Support from councillor and local police chief</li> <li>Directly addressing concerns</li> <li>Door to door info campaign</li> </ul>	<ul style="list-style-type: none"> <li>Importance of collaboration and partnerships to “cover all bases”</li> <li>Using evidence-based approach</li> <li>Proactive relationship building</li> <li>Promoting a harmonious community</li> </ul>
<b>Steve Cardiff Tiny Home Community, Whitehorse YK</b>	<ul style="list-style-type: none"> <li>One year of transitional housing for individuals with history of homelessness, substance use issues, incarceration and/or HIV</li> <li>Five micro homes, with one tenant each</li> <li>Loan from social lending organization and donations</li> <li>Owned and managed by Blood Ties (NPO)</li> </ul>	<ul style="list-style-type: none"> <li>Some pushback from residents</li> <li>Concerns around public safety and location</li> </ul>	<ul style="list-style-type: none"> <li>Public meetings</li> <li>Directly addressing concerns</li> <li>Support from city councillor and mayor</li> <li>Media portrayal</li> <li>Alignment with policy and plans for the city</li> </ul>	<ul style="list-style-type: none"> <li>Alignment with the City Homelessness plan reduced potential barriers</li> <li>Support from volunteers in the construction sector helped realize the project</li> <li>Support from a social lending organization allowed for a different route than traditional bank loans</li> </ul>
<b>Rita Thompson House, Ottawa ON</b>	<ul style="list-style-type: none"> <li>Housing for individuals who are chronically homeless</li> <li>Low rise building with 34 units, in a residential area</li> <li>Funded by the John Howard Society, City of Ottawa, CMHC, and in-kind support through a construction firm</li> <li>Owned and managed by the John Howard Society</li> </ul>	<ul style="list-style-type: none"> <li>Little to no pushback from community members</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing project management (from pre- to post-construction)</li> <li>Partnerships</li> <li>Forging relationship with community members</li> </ul>	<ul style="list-style-type: none"> <li>Working with specialized partners</li> <li>Obtaining pay-direct arrangements with governments</li> <li>Managing possibility of NIMBYism both before and after project completion</li> </ul>

Projects	Project Type	Receptiveness	Mitigation	Lessons
<b>Olivia Skye, Vancouver BC</b>	<ul style="list-style-type: none"> <li>Mixed income building (maximum shelter allowance, low end of market, and housing income limits)</li> <li>High rise with 198 units</li> <li>Funded through loans, subsidies and grants</li> <li>Owned by Atira Development society and managed by Atria Property Management Inc.</li> <li>BC Housing purchased 54 units</li> </ul>	<ul style="list-style-type: none"> <li>Some pushback from a community association seeking all units to be at the welfare rate</li> <li>Small number of complaints from tenants of a building in close proximity re: their view being blocked</li> </ul>	<ul style="list-style-type: none"> <li>Got ahead of issues by holding an urban design panel</li> <li>Participation in public hearing on rezoning</li> <li>Open houses to show case the commitment to the community and held some at end of the project</li> </ul>	<ul style="list-style-type: none"> <li>Success requires building relationships and trust with the community, helped by having a presence as a service provider</li> <li>Use of open houses is crucial</li> <li>Public and private partnerships allow for successful leveraging of resources</li> <li>Relationship with local developer was integral to success</li> </ul>
<b>Father O’Leary Seniors Complex, Saint John, NB</b>	<ul style="list-style-type: none"> <li>Mixed income (market rate and low income), for individuals 55+, with some units reserved for single individuals and women</li> <li>Low-rise building with 46 units</li> <li>Funding via charity, CMHC and government of NB</li> <li>Owned by Columbian Charities Inc., and managed jointly with Housing Alternatives</li> </ul>	<ul style="list-style-type: none"> <li>Initially well-received</li> <li>Some pushback against affordable housing component</li> <li>Immediate neighbours expressed concern over changes to traffic flow</li> </ul>	<ul style="list-style-type: none"> <li>Communications strategy</li> <li>Ensuring public officials and decision-makers were available to residents to answer questions</li> <li>Informal community gatherings, that doubled as information sessions</li> </ul>	<ul style="list-style-type: none"> <li>Important to communicate early about the project</li> <li>Mixed income approach more palatable to lenders</li> <li>Relationship building and taking a solution-oriented approach is key</li> <li>Using success to leverage future projects</li> </ul>
<b>Full Circles Communities, United States</b>	<ul style="list-style-type: none"> <li>60 affordable units for households earning up to 60% of the area median income</li> <li>Situated in a low-density urban area</li> <li>Project proposed after another was cancelled due to strong NIMBY reactions (ongoing)</li> </ul>	<ul style="list-style-type: none"> <li>Current project faced issues due to rezoning requirements</li> <li>Concerns about public safety and crime</li> <li>Concerns about decreases in property values</li> </ul>	<ul style="list-style-type: none"> <li>Attempts to accrue vocalized support from community groups and service providers</li> <li>Use of evidence to circumvent speculation</li> <li>Generally limited success</li> </ul>	<ul style="list-style-type: none"> <li>Use of evidence of success from previous projects is a way to limit NIMBYism and can be used at different stages for the projects</li> <li>Organizing for community support can be framed as beneficial on a number of levels</li> <li>Flexibility in project parameters can contribute to project approvals</li> </ul>
<b>Cité Angus, Montreal QC</b>	<ul style="list-style-type: none"> <li>Commercial and residential buildings, which include a mixed income housing component (ongoing)</li> <li>120 condos, with 70% of units offered at lower than market rates to families</li> <li>Includes a \$10K grant to families for purchase</li> </ul>	<ul style="list-style-type: none"> <li>Consultations held, where about 1500 residents attended meetings</li> <li>Concerns about high density of project expressed</li> <li>Quality of neighbourhood used as a point of reference for discussions</li> </ul>	<ul style="list-style-type: none"> <li>Reduced height of building</li> <li>Was recommended by the Office of Public Consultations</li> <li>Councillors approved of project</li> <li>Developer used social media to promote environmental benefits of the project</li> </ul>	<ul style="list-style-type: none"> <li>Assessing and using the appropriate channels for consultation processes can increase chances of project success</li> <li>Being one component of a larger project helped with project approval</li> <li>Environmental friendliness (i.e., LEED) helped with support for the project</li> </ul>



## FUTURE IMPLICATIONS FOR HOUSING

NIMBYism (“not in my backyard”) is a potential challenge to the implementation of affordable housing projects, specifically for people in need. This research provides insights, in a Canadian context, into how social inclusion and NIMBYism, are defined and how they interact and presents measures and conditions that can overcome NIMBYism and lead to successful affordable housing projects. The tactics and lessons learned can help municipalities, planners, housing providers and policy makers develop strategies to overcome NIMBYism and foster social inclusion. Understanding different mitigation measures and ensuring they are an essential component of their project planning can save housing providers time and money and result in better outcomes for the provider, tenants and the community.

## FURTHER READING

Full report – *Understanding Social Inclusion and NIMBYism in Providing Affordable Housing* ([https://eppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/archive/research\\_5/rr-understanding\\_social\\_inclusion\\_jan23.pdf](https://eppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/archive/research_5/rr-understanding_social_inclusion_jan23.pdf))

### Project Manager:

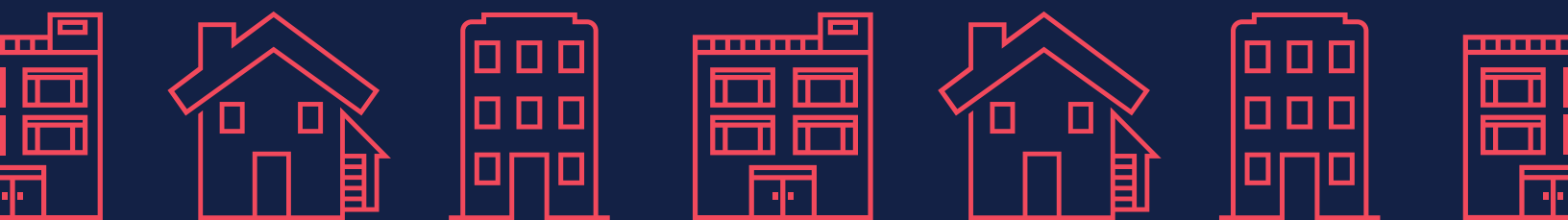
Josée Dion  
Housing Needs Research  
Canada Mortgage and Housing Corporation

### Consultant:

Goss Gilroy Inc.



**TAB 9**



Report of the  
**Ontario Housing  
Affordability Task Force**

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# Letter to Minister Clark

Dear Minister Clark,

Hard-working Ontarians are facing a housing crisis. For many years, the province has not built enough housing to meet the needs of our growing population. While the affordability crisis began in our large cities, it has now spread to smaller towns and rural communities.

Efforts to cool the housing market have only provided temporary relief to home buyers. The long-term trend is clear: house prices are increasing much faster than Ontarian's incomes. The time for action is now.

When striking the Housing Affordability Task Force, you and Premier Ford were clear: you wanted actionable, concrete solutions to help Ontarians and there was no time to waste. You asked us to be bold and gave us the freedom and independence to develop our recommendations.

In the past two months, we have met municipal leaders, planners, unions, developers and builders, the financial sector, academics, think tanks and housing advocates. Time was short, but solutions emerged consistently around these themes:

- More housing density across the province
- End exclusionary municipal rules that block or delay new housing
- Depoliticize the housing approvals process
- Prevent abuse of the housing appeals system
- Financial support to municipalities that build more housing

We present this report to you not as an “all or nothing” proposal, but rather as a list of options that the government has at its disposal to help address housing affordability for Ontarians and get more homes built. We propose an ambitious but achievable target: 1.5 million new homes built in the next ten years.

Parents and grandparents are worried that their children will not be able to afford a home when they start working or decide to start a family. Too many Ontarians are unable to live in their preferred city or town because they cannot afford to buy or rent.

The way housing is approved and built was designed for a different era when the province was less constrained by space and had fewer people. But it no longer meets the needs of Ontarians. The balance has swung too far in favour of lengthy consultations, bureaucratic red tape, and costly appeals. It is too easy to oppose new housing and too costly to build. We are in a housing crisis and that demands immediate and sweeping reforms.

It has been an honour to serve as Chair, and I am proud to submit this report on behalf of the entire Task Force.



A handwritten signature in black ink, appearing to read 'Jake Lawrence', with a long horizontal flourish extending to the right.

**Jake Lawrence**

Chair, Housing Affordability Task Force

Chief Executive Officer and Group Head, Global Banking and Markets, Scotiabank

# Executive summary and recommendations

House prices in Ontario have almost tripled in the past 10 years, growing much faster than incomes. This has home ownership beyond the reach of most first-time buyers across the province, even those with well-paying jobs. Housing has become too expensive for rental units and it has become too expensive in rural communities and small towns. The system is not working as it should.

For too long, we have focused on solutions to “cool” the housing market. It is now clear that we do not have enough homes to meet the needs of Ontarians today, and we are not building enough to meet the needs of our growing population. If this problem is not fixed – by creating more housing to meet the growing demand – housing prices will continue to rise. We need to build more housing in Ontario.

This report sets out recommendations that would set a bold goal and clear direction for the province, increase density, remove exclusionary rules that prevent housing growth, prevent abuse of the appeals process, and make sure municipalities are treated as partners in this process by incentivizing success.

## Setting bold targets and making new housing the planning priority

**Recommendations 1 and 2** urge Ontario to set a bold goal of adding 1.5 million homes over the next 10 years and update planning guidance to make this a priority.

The task force then recommends actions in five main areas to increase supply:

### Require greater density

Land is not being used efficiently across Ontario. In too many neighbourhoods, municipal rules only allow single-family homes – not even a granny suite. Taxpayers have invested heavily in subway, light rail, bus and rail lines and highways, and the streets nearby are ideally suited for more mid- and high-rise housing. Underused or redundant commercial and industrial buildings are ripe to be redeveloped into housing or mixed commercial and residential use. New housing on undeveloped land should also be higher density than traditional suburbs, especially close to highways.

Adding density in all these locations makes better use of infrastructure and helps to save land outside urban boundaries. Implementing these recommendations will provide Ontarians with many more options for housing.

**Recommendations 3 through 11** address how Ontario can quickly create more housing supply by allowing more housing in more locations “as of right” (without the need for municipal approval) and make better use of transportation investments.

### Reduce and streamline urban design rules

Municipalities require numerous studies and set all kinds of rules for adding housing, many of which go well beyond the requirements of the provincial Planning Act. While some of this guidance has value for urban design, some rules appear to be arbitrary and not supported by evidence – for example, requiring condo buildings to include costly parking stalls even though many go unsold. These rules and requirements result in delays and extra costs that make housing either impossible to build or very expensive for the eventual home buyer or renter.

**Recommendation 12** would set uniform provincial standards for urban design, including building shadows and setbacks, do away with rules that prioritize preservation of neighbourhood physical character over new housing, no longer require municipal approval of design matters like a building’s colour, texture, type of material or window details, and remove or reduce parking requirements.

### Depoliticize the process and cut red tape

NIMBYism (not in my backyard) is a major obstacle to building housing. It drags out the approval process, pushes up costs, and keeps out new residents. Because local councillors depend on the votes of residents who want to keep the status quo, the planning process has become politicized. Municipalities allow far more public consultation than is required, often using formats that make it hard for working people and families with young children to take part. Too few technical decisions are delegated to municipal staff. Pressure to designate buildings with little or no heritage value as “heritage” if development is proposed and bulk listings of properties with “heritage potential” are also standing in the way of getting homes built. Dysfunction throughout the system, risk aversion and needless bureaucracy have resulted in a situation where Ontario lags the rest of Canada and the developed world in approval times. Ontarians have waited long enough.

**Recommendations 13 through 25** would require municipalities to limit consultations to the legislated maximum, ensure people can take part digitally, mandate the delegation of technical decisions, prevent abuse of the heritage process and see property owners compensated for financial loss resulting from designation, restore the right of developers to appeal Official Plans and Municipal Comprehensive Reviews, legislate timelines for approvals and enact several other common sense changes that would allow housing to be built more quickly and affordably.

### Fix the Ontario Land Tribunal

Largely because of the politicization of the planning process, many proponents look to the Tribunal, a quasi-judicial body, to give the go-ahead to projects that should have been approved by the municipality. Even when there is municipal approval, however, opponents appeal to the Tribunal – paying only a \$400 fee – knowing that this may well succeed in delaying a project to the point where it might no longer make economic sense. As a result, the Tribunal faces a backlog of more than 1,000 cases and is seriously under-resourced.

**Recommendations 26 through 31** seek to weed out or prevent appeals aimed purely at delaying projects, allow adjudicators to award costs to proponents in more cases, including instances where a municipality has refused an approval to avoid missing a legislated deadline, reduce the time to issue decisions, increase funding, and encourage the Tribunal to prioritize cases that would increase housing supply quickly as it tackles the backlog.

### Support municipalities that commit to transforming the system

Fixing the housing crisis needs everyone working together. Delivering 1.5 million homes will require the provincial and federal governments to invest in change. Municipalities that make the difficult but necessary choices to grow housing supply should be rewarded, and those that resist new housing should see funding reductions.

**Recommendations 49 and 50** call for Ontario government to create a large “Ontario Housing Delivery Fund” and encourage the federal government to match funding, and suggest how the province should reward municipalities that support change and reduce funding for municipalities that do not.

This executive summary focuses on the actions that will get the most housing units approved and built in the shortest time. Other recommendations in the report deal with issues that are important but may take more time to resolve or may not directly increase supply (recommendation numbers are indicated in brackets): improving tax and municipal financing (**32-37, 39, 42-44**); encouraging new pathways to home ownership (**38, 40, 41**); and addressing labour shortages in the construction industry (**45-47**).

This is not the first attempt to “fix the housing system”. There have been efforts for years to tackle increasing housing prices and find solutions. This time must be different. **Recommendations 50-55** set out ways of helping to ensure real and concrete progress on providing the homes Ontarians need.

# Introduction

Ontario is in a housing crisis. Prices are skyrocketing: the average price for a house across Ontario was \$923,000 at the end of 2021.<sup>[1]</sup> Ten years ago, the average price was \$329,000.<sup>[2]</sup> Over that period, average house prices have climbed 180% while average incomes have grown roughly 38%.<sup>[3][4]</sup>

Not long ago, hard-working Ontarians – teachers, construction workers, small business owners – could afford the home they wanted. In small towns, it was reasonable to expect that you could afford a home in the neighbourhood you grew up in. Today, home ownership or finding a quality rental is now out of reach for too many Ontarians. The system is not working as it should be.

Housing has become too expensive for rental units and it has become too expensive in rural communities and small towns.

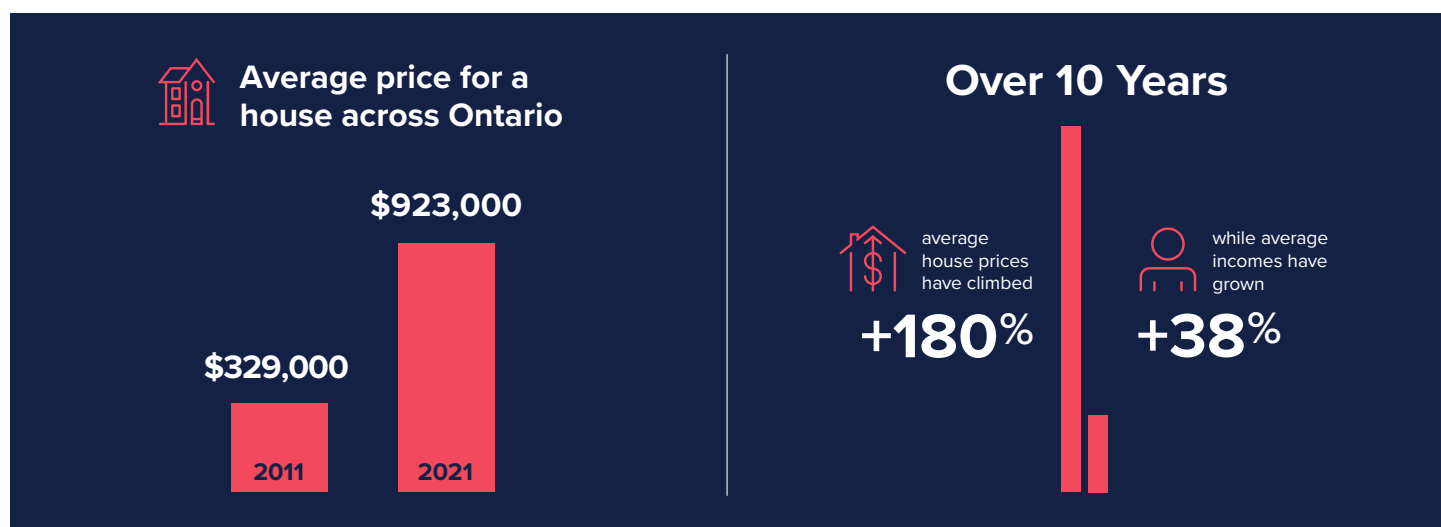
While people who were able to buy a home a decade or more ago have built considerable personal equity, the benefits of having a home aren't just financial. Having a place to call home connects people to their community, creates a gathering place for friends and family, and becomes a source of pride.

Today, the reality for an ever-increasing number of Ontarians is quite different. Everyone in Ontario knows people who are living with the personal and financial stress of not being able to find housing they can afford. The young family who can't buy a house within two hours of where they work. The tenant with a good job who worries about

where she'll find a new apartment she can afford if the owner decides to sell. The recent graduate who will have to stay at home for a few more years before he can afford to rent or buy.

While the crisis is widespread, it weighs more heavily on some groups than on others. Young people starting a family who need a larger home find themselves priced out of the market. Black, Indigenous and marginalized people face even greater challenges. As Ontarians, we have only recently begun to understand and address the reality of decades of systemic racism that has resulted in lower household incomes, making the housing affordability gap wider than average.

The high cost of housing has pushed minorities and lower income Ontarians further and further away from job markets. Black and Indigenous homeownership rates are less than half of the provincial average.<sup>[5]</sup> And homelessness rates among Indigenous Peoples are 11 times the national average. When housing prevents an individual from reaching their full potential, this represents a loss to every Ontarian: lost creativity, productivity, and revenue. Lost prosperity for individuals and for the entire Ontario economy.





As much as we read about housing affordability being a challenge in major cities around the world, the depth of the challenge has become greater in Ontario and Canada than almost anywhere in the developed world.



Canada has the lowest amount of housing per population of any G7 country.

### How did we get here? Why do we have this problem?

A major factor is that there just isn't enough housing. A 2021 Scotiabank study showed that Canada has the fewest housing units per population of any G7 country – and, our per capita housing supply has *dropped* in the past five years.<sup>[6]</sup> An update to that study released in January 2022 found that two thirds of Canada's housing shortage is in Ontario.<sup>[7]</sup> Today, Ontario is 1.2 million homes – rental or owned – short of the G7 average. With projected population growth, that huge gap is widening, and bridging it will take immediate, bold and purposeful effort. And to support population growth in the next decade, we will need one million more homes.

While governments across Canada have taken steps to “cool down” the housing market or provide help to first-time buyers, these demand-side solutions only work if there is enough supply. Shortages of supply in any market have a direct impact on affordability. Scarcity breeds price increases. Simply put, if we want more Ontarians to have housing, we need to build more housing in Ontario.

### Ontario must build 1.5 million homes over the next 10 years to address the supply shortage

The housing crisis impacts all Ontarians. The ripple effect of the crisis also holds back Ontario reaching its full potential.

#### Economy

Businesses of all sizes are facing problems finding and retaining workers. Even high-paying jobs in technology and manufacturing are hard to fill because there's not enough housing nearby. This doesn't just dampen the economic growth of cities, it makes them less vibrant, diverse, and creative, and strains their ability to provide essential services.

#### Public services

Hospitals, school boards and other public service providers across Ontario report challenges attracting and retaining staff because of housing costs. One town told us that it

could no longer maintain a volunteer fire department, because volunteers couldn't afford to live within 10 minutes drive of the firehall.

#### Environment

Long commutes contribute to air pollution and carbon emissions. An international survey of 74 cities in 16 countries found that Toronto, at 96 minutes both ways, had the longest commute times in North America and was essentially tied with Bogota, Colombia, for the longest commute time worldwide.<sup>[8]</sup> Increasing density in our cities and around major transit hubs helps reduce emissions to the benefit of everyone.

Ontario must build

# 1.5M

homes over the next 10 years  
to address the supply shortage.



#### Our mandate and approach

Ontario's Minister of Municipal Affairs and Housing tasked us with recommending ways to accelerate our progress in closing the housing supply gap to improve housing affordability.

Time is of the essence. Building housing now is exactly what our post-pandemic economy needs. Housing construction creates good-paying jobs that cannot be outsourced to other countries. Moreover, the pandemic gave rise to unprecedented levels of available capital that can be invested in housing – if we can just put it to work.

We represent a wide range of experience and perspectives that includes developing, financing and building homes, delivering affordable housing, and researching housing market trends, challenges and solutions. Our detailed biographies appear as [Appendix A](#).



We acknowledge that every house in Ontario is built on the traditional territory of Indigenous Peoples.



People in households that spend 30% or more of total household income on shelter expenses are defined as having a “housing affordability” problem. Shelter expenses include electricity, oil, gas, coal, wood or other fuels, water and other municipal services, monthly mortgage payments, property taxes, condominium fees, and rent.

Our mandate was to focus on how to increase market housing supply and affordability. By market housing, we are referring to homes that can be purchased or rented without government support.

**Affordable housing (units provided at below-market rates with government support) was not part of our mandate.**

The Minister and his cabinet colleagues are working on that issue. Nonetheless, almost every stakeholder we spoke with had ideas that will help deliver market housing and also make it easier to deliver affordable housing. However, affordable housing is a societal responsibility and will require intentional investments and strategies to bridge the significant affordable housing gap in this province. We have included a number of recommendations aimed at affordable housing in the body of this report, but have also included further thoughts in [Appendix B](#).

We note that government-owned land was also outside our mandate. Many stakeholders, however, stressed the value of surplus or underused public land and land associated with major transit investments in finding housing solutions. We agree and have set out some thoughts on that issue in [Appendix C](#).

**How we did our work**

Our Task Force was struck in December 2021 and mandated to deliver a final report to the Minister by the end of January 2022. We were able to work to that tight timeline because, in almost all cases, viewpoints and feasible solutions are well known. In addition, we benefited from insights gleaned from recent work to solve the problem in other jurisdictions.

During our deliberations, we met with and talked to over 140 organizations and individuals, including industry associations representing builders and developers, planners, architects, realtors and others; labour unions; social justice advocates; elected officials at the municipal level; academics and research groups; and municipal planners. We also received written submissions from many of these participants. In addition, we drew on the myriad public reports and papers listed in the [References](#).

We thank everyone who took part in sessions that were uniformly helpful in giving us a deeper understanding of the housing crisis and the way out of it. We also thank the staff of the Ministry of Municipal Affairs and Housing who provided logistical and other support, including technical briefings and background.

**The way forward**

The single unifying theme across all participants over the course of the Task Force’s work has been the urgency to take decisive action. Today’s housing challenges are incredibly complex. Moreover, developing land, obtaining approvals, and building homes takes years.

Some recommendations will produce immediate benefits, others will take years for the full impact.

This is why there is no time to waste. We urge the Minister of Municipal Affairs and Housing and his cabinet colleagues to continue measures they have already taken to accelerate housing supply and to move quickly in turning the recommendations in this report into decisive new actions.

**The province must set an ambitious and bold goal to build 1.5 million homes over the next 10 years.** If we build 1.5 million new homes over the next ten years, Ontario can fill the housing gap with more affordable choices, catch up to the rest of Canada and keep up with population growth.

By working together, we can resolve Ontario’s housing crisis. In so doing, we can build a more prosperous future for everyone.

The balance of this report lays out our recommendations.

## Focus on getting more homes built

Resolving a crisis requires intense focus and a clear goal. The province is responsible for the legislation and policy that establishes the planning, land use, and home building goals, which guide municipalities, land tribunals, and courts. Municipalities are then responsible for implementing provincial policy in a way that works for their communities. The province is uniquely positioned to lead by shining a spotlight on this issue, setting the tone, and creating a single, galvanizing goal around which federal support, provincial legislation, municipal policy, and the housing market can be aligned.

In 2020, Ontario built about 75,000 housing units.<sup>[9]</sup> For this report, we define a housing unit (home) as a single dwelling (detached, semi-detached, or attached), apartment, suite, condominium or mobile home. Since 2018, housing completions have grown every year as a result of positive measures that the province and some municipalities have implemented to encourage more home building. But we are still 1.2 million homes short when compared to other G7 countries and our population is growing. The goal of 1.5 million homes feels daunting – but reflects both the need and what is possible. In fact, throughout the 1970s Ontario built more housing units each year than we do today.<sup>[10]</sup>

The second recommendation is designed to address the growing complexity and volume of rules in the legislation, policy, plans and by-laws, and their competing priorities, by providing clear direction to provincial agencies, municipalities, tribunals, and courts on the overriding priorities for housing.

- 1. Set a goal of building 1.5 million new homes in ten years.**
- 2. Amend the Planning Act, Provincial Policy Statement, and Growth Plans to set “growth in the full spectrum of housing supply” and “intensification within existing built-up areas” of municipalities as the most important residential housing priorities in the mandate and purpose.**



The “missing middle” is often cited as an important part of the housing solution. We define the missing middle as mid-rise condo or rental housing, smaller houses on subdivided lots or in laneways and other additional units in existing houses.

## Making land available to build

The Greater Toronto Area is bordered on one side by Lake Ontario and on the other by the protected Greenbelt. Similarly, the Ottawa River and another Greenbelt constrain land supply in Ottawa, the province's second-largest city.

But a shortage of land isn't the cause of the problem. Land is available, both inside the existing built-up areas and on undeveloped land outside greenbelts.

We need to make better use of land. Zoning defines what we can build and where we can build. If we want to make better use of land to create more housing, then we need to modernize our zoning rules. We heard from planners, municipal councillors, and developers that "as of right" zoning – the ability to by-pass long, drawn out consultations and zoning by-law amendments – is the most effective tool in the provincial toolkit. We agree.

### Stop using exclusionary zoning that restricts more housing

Too much land inside cities is tied up by outdated rules. For example, it's estimated that 70% of land zoned for housing in Toronto is restricted to single-detached or semi-detached homes.<sup>[11]</sup> This type of zoning prevents homeowners from adding additional suites to create housing for Ontarians and income for themselves. As one person said, "my neighbour can tear down what was there to build a monster home, but I'm not allowed to add a basement suite to my home."

It's estimated that  
**70%**

of land zoned for housing in Toronto is restricted to **single-detached** or **semi-detached** homes.



While less analysis has been done in other Ontario communities, it's estimated that about half of all residential land in Ottawa is zoned for single-detached housing, meaning nothing else may be built on a lot without public consultation and an amendment to the zoning by-law. In some suburbs around Toronto, single unit zoning dominates residential land use, even close to GO Transit stations and major highways.

One result is that more growth is pushing past urban boundaries and turning farmland into housing. Undeveloped land inside and outside existing municipal boundaries must be part of the solution, particularly in northern and rural communities, but isn't nearly enough on its own. Most of the solution must come from densification. Greenbelts and other environmentally sensitive areas must be protected, and farms provide food and food security. Relying too heavily on undeveloped land would whittle away too much of the already small share of land devoted to agriculture.

Modernizing zoning would also open the door to more rental housing, which in turn would make communities more inclusive.

Allowing more gentle density also makes better use of roads, water and wastewater systems, transit and other public services that are already in place and have capacity, instead of having to be built in new areas.

The Ontario government took a positive step by allowing secondary suites (e.g., basement apartments) across the province in 2019. However, too many municipalities still place too many restrictions on implementation. For the last three years, the total number of secondary suites in Toronto has actually declined each year, as few units get permitted and owners convert two units into one.<sup>[12]</sup>

These are the types of renovations and home construction performed by small businesses and local trades, providing them with a boost.

Underused and vacant commercial and industrial properties are another potential source of land for housing. It was suggested to us that one area ripe for redevelopment into a mix of commercial and residential uses is the strip mall, a leftover from the 1950s that runs along major suburban streets in most large Ontario cities.

“As of right” zoning allows more kinds of housing that are accessible to more kinds of people. It makes neighbourhoods stronger, richer, and fairer. And it will get more housing built in existing neighbourhoods more quickly than any other measure.

**3. Limit exclusionary zoning in municipalities through binding provincial action:**

- a) Allow “as of right” residential housing up to four units and up to four storeys on a single residential lot.
  - b) Modernize the Building Code and other policies to remove any barriers to affordable construction and to ensure meaningful implementation (e.g., allow single-staircase construction for up to four storeys, allow single egress, etc.).
- 4.** Permit “as of right” conversion of underutilized or redundant commercial properties to residential or mixed residential and commercial use.
  - 5.** Permit “as of right” secondary suites, garden suites, and laneway houses province-wide.
  - 6.** Permit “as of right” multi-tenant housing (renting rooms within a dwelling) province-wide.
  - 7.** Encourage and incentivize municipalities to increase density in areas with excess school capacity to benefit families with children.

## Align investments in roads and transit with growth

Governments have invested billions of dollars in highways, light rail, buses, subways and trains in Ontario. But without ensuring more people can live close to those transit routes, we’re not getting the best return on those infrastructure investments.

Access to transit is linked to making housing more affordable: when reliable transit options are nearby, people can get to work more easily. They can live further from the centre of the city in less expensive areas without the added cost of car ownership.

The impacts of expanding public transit go far beyond serving riders. These investments also spur economic growth and reduce traffic congestion and emissions. We all pay for the cost of transit spending, and we should all share in the benefits.

If municipalities achieve the right development near transit – a mix of housing at high- and medium-density, office space and retail – this would open the door to better ways of funding the costs. Other cities, like London, UK and Hong Kong, have captured the impacts of increased land value and business activity along new transit routes to help with their financing.

Ontario recently created requirements (residents/hectare) for municipalities to zone for higher density in transit corridors and “major transit station areas”,<sup>[13a]</sup> <sup>[13b]</sup> These are areas surrounding subway and other rapid transit stations and hubs. However, we heard troubling reports that local opposition is blocking access to these neighbourhoods and to critical public transit stations. City staff, councillors, and the province need to stand up to these tactics and speak up for the Ontarians who need housing.

The Province is also building new highways in the Greater Golden Horseshoe, and it’s important to plan thoughtfully for the communities that will follow from these investments, to make sure they are compact and liveable.

8. Allow “as of right” zoning up to unlimited height and unlimited density in the immediate proximity of individual major transit stations within two years if municipal zoning remains insufficient to meet provincial density targets.
9. Allow “as of right” zoning of six to 11 storeys with no minimum parking requirements on any streets utilized by public transit (including streets on bus and streetcar routes).
10. Designate or rezone as mixed commercial and residential use all land along transit corridors and redesignate all Residential Apartment to mixed commercial and residential zoning in Toronto.
11. Support responsible housing growth on undeveloped land, including outside existing municipal boundaries, by building necessary infrastructure to support higher density housing and complete communities and applying the recommendations of this report to all undeveloped land.

## Start saying “yes in my backyard”

Even where higher density is allowed in theory, the official plans of most cities in Ontario contain conflicting goals like maintaining “prevailing neighbourhood character”. This bias is reinforced by detailed guidance that often follows from the official plan. Although requirements are presented as “guidelines”, they are often treated as rules.

Examples include:

- Angular plane rules that require successively higher floors to be stepped further back, cutting the number of units that can be built by up to half and making many projects uneconomic
- Detailed rules around the shadows a building casts
- Guidelines around finishes, colours and other design details

One resident’s desire to prevent a shadow being cast in their backyard or a local park frequently prevails over concrete proposals to build more housing for multiple families. By-laws and guidelines that preserve “neighbourhood character” often prevent simple renovations to add new suites to existing homes. The people who suffer are mostly young, visible minorities, and marginalized people. It is the perfect

example of a policy that appears neutral on its surface but is discriminatory in its application.<sup>[14]</sup>

Far too much time and money are spent reviewing and holding consultations for large projects which conform with the official plan or zoning by-law and small projects which would cause minimal disruption. The cost of needless delays is passed on to new home buyers and tenants.

Minimum parking requirements for each new unit are another example of outdated municipal requirements that increase the cost of housing and are increasingly less relevant with public transit and ride share services. Minimum parking requirements add as much as \$165,000 to the cost of a new housing unit, even as demand for parking spaces is falling: data from the Residential Construction Council of Ontario shows that in new condo projects, one in three parking stalls goes unsold. We applaud the recent vote by Toronto City Council to scrap most minimum parking requirements. We believe other cities should follow suit.

While true heritage sites are important, heritage preservation has also become a tool to block more housing. For example, some municipalities add thousands of properties at a time to a heritage register because they have “potential” heritage value. Even where a building isn’t heritage designated or registered, neighbours increasingly demand it be as soon as a development is proposed.

This brings us to the role of the “not in my backyard” or NIMBY sentiment in delaying or stopping more homes from being built.



### New housing is often the last priority

A proposed building with market and affordable housing units would have increased the midday shadow by 6.5% on a nearby park at the fall and spring equinox, with no impact during the summer months. To conform to a policy that does not permit “new net shadow on specific parks”, seven floors of housing, including 26 affordable housing units, were sacrificed.

Multiple dry cleaners along a transit route were designated as heritage sites to prevent new housing being built. It is hard not to feel outrage when our laws are being used to prevent families from moving into neighbourhoods and into homes they can afford along transit routes.

## NIMBY versus YIMBY

NIMBYism (not in my backyard) is a large and constant obstacle to providing housing everywhere. Neighbourhood pushback drags out the approval process, pushes up costs and discourages investment in housing. It also keeps out new residents. While building housing is very costly, opposing new housing costs almost nothing.

Unfortunately, there is a strong incentive for individual municipal councillors to fall in behind community opposition – it's existing residents who elect them, not future ones. The outcry of even a handful of constituents (helped by the rise of social media) has been enough, in far too many cases, to persuade their local councillor to vote against development even while admitting its merits in private. There is a sense among some that it's better to let the Ontario Land Tribunal approve the development on appeal, even if it causes long delays and large cost increases, then to take the political heat.

Mayors and councillors across the province are fed up and many have called for limits on public consultations and more “as of right” zoning. In fact, some have created a new term for NIMBYism: BANANAs – Build Absolutely Nothing Anywhere Near Anything, causing one mayor to comment “NIMBYism has gone BANANAs”. We agree. In a growing, thriving society, that approach is not just bad policy, it is exclusionary and wrong.

As a result, technical planning decisions have become politicized. One major city has delegated many decisions to senior staff, but an individual councillor can withdraw the delegation when there is local opposition and force a vote at Council. We heard that this situation is common across the province, creating an electoral incentive for a councillor to delay or stop a housing proposal, or forcing a councillor to pay the electoral cost of supporting it. Approvals of individual housing applications should be the role of professional staff, free from political interference.

The pressure to stop any development is now so intense that it has given rise to a counter-movement – YIMBYism, or “yes in my backyard,” led by millennials who recognize entrenched opposition to change as a huge obstacle to finding a home. They provide a voice at public consultations for young people, new immigrants and refugees, minority groups, and Ontarians struggling to access housing by connecting our ideals to the reality of housing. People who welcome immigrants to Canada should welcome them to the neighbourhood, fighting climate change means supporting higher-density housing, and “keeping the neighbourhood the way it is” means keeping it off-limits. While anti-housing voices can be loud,

a member of More Neighbours Toronto, a YIMBY group that regularly attends public consultations, has said that the most vocal opponents usually don't represent the majority in a neighbourhood. Survey data from the Ontario Real Estate Association backs that up, with almost 80% of Ontarians saying they are in favour of zoning in urban areas that would encourage more homes.

Ontarians want a solution to the housing crisis. We cannot allow opposition and politicization of individual housing projects to prevent us from meeting the needs of all Ontarians.

### 12. Create a more permissive land use, planning, and approvals system:

- a) Repeal or override municipal policies, zoning, or plans that prioritize the preservation of physical character of neighbourhood
- b) Exempt from site plan approval and public consultation all projects of 10 units or less that conform to the Official Plan and require only minor variances
- c) Establish province-wide zoning standards, or prohibitions, for minimum lot sizes, maximum building setbacks, minimum heights, angular planes, shadow rules, front doors, building depth, landscaping, floor space index, and heritage view cones, and planes; restore pre-2006 site plan exclusions (colour, texture, and type of materials, window details, etc.) to the Planning Act and reduce or eliminate minimum parking requirements; and
- d) Remove any floorplate restrictions to allow larger, more efficient high-density towers.

### 13. Limit municipalities from requesting or hosting additional public meetings beyond those that are required under the Planning Act.

### 14. Require that public consultations provide digital participation options.

### 15. Require mandatory delegation of site plan approvals and minor variances to staff or pre-approved qualified third-party technical consultants through a simplified review and approval process, without the ability to withdraw Council's delegation.

- 16.** Prevent abuse of the heritage preservation and designation process by:
  - a) Prohibiting the use of bulk listing on municipal heritage registers
  - b) Prohibiting reactive heritage designations after a Planning Act development application has been filed
- 17.** Requiring municipalities to compensate property owners for loss of property value as a result of heritage designations, based on the principle of best economic use of land.
- 18.** Restore the right of developers to appeal Official Plans and Municipal Comprehensive Reviews.

We have heard mixed feedback on Committees of Adjustment. While they are seen to be working well in some cities, in others they are seen to simply add another lengthy step in the process. We would urge the government to first implement our recommendation to delegate minor variances and site plan approvals to municipal staff and then assess whether Committees of Adjustment are necessary and an improvement over staff-level decision making.



# Cut the red tape so we can build faster and reduce costs

One of the strongest signs that our approval process is not working: of 35 OECD countries, only the Slovak Republic takes longer than Canada to approve a building project. The UK and the US approve projects three times faster without sacrificing quality or safety. And they save home buyers and tenants money as a result, making housing more affordable.<sup>[15]</sup>

A 2020 survey of development approval times in 23 Canadian cities shows Ontario seriously lagging: Hamilton (15th), Toronto (17th), Ottawa (21st) with approval times averaging between 20-24 months. These timelines do not include building permits, which take about two years for an apartment building in Toronto. Nor did they count the time it takes for undeveloped land to be designated for housing, which the study notes can take five to ten years.<sup>[16]</sup>

Despite the good intentions of many people involved in the approvals and home-building process, decades of dysfunction in the system and needless bureaucracy have made it too difficult for housing approvals to keep up with the needs of Ontarians. There appear to be numerous reasons why Ontario performs so poorly against other Canadian cities and the rest of the developed world. We believe that the major problems can be summed up as:

- Too much complexity in the planning process, with the page count in legislation, regulation, policies, plans, and by-laws growing every year
- Too many studies, guidelines, meetings and other requirements of the type we outlined in the previous section, including many that go well beyond the scope of Ontario's Planning Act
- Reviews within municipalities and with outside agencies that are piecemeal, duplicative (although often with conflicting outcomes) and poorly coordinated
- Process flaws that include reliance on paper
- Some provincial policies that are more relevant to urban development but result in burdensome, irrelevant requirements when applied in some rural and northern communities.



All of this has contributed to widespread failure on the part of municipalities to meet required timelines. The provincial Planning Act sets out deadlines of 90 days for decisions on zoning by-law amendments, 120 days for plans of subdivision, and 30 days for site plan approval, but municipalities routinely miss these without penalty. For other processes, like site plan approval or provincial approvals, there are no timelines and delays drag on. The cost of delay falls on the ultimate homeowner or tenant.

The consequences for homeowners and renters are enormous. Ultimately, whatever cost a builder pays gets passed on to the buyer or renter. As one person said: "Process is the biggest project killer in Toronto because developers have to carry timeline risk."

Site plan control was often brought up as a frustration. Under the Planning Act, this is meant to be a technical review of the external features of a building. In practice, municipalities often expand on what is required and take too long to respond.

**Then:** In 1966, a draft plan of subdivision in a town in southwestern Ontario to provide 529 low-rise and mid-rise housing units, a school site, a shopping centre and parks was approved by way of a two-page letter setting out 10 conditions. It took seven months to clear conditions for final approval.

**And now:** In 2013, a builder started the approval process to build on a piece of serviced residential land in a seasonal resort town. Over the next seven years, 18 professional consultant reports were required, culminating in draft plan approval containing 50 clearance conditions. The second approval, issued by the Local Planning Appeals Board in 2020, ran to 23 pages. The developer estimates it will be almost 10 years before final approval is received.

An Ontario Association of Architects study calculating the cost of delays between site plan application and approval concluded that for a 100-unit condominium apartment building, each additional month of delay costs the applicant an estimated \$193,000, or \$1,930 a month for each unit.<sup>[17]</sup>

A 2020 study done for the Building Industry and Land Development Association (BILD) looked at impacts of delay on low-rise construction, including single-detached homes. It estimated that every month an approval is delayed adds, on average, \$1.46 per square foot to the cost of a single home. A two-year delay, which is not unusual for this housing type, adds more than \$70,000 to the cost of a 2,000-square-foot house in the GTA.<sup>[16]</sup>

Getting rid of so much unnecessary and unproductive additional work would significantly reduce the burden on staff.<sup>[16b]</sup> It would help address the widespread shortages of planners and building officials. It would also bring a stronger sense among municipal staff that they are part of the housing solution and can take pride in helping cut approval times and lower the costs of delivering homes.

### **Adopt common sense approaches that save construction costs**

Wood using “mass timber” – an engineer compressed wood, made for strength and weight-bearing – can provide a lower-cost alternative to reinforced concrete in many mid-rise projects, but Ontario’s Building Code is hampering its use. Building taller with wood offers advantages beyond cost:

- Wood is a renewable resource that naturally sequesters carbon, helping us reach our climate change goals

- Using wood supports Ontario’s forestry sector and creates jobs, including for Indigenous people

British Columbia’s and Quebec’s building codes allow woodframe construction up to 12 storeys, but Ontario limits it to six. By amending the Building Code to allow 12-storey woodframe construction, Ontario would encourage increased use of forestry products and reduce building costs.

Finally, we were told that a shift in how builders are required to guarantee their performance would free up billions of dollars to build more housing. Pay on demand surety bonds are a much less onerous option than letters of credit, and are already accepted in Hamilton, Pickering, Innisfil, Whitchurch-Stouffville and other Ontario municipalities. We outline the technical details in [Appendix D](#).

19. Legislate timelines at each stage of the provincial and municipal review process, including site plan, minor variance, and provincial reviews, and deem an application approved if the legislated response time is exceeded.
20. Fund the creation of “approvals facilitators” with the authority to quickly resolve conflicts among municipal and/or provincial authorities and ensure timelines are met.
21. Require a pre-consultation with all relevant parties at which the municipality sets out a binding list that defines what constitutes a complete application; confirms the number of consultations established in the previous recommendations; and clarifies that if a member of a regulated profession such as a professional engineer has stamped an application, the municipality has no liability and no additional stamp is needed.
22. Simplify planning legislation and policy documents.
23. Create a common, province-wide definition of plan of subdivision and standard set of conditions which clarify which may be included; require the use of standard province-wide legal agreements and, where feasible, plans of subdivision.
24. Allow wood construction of up to 12 storeys.
25. Require municipalities to provide the option of pay on demand surety bonds and letters of credit.

## Prevent abuse of the appeal process

Part of the challenge with housing approvals is that, by the time a project has been appealed to the Ontario Land Tribunal (the Tribunal), it has usually already faced delay and compromises have been made to reduce the size and scope of the proposal. When an approved project is appealed, the appellant – which could just be a single individual – may pay \$400 and tie up new housing for years.

The most recent published report showed 1,300 unresolved cases.<sup>[18]</sup> While under-resourcing does contribute to delays, this caseload also reflects the low barrier to launching an appeal and the minimal risks if an appeal is unsuccessful:

- After a builder has spent time and money to ensure a proposal conforms with a municipality’s requirements, the municipal council can still reject it – even if its own planning staff has given its support. Very often this is to appease local opponents.
- Unlike a court, costs are not automatically awarded to the successful party at the Tribunal. The winning side must bring a motion and prove that the party bringing the appeal was unreasonable, clearly trying to delay the project, and/or being vexatious or frivolous. Because the bar is set so high, the winning side seldom asks for costs in residential cases.

This has resulted in abuse of the Tribunal to delay new housing. Throughout our consultations, we heard from municipalities, not-for-profits, and developers that affordable housing was a particular target for appeals which, even if unsuccessful, can make projects too costly to build.

Clearly the Tribunal needs more resources to clear its backlog. But the bigger issue is the need for so many appeals: we believe it would better to have well-defined goals and rules for municipalities and builders to avoid this costly and time-consuming quasi-judicial process. Those who bring appeals aimed at stopping development that meets established criteria should pay the legal costs of the successful party and face the risk of a larger project being approved.

The solution is not more appeals, it’s fixing the system. We have proposed a series of reforms that would ensure only meritorious appeals proceeded, that every participant faces some risk and cost of losing, and that abuse of the Tribunal will be penalized. We believe that if Ontario accepts our recommendations, the Tribunal will not face the same volume of appeals. But getting to that point will take time, and the Tribunal needs more resources and better tools now.

Recommendation 1 will provide legislative direction to adjudicators that they must prioritize housing growth and intensification over competing priorities contained in provincial and municipal policies. We further recommend the following:

- 26.** Require appellants to promptly seek permission (“leave to appeal”) of the Tribunal and demonstrate that an appeal has merit, relying on evidence and expert reports, before it is accepted.
- 27.** Prevent abuse of process:
  - a) Remove right of appeal for projects with at least 30% affordable housing in which units are guaranteed affordable for at least 40 years.
  - b) Require a \$10,000 filing fee for third-party appeals.
  - c) Provide discretion to adjudicators to award full costs to the successful party in any appeal brought by a third party or by a municipality where its council has overridden a recommended staff approval.
- 28.** Encourage greater use of oral decisions issued the day of the hearing, with written reasons to follow, and allow those decisions to become binding the day that they are issued.
- 29.** Where it is found that a municipality has refused an application simply to avoid a deemed approval for lack of decision, allow the Tribunal to award punitive damages.
- 30.** Provide funding to increase staffing (adjudicators and case managers), provide market-competitive salaries, outsource more matters to mediators, and set shorter time targets.
- 31.** In clearing the existing backlog, encourage the Tribunal to prioritize projects close to the finish line that will support housing growth and intensification, as well as regional water or utility infrastructure decisions that will unlock significant housing capacity.

# Reduce the costs to build, buy and rent

The price you pay to buy or rent a home is driven directly by how much it costs to build a home. In Ontario, costs to build homes have dramatically increased at an unprecedented pace over the past decade. In most of our cities and towns, materials and labour only account for about half of the costs. The rest comes from land, which we have addressed in the previous section, and government fees.

A careful balance is required on government fees because, as much as we would like to see them lowered, governments need revenues from fees and taxes to build critically needed infrastructure and pay for all the other services that make Ontario work. So, it is a question of balance and of ensuring that our approach to government fees encourages rather than discourages developers to build the full range of housing we need in our Ontario communities.

## Align government fees and charges with the goal of building more housing

### Improve the municipal funding model

Housing requires more than just the land it is built on. It requires roads, sewers, parks, utilities and other infrastructure. The provincial government provides municipalities with a way to secure funding for this infrastructure through development charges, community benefit charges and parkland dedication (providing 5% of land for public parks or the cash equivalent).

These charges are founded on the belief that growth – not current taxpayers – should pay for growth. As a concept, it is compelling. In practice, it means that new home buyers pay the entire cost of sewers, parks, affordable housing, or colleges that will be around for generations and may not be located in their neighbourhood. And, although building



A 2019 study carried out for BILD showed that in the Greater Toronto Area, development charges for low-rise housing are on average more than three times higher per unit than in six comparable US metropolitan areas, and roughly 1.75-times higher than in the other Canadian cities.

For high-rise developments the average per unit charges in the GTA are roughly 50% higher than in the US areas, and roughly 30% higher than in the other Canadian urban areas.<sup>[19]</sup>

affordable housing is a societal responsibility, because affordable units pay all the same charges as a market unit, the cost is passed to new home buyers in the same building or the not-for-profit organization supporting the project. We do not believe that government fees should create a disincentive to affordable housing.

If you ask any developer of homes – whether they are for-profit or non-profit – they will tell you that development charges are a special pain point. In Ontario, they can be as much as \$135,000 per home. In some municipalities, development charges have increased as much as 900% in less than 20 years.<sup>[20]</sup> As development charges go up, the prices of homes go up. And development charges on a modest semi-detached home are the same as on a luxury 6,000 square foot home, resulting in a disincentive to build housing that is more affordable. Timing is also a challenge as development charges have to be paid up front, before a shovel even goes into the ground.

To help relieve the pressure, the Ontario government passed recent legislation allowing builders to determine development charges earlier in the building process. But they must pay interest on the assessed development charge to the municipality until a building permit is issued, and there is no cap on the rate, which in one major city is 13% annually.

Cash payments to satisfy parkland dedication also significantly boost the costs of higher-density projects, adding on average \$17,000 to the cost of a high-rise condo across the GTA.<sup>[21]</sup> We heard concerns not just about the amount of cash collected, but also about the money not being spent in the neighbourhood or possibly not being spent on parks at all. As an example, in 2019 the City of Toronto held \$644 million in parkland cash-in-lieu payments.<sup>[22]</sup> Everyone can agree that we need to invest in parks as our communities grow, but if the funds are not being spent, perhaps it means that more money is being collected for parklands than is needed and we could lower the cost of housing if we adjusted these parkland fees.

## Modernizing HST Thresholds

Harmonized sales tax (HST) applies to all new housing – including purpose-built rental. Today, the federal component is 5% and provincial component is 8%. The federal and provincial government provide a partial HST rebate. Two decades ago, the maximum home price eligible for a rebate was set at \$450,000 federally and \$400,000 provincially, resulting in a maximum rebate of \$6,300 federally and \$24,000 provincially, less than half of today’s average home price. Buyers of new homes above this ceiling face a significant clawback. Indexing the rebate would immediately reduce the cost of building new homes, savings that can be passed on to Ontarians. When both levels of government agree that we are facing a housing crisis, they should not be adding over 10% to the cost of almost all new homes.

- 32.** Waive development charges and parkland cash-in-lieu and charge only modest connection fees for all infill residential projects up to 10 units or for any development where no new material infrastructure will be required.
- 33.** Waive development charges on all forms of affordable housing guaranteed to be affordable for 40 years.
- 34.** Prohibit interest rates on development charges higher than a municipality’s borrowing rate.
- 35.** Regarding cash in lieu of parkland, s.37, Community Benefit Charges, and development charges:
  - a) Provincial review of reserve levels, collections and drawdowns annually to ensure funds are being used in a timely fashion and for the intended purpose, and, where review points to a significant concern, do not allow further collection until the situation has been corrected.
  - b) Except where allocated towards municipality-wide infrastructure projects, require municipalities to spend funds in the neighbourhoods where they were collected. However, where there’s a significant community need in a priority area of the City, allow for specific ward-to-ward allocation of unspent and unallocated reserves.
- 36.** Recommend that the federal government and provincial governments update HST rebate to reflect current home prices and begin indexing the thresholds to housing prices, and that the federal government match the provincial 75% rebate and remove any clawback.

Government charges on a new single-detached home averaged roughly \$186,300, or almost 22% of the price, across six municipalities in southcentral Ontario. For a new condominium apartment, the average was almost \$123,000, or roughly 24% of a unit’s price.

## Make it easier to build rental

In cities and towns across Ontario, it is increasingly hard to find a vacant rental unit, let alone a vacant rental unit at an affordable price. Today, 66% of all purpose-built rental units in the City of Toronto were built between 1960 and 1979. Less than 15% of Toronto’s purpose-built rentals were constructed over the ensuing 40 years in spite of the significant population growth during that time. In fact, between 2006 and 2016, growth in condo apartments increased by 186% while purpose-built rental only grew by 0.6%.<sup>[22]</sup> In 2018, the Ontario government introduced positive changes that have created growth in purpose-built rental units – with last year seeing 18,000 units under construction and 93,000 proposed against a 5-year average prior to 2020 of 3,400 annually.<sup>[23]</sup>

Long-term renters often now feel trapped in apartments that don’t make sense for them as their needs change. And because they can’t or don’t want to move up the housing ladder, many of the people coming up behind them who would gladly take those apartments are instead living in crowded spaces with family members or roommates. Others feel forced to commit to rental units at prices way beyond what they can afford. Others are trying their luck in getting on the wait list for an affordable unit or housing co-op – wait lists that are years long. Others are leaving Ontario altogether.

# 66%

of all purpose-built rental units  
in the City of Toronto were  
built between **1960** and **1979**.



A pattern in every community, and particularly large cities, is that the apartments and rented rooms that we do have are disappearing. Apartment buildings are being converted to condos or upgraded to much more expensive rental units. Duplexes get purchased and turned into larger single-family homes.

A major challenge in bridging the gap of rental supply is that, more often than not, purpose-built rental projects don't make economic sense for builders and investors. Ironically, there is no shortage of Canadian investor capital seeking housing investments, particularly large pension funds – but the economics of investing in purpose-built rental in Ontario just don't make sense. So, investments get made in apartment projects in other provinces or countries, or in condo projects that have a better and safer return-on-investment. What can governments do to get that investor capital pointed in the right direction so we can create jobs and get more of the housing we need built?

Some of our earlier recommendations will help, particularly indexing the HST rebate. So will actions by government to require purpose-built rental on surplus government land that is made available for sale. ([Appendix C](#))

Municipal property taxes on purpose-built rental can be as much as 2.5 times greater than property taxes for condominium or other ownership housing.<sup>[24]</sup>

The Task Force recommends:

**37. Align property taxes for purpose-built rental with those of condos and low-rise homes.**

## Make homeownership possible for hardworking Ontarians who want it

Home ownership has always been part of the Canadian dream. You don't have to look far back to find a time when the housing landscape was very different. The norm was for young people to rent an apartment in their twenties, work hard and save for a down payment, then buy their first home in their late twenties or early thirties. It was the same for many new Canadians: arrive, rent, work hard and buy. The house might be modest, but it brought a sense of ownership, stability and security. And after that first step onto the ownership ladder, there was always the possibility of selling and moving up. Home ownership felt like a real possibility for anyone who wanted it.

That's not how it works now. Too many young people who would like their own place are living with one or both parents well into adulthood.

The escalation of housing prices over the last decade has put the dream of homeownership out of reach of a growing number of aspiring first-time home buyers. While 73% of Canadians are homeowners, that drops to 48% for Black people, 47% for LGBTQ people<sup>[5]</sup> (StatsCan is studying rates for other populations, including Indigenous People who are severely underhoused). This is also an issue for younger adults: a 2021 study showed only 24% of Torontonians aged 30 to 39 are homeowners.<sup>[25]</sup>

In Canada, responsibility for Indigenous housing programs has historically been a shared between the federal and provincial governments. The federal government works closely with its provincial and territorial counterparts to improve access to housing for Indigenous peoples both on and off reserve. More than 85% of Indigenous people live in urban and rural areas, are 11 times more likely to experience homelessness and have incidence of housing need that is 52% greater than all Canadians. The Murdered and Missing Indigenous Women and Girls report mentions housing 299 times – the lack of which being a significant, contributing cause to violence and the provision of which as a significant, contributing solution. The Province of Ontario has made significant investments in Urban Indigenous Housing, but we need the Federal Government to re-engage as an active partner.

While measures to address supply will have an impact on housing prices, many aspiring homeowners will continue to face a gap that is simply too great to bridge through traditional methods.

The Task Force recognizes the need for caution about measures that would spur demand for housing before the supply bottleneck is fixed. At the same time, a growing number of organizations – both non-profit and for-profit are proposing a range of unique home equity models. Some of these organizations are aiming at households who have sufficient income to pay the mortgage but lack a sufficient down payment. Others are aiming at households who fall short in both income and down payment requirements for current market housing.

The Task Force heard about a range of models to help aspiring first-time home buyers, including:

- Shared equity models with a government, non-profit or for-profit lender holding a second “shared equity mortgage” payable at time of sale of the home
- Land lease models that allow residents to own their home but lease the land, reducing costs
- Rent-to-own approaches in which a portion of an occupant’s rent is used to build equity, which can be used as a down payment on their current unit or another market unit in the future
- Models where the equity gain is shared between the homeowner and the non-profit provider, such that the non-profit will always be able to buy the home back and sell it to another qualified buyer, thus retaining the home’s affordability from one homeowner to the next.

Proponents of these models identified barriers that thwart progress in implementing new solutions.

- The Planning Act limits land leases to a maximum of 21 years. This provision prevents home buyers from accessing the same type of mortgages from a bank or credit union that are available to them when they buy through traditional homeownership.
- The Perpetuities Act has a similar 21-year limit on any options placed on land. This limits innovative non-profit models from using equity formulas for re-sale and repurchase of homes.
- Land Transfer Tax (LTT) is charged each time a home is sold and is collected by the province; and in Toronto, this tax is also collected by the City. This creates a double-tax in rent-to-own/equity building models where LTT ends up being paid first by the home equity organization and then by the occupant when they are able to buy the unit.
- HST is charged based on the market value of the home. In shared equity models where the homeowner neither owns nor gains from the shared equity portion of their home, HST on the shared equity portion of the home simply reduces affordability.
- Residential mortgages are highly regulated by the federal government and reflective of traditional homeownership. Modifications in regulations may be required to adapt to new co-ownership and other models.

The Task Force encourages the Ontario government to devote further attention to avenues to support new homeownership options. As a starting point, the Task Force offers the following recommendations:

- 38.** Amend the Planning Act and Perpetuities Act to extend the maximum period for land leases and restrictive covenants on land to 40 or more years.
- 39.** Eliminate or reduce tax disincentives to housing growth.
- 40.** Call on the Federal Government to implement an Urban, Rural and Northern Indigenous Housing Strategy.
- 41.** Funding for pilot projects that create innovative pathways to homeownership, for Black, Indigenous, and marginalized people and first-generation homeowners.
- 42.** Provide provincial and federal loan guarantees for purpose-built rental, affordable rental and affordable ownership projects.

# Support and incentivize scaling up housing supply

Our goal of building 1.5 million homes in ten years means doubling how many homes Ontario creates each year. As much as the Task Force’s recommendations will remove barriers to realizing this ambitious goal, we also need to ensure we have the capacity across Ontario’s communities to deliver this new housing supply. This includes capacity of our housing infrastructure, capacity within our municipal planning teams, and boots on the ground with the skills to build new homes.

There is much to be done and the price of failure for the people of Ontario is high. This is why the provincial government must make an unwavering commitment to keeping the spotlight on housing supply. This is also why the province must be dogged in its determination to galvanize and align efforts and incentives across all levels of government so that working together, we all can get the job done.

Our final set of recommendations turns to these issues of capacity to deliver, and the role the provincial government can play in putting the incentives and alignment in place to achieve the 1.5 million home goal.

## Invest in municipal infrastructure

### Housing can’t get built without water, sewage, and other infrastructure

When the Task Force met with municipal leaders, they emphasized how much future housing supply relies on having the water, storm water and wastewater systems, roads, sidewalks, fire stations, and all the other parts of community infrastructure to support new homes and new residents.

Infrastructure is essential where housing is being built for the first time. And, it can be a factor in intensification when added density exceeds the capacity of existing infrastructure, one of the reasons we urge new infrastructure in new developments to be designed for future capacity. In Ontario, there are multiple municipalities where the number one barrier to approving new housing projects is a lack of infrastructure to support them.

Municipalities face a myriad of challenges in getting this infrastructure in place. Often, infrastructure investments are required long before new projects are approved and funding must be secured. Notwithstanding the burden development charges place on the price of new housing, most municipalities report that development charges are still not enough to fully cover the costs of building new infrastructure and retrofitting existing infrastructure in neighbourhoods that are intensifying. Often infrastructure crosses municipal boundaries creating complicated and time-consuming “who pays?” questions. Municipal leaders also shared their frustrations with situations where new housing projects are approved and water, sewage and other infrastructure capacity is allocated to the project – only to have the developer land bank the project and put off building. Environmental considerations with new infrastructure add further cost and complexity. The Task Force recommends:

- 43. Enable municipalities, subject to adverse external economic events, to withdraw infrastructure allocations from any permitted projects where construction has not been initiated within three years of build permits being issued.**
- 44. Work with municipalities to develop and implement a municipal services corporation utility model for water and wastewater under which the municipal corporation would borrow and amortize costs among customers instead of using development charges.**



## Create the Labour Force to meet the housing supply need

### The labour force is shrinking in many segments of the market

You can't start to build housing without infrastructure. You can't build it without people – skilled trades people in every community who can build the homes we need.

The concern that we are already facing a shortage in skilled trades came through loud and clear in our consultations. We heard from many sources that our education system funnels young people to university rather than colleges or apprenticeships and creates the perception that careers in the skilled trades are of less value. Unions and builders are working to fill the pipeline domestically and recruit internationally, but mass retirements are making it challenging to maintain the workforce at its current level, let alone increase it.

Increased economic immigration could ease this bottleneck, but it appears difficult for a skilled labourer with no Canadian work experience to qualify under Ontario's rules. Moreover, Canada's immigration policies also favour university education over skills our economy and society desperately need. We ought to be welcoming immigrants with the skills needed to build roads and houses that will accommodate our growing population.

The shortage may be less acute, however, among smaller developers and contractors that could renovate and build new "missing middle" homes arising from the changes in neighbourhood zoning described earlier. These smaller companies tap into a different workforce from the one needed to build high rises and new subdivisions. Nonetheless, 1.5 million more homes will require a major investment in attracting and developing the skilled trades workforce to deliver this critically needed housing supply. We recommend:

45. Improve funding for colleges, trade schools, and apprenticeships; encourage and incentivize municipalities, unions and employers to provide more on-the-job training.
46. Undertake multi-stakeholder education program to promote skilled trades.
47. Recommend that the federal and provincial government prioritize skilled trades and adjust the immigration points system to strongly favour needed trades and expedite immigration status for these workers, and encourage the federal government to increase from 9,000 to 20,000 the number of immigrants admitted through Ontario's program.

## Create a large Ontario Housing Delivery Fund to align efforts and incent new housing supply

### Build alignment between governments to enable builders to deliver more homes than ever before

All levels of government play a role in housing.

The federal government sets immigration policy, which has a major impact on population growth and many tax policies. The province sets the framework for planning, approvals, and growth that municipalities rely upon, and is responsible for many other areas that touch on housing supply, like investing in highways and transit, training workers, the building code and protecting the environment. Municipalities are on the front lines, expected to translate the impacts of federal immigration policy, provincial guidance and other factors, some very localized, into official plans and the overall process through which homes are approved to be built.

The efficiency with which home builders can build, whether for-profit or non-profit, is influenced by policies and decisions at every level of government. In turn, how many home developers can deliver, and at what cost, translates directly into the availability of homes that Ontarians can afford.

Collectively, governments have not been sufficiently aligned in their efforts to provide the frameworks and incentives that meet the broad spectrum of housing needs in Ontario. Much action, though, has been taken in recent years.

- The Ontario government has taken several steps to make it easier to build additional suites in your own home: reduced disincentives to building rental housing, improved the appeal process, focused on density around transit stations, made upfront development charges more predictable, and provided options for municipalities to create community benefits through development.
- The federal government has launched the National Housing Strategy and committed over \$70 billion in funding.<sup>[26]</sup> Most recently, it has announced a \$4 billion Housing Accelerator Fund aimed at helping municipalities remove barriers to building housing more quickly.<sup>[27]</sup>
- Municipalities have been looking at ways to change outdated processes, rules, and ways of thinking that create delays and increases costs of delivering homes. Several municipalities have taken initial steps towards eliminating exclusionary zoning and addressing other barriers described in this report.

All governments agree that we are facing a housing crisis. Now we must turn the sense of urgency into action and alignment across governments.

### **Mirror policy changes with financial incentives aligned across governments**

The policy recommendations in this report will go a long way to align efforts and position builders to deliver more homes.

Having the capacity in our communities to build these homes will take more than policy. It will take money. Rewarding municipalities that meet housing growth and approval timelines will help them to invest in system upgrades, hire additional staff, and invest in their communities. Similarly, municipalities that resist new housing, succumb to NIMBY pressure, and close off their neighbourhoods should see funding reductions. Fixing the housing crisis is a societal responsibility, and our limited tax dollars should be directed to those municipalities making the difficult but necessary choices to grow housing supply.

In late January 2022, the provincial government announced \$45 million for a new *Streamline Development Approval Fund* to “unlock housing supply by cutting red tape and improving processes for residential and industrial developments”.<sup>[28]</sup> This is encouraging. More is needed.

Ontario should also receive its fair share of federal funding but today faces a shortfall of almost \$500 million,<sup>[29]</sup> despite two thirds of the Canadian housing shortage being in Ontario. We call on the federal government to address this funding gap.

- 48.** The Ontario government should establish a large “Ontario Housing Delivery Fund” and encourage the federal government to match funding. This fund should reward:
- a) Annual housing growth that meets or exceeds provincial targets
  - b) Reductions in total approval times for new housing
  - c) The speedy removal of exclusionary zoning practices
- 49.** Reductions in funding to municipalities that fail to meet provincial housing growth and approval timeline targets.

We believe that the province should consider partial grants to subsidize municipalities that waive development charges for affordable housing and for purpose-built rental.

## **Sustain focus, measure, monitor, improve**

### **Digitize and modernize the approvals and planning process**

Some large municipalities have moved to electronic tracking of development applications and/or electronic building permits (“e-permits”) and report promising results, but there is no consistency and many smaller places don’t have the capacity to make the change.

Municipalities, the provincial government and agencies use different systems to collect data and information relevant to housing approvals, which slows down processes and leaves much of the “big picture” blank. This could be addressed by ensuring uniform data architecture standards.

### **Improve the quality of our housing data to inform decision making**

Having accurate data is key to understanding any challenge and making the best decisions in response. The Task Force heard from multiple housing experts that we are not always using the best data, and we do not always have the data we need.

Having good population forecasts is essential in each municipality as they develop plans to meet future land and housing needs. Yet, we heard many concerns about inconsistent approaches to population forecasts. In the Greater Golden Horseshoe, the forecast provided to municipalities by the province is updated only when the Growth Plan is updated, generally every seven years; but federal immigration policy, which is a key driver of growth, changes much more frequently. The provincial Ministry of Finance produces a population forecast on a more regular basis than the Growth Plan, but these are not used consistently across municipalities or even by other provincial ministries.

Population forecasts get translated into housing need in different ways across the province, and there is a lack of data about how (or whether) the need will be met. Others pointed to the inconsistent availability of land inventories. Another challenge is the lack of information on how much land is permitted and how much housing is actually getting built once permitted, and how fast. The Task Force also heard that, although the Provincial Policy Statement requires municipalities to maintain a three-year supply of short-term (build-ready) land and report it each year to the province, many municipalities are not meeting that requirement.<sup>[30]</sup>

At a provincial and municipal level, we need better data on the housing we have today, housing needed to close the gap, consistent projections of what we need in the future, and data on how we are doing at keeping up. Improved data will help anticipate local and provincial supply bottlenecks and constraints, making it easier to determine the appropriate level and degree of response.

It will also be important to have better data to assess how much new housing stock is becoming available to groups that have been disproportionately excluded from home ownership and rental housing.

### **Put eyes on the crisis and change the conversation around housing**

Ours is not the first attempt to “fix the housing system”. There have been efforts for years to tackle increasing housing prices and find solutions so everyone in Ontario can find and afford the housing they need. This time must be different.

The recommendations in this report must receive sustained attention, results must be monitored, significant financial investment by all levels of government must be made. And, the people of Ontario must embrace a housing landscape in which the housing needs of tomorrow’s citizens and those who have been left behind are given equal weight to the housing advantages of those who are already well established in homes that they own.

- 50.** Fund the adoption of consistent municipal e-permitting systems and encourage the federal government to match funding. Fund the development of common data architecture standards across municipalities and provincial agencies and require municipalities to provide their zoning bylaws with open data standards. Set an implementation goal of 2025 and make funding conditional on established targets.
- 51.** Require municipalities and the provincial government to use the Ministry of Finance population projections as the basis for housing need analysis and related land use requirements.
- 52.** Resume reporting on housing data and require consistent municipal reporting, enforcing compliance as a requirement for accessing programs under the Ontario Housing Delivery Fund.
- 53.** Report each year at the municipal and provincial level on any gap between demand and supply by housing type and location, and make underlying data freely available to the public.
- 54.** Empower the Deputy Minister of Municipal Affairs and Housing to lead an all-of-government committee, including key provincial ministries and agencies, that meets weekly to ensure our remaining recommendations and any other productive ideas are implemented.
- 55.** Commit to evaluate these recommendations for the next three years with public reporting on progress.

# Conclusion

We have set a bold goal for Ontario: building 1.5 million homes in the next 10 years.

We believe this can be done. What struck us was that everyone we talked to – builders, housing advocates, elected officials, planners – understands the need to act now. As one long-time industry participant said, “for the first time in memory, everyone is aligned, and we need to take advantage of that.”

Such unity of purpose is rare, but powerful.

To leverage that power, we offer solutions that are bold but workable, backed by evidence, and that position Ontario for the future.

Our recommendations focus on ramping up the supply of housing. Measures are already in place to try to cool demand, but they will not fill Ontario’s housing need. More supply is key. Building more homes will reduce the competition for our scarce supply of homes and will give Ontarians more housing choices. It will improve housing affordability across the board.

Everyone wants more Ontarians to have housing. So let’s get to work to build more housing in Ontario.

## APPENDIX A:

# Biographies of Task Force Members

**Lalit Aggarwal** is President of Manor Park Holdings, a real estate development and operating company active in Eastern Ontario. Previously, Lalit was an investor for institutional fund management firms, such as H.I.G. European Capital Partners, Soros Fund Management, and Goldman Sachs. He is a past fellow of the C.D. Howe Institute and a former Director of both Bridgepoint Health and the Centre for the Commercialization of Regenerative Medicine. Lalit holds degrees from the University of Oxford and the University of Pennsylvania. He is also a current Director of the Hospital for Sick Children Foundation, the Sterling Hall School and the Chair of the Alcohol & Gaming Commission of Ontario.

**David Amborski** is a professional Urban Planner, Professor at Ryerson University's School of Urban and Regional Planning and the founding Director of the Centre for Urban Research and Land Development (CUR). His research and consulting work explore topics where urban planning interfaces with economics, including land and housing markets. He is an academic advisor to the National Executive Forum on Public Property, and he is a member of Lambda Alpha (Honorary Land Economics Society). He has undertaken consulting for the Federal, Provincial and a range of municipal governments. Internationally, he has undertaken work for the Canadian International Development Agency (CIDA), the World Bank, the Inter-American Development Bank, the Lincoln Institute of Land Policy, and several other organizations in Eastern Europe, Latin America, South Africa, and Asia. He also serves on the editorial boards of several international academic journals.

**Andrew Garrett** is a real estate executive responsible for growing IMCO's \$11+ Billion Global Real Estate portfolio to secure public pensions and insurance for Ontario families. IMCO is the only Ontario fund manager purpose built to onboard public clients such as pensions, insurance, municipal reserve funds, and endowments. Andrew has significant non-profit sector experience founding a B Corp certified social enterprise called WeBuild to help incubate social purpose real estate projects. He currently volunteers on non-profit boards supporting social purpose real estate projects, youth programs and the visual arts at Art Gallery

of Ontario. Andrew sits on board advisory committees for private equity firms and holds a Global Executive MBA from Kellogg School Management and a Real Estate Development Certification from MIT Centre for Real Estate.

**Tim Hudak** is the CEO of the Ontario Real Estate Association (OREA). With a passion and voice for championing the dream of home ownership, Tim came to OREA following a distinguished 21-year career in politics, including five years as Leader of the Progressive Conservative Party of Ontario.

In his role, Tim has focused on transforming OREA into Ontario's most cutting-edge professional association at the forefront of advocacy on behalf of REALTORS® and consumers, and providing world-class conferences, standard forms, leadership training and professional guidance to its Members. As part of his work at OREA, Tim was named one of the most powerful people in North American residential real estate by Swanepoel Power 200 for the last five years. Tim is married to Deb Hutton, and together they have two daughters, Miller and Maitland. In his spare time, Tim enjoys trails less taken on his mountain bike or hiking shoes as well as grilling outdoors.

**Jake Lawrence** was appointed Chief Executive Officer and Group Head, Global Banking and Markets in January 2021. In this role, Jake is responsible for the Bank's Global Banking and Markets business line and strategy across its global footprint. Jake joined Scotiabank in 2002 and has held progressively senior roles in Finance, Group Treasury and Global Banking and Markets. From December 2018 to January 2021, Jake was Co-Group Head of Global Banking and Markets with specific responsibility for its Capital Markets businesses, focused on building alignment across product groups and priority markets to best serve our clients throughout our global footprint. Previously, Jake was Executive Vice President and Head of Global Banking and Markets in the U.S., providing overall strategic direction and execution of Scotiabank's U.S. businesses. Prior to moving into GBM, Jake served as Senior Vice President and Deputy Treasurer, responsible for Scotiabank's wholesale funding activities and liquidity management as well as Senior Vice President, Investor Relations.

**Julie Di Lorenzo** (GPLLM, University of Toronto 2020), is self-employed since 1982, operates one of the largest female-run Real Estate Development Companies in North America. She was instrumental in the Daniel Burnham award-winning Ontario Growth Management Plan (2004) as President of BILD. Julie served as the first female-owner President of GTHBA (BILD) and on the boards of the Ontario Science Centre, Harbourfront Toronto, Tarion (ONHWP), St. Michael's Hospital, NEXT36, Waterfront Toronto, Chair of IREC Committee WT, Havergal College (Co-Chair of Facilities), York School (interim Vice-Chair), and Canadian Civil Liberties Association Board. Julie has served various governments in advisory capacity on Women's issues, Economic Development, Innovation and Entrepreneurship. Awards include Lifetime Achievement BILD 2017, ICCO Business Excellence 2005 & ICCO Businesswoman of the Year 2021.

**Justin Marchand** (CIHCM, CPA, CMA, BComm) is Métis and was appointed Chief Executive Officer of Ontario Aboriginal Housing Services (OAHS) in 2018. Justin has over 20 years of progressive experience in a broad range of sectors, including two publicly listed corporations, a large accounting and consulting firm, and a major crown corporation, and holds numerous designations across financial, operations, and housing disciplines. He was most recently selected as Chair of the Canadian Housing and Renewal Association's (CHRA's) Indigenous Caucus Working Group and is also board member for CHRA. Justin is also an active board member for both the Coalition of Hamilton Indigenous Leadership (CHIL) as well as Shingwauk Kinoomaage Gamig, located in Bawaating. Justin believes that Housing is a fundamental human right and that when Indigenous people have access to safe, affordable, and culture-based Housing this provides the opportunity to improve other areas of their lives.

**Ene Underwood** is CEO of Habitat for Humanity Greater Toronto Area), a non-profit housing developer that helps working, lower income families build strength, stability and self-reliance through affordable homeownership. Homes are delivered through a combination of volunteer builds, contractor builds, and partnerships with non-profit and for-profit developers. Ene's career began in the private sector as a strategy consultant with McKinsey & Company before transitioning to not-for-profit sector leadership. Ene holds a Bachelor of Arts (Honours) from the University of Waterloo and a Master of Business Administration from Ivey Business School.

**Dave Wilkes** is the President and CEO of the Building Industry and Land Development Association of the GTA (BILD). The Association has 1,300 members and proudly represents builders, developers, professional renovators and those who support the industry.

Dave is committed to supporting volunteer boards and organizations. He has previously served on the George Brown College Board of Directors, Ontario Curling Association, and is currently engaged with Black North Initiative (Housing Committee) and R-Labs I+T Council.

Dave received his Bachelor of Arts (Applied Geography) from Ryerson.

## APPENDIX B:

# Affordable Housing

Ontario's affordable housing shortfall was raised in almost every conversation. With rapidly rising prices, more lower-priced market rental units are being converted into housing far out of reach of lower-income households. In parallel, higher costs to deliver housing and limited government funding have resulted in a net decrease in the number of affordable housing units run by non-profits. The result is untenable: more people need affordable housing after being displaced from the market at the very time that affordable supply is shrinking.

Throughout our consultations, we were reminded of the housing inequities experienced by Black, Indigenous and marginalized people. We also received submissions describing the unique challenges faced by off-reserve Indigenous Peoples both in the province's urban centres and in the north.

While many of the changes that will help deliver market housing will also help make it easier to deliver affordable housing, affordable housing is a societal responsibility. We cannot rely exclusively on for-profit developers nor on increases in the supply of market housing to fully solve the problem.

The non-profit housing sector faces all the same barriers, fees, risks and complexities outlined in this report as for-profit builders. Several participants from the non-profit sector referred to current or future partnerships with for-profit developers that tap into the development and construction expertise and efficiencies of the private sector. Successful examples of leveraging such partnerships were cited with Indigenous housing, supportive housing, and affordable homeownership.

We were also reminded by program participants that, while partnerships with for-profit developers can be very impactful, non-profit providers have unique competencies in the actual delivery of affordable housing. This includes confirming eligibility of affordable housing applicants, supporting independence of occupants of affordable housing, and ensuring affordable housing units remain affordable from one occupant to the next.

One avenue for delivering more affordable housing that has received much recent attention is inclusionary zoning. In simple terms, inclusionary zoning (IZ) requires developers to deliver a share of affordable units in new

housing developments in prescribed areas. The previous Ontario government passed legislation in April 2018 providing a framework within which municipalities could enact Inclusionary Zoning bylaws.

Ontario's first inclusionary zoning policy was introduced in fall 2021 by the City of Toronto and applies to major transit station areas. Internationally, inclusionary zoning has been used successfully to incentivize developers to create new affordable housing by providing density bonuses (more units than they would normally be allowed, if some are affordable) or reductions in government fees. Unfortunately, the City's approach did not include any incentives or bonuses. Instead, Toronto requires market-rate fees and charges for below-market affordable units. This absence of incentives together with lack of clarity on the overall density that will be approved for projects has led developers and some housing advocates to claim that these projects may be uneconomic and thus will not get financed or built. Municipalities shared with us their concerns regarding the restriction in the provincial IZ legislation that prohibits "cash in lieu" payments. Municipalities advised that having the option of accepting the equivalent value of IZ units in cash from the developer would enable even greater impact in some circumstances (for example, a luxury building in an expensive neighbourhood, where the cost of living is too high for a low-income resident).

Funding for affordable housing is the responsibility of all levels of government. The federal government has committed to large funding transfers to the provinces to support affordable housing. The Task Force heard, however, that Ontario's share of this funding does not reflect our proportionate affordable housing needs. This, in turn, creates further financial pressure on both the province and municipalities, which further exacerbates the affordable housing shortages in Ontario's communities.

Finally, many participants in Task Force consultations pointed to surplus government lands as an avenue for building more affordable housing and this is discussed in [Appendix C](#).

We have made recommendations throughout the report intended to have a positive impact on new affordable housing supply. We offer these additional recommendations specific to affordable housing:

- Call upon the federal government to provide equitable affordable housing funding to Ontario.
  - Develop and legislate a clear, province-wide definition of “affordable housing” to create certainty and predictability.
  - Create an Affordable Housing Trust from a portion of Land Transfer Tax Revenue (i.e., the windfall resulting from property price appreciation) to be used in partnership with developers, non-profits, and municipalities in the creation of more affordable housing units. This Trust should create incentives for projects serving and brought forward by Black- and Indigenous-led developers and marginalized groups.
- Amend legislation to:
    - Allow cash-in-lieu payments for Inclusive Zoning units at the discretion of the municipality.
    - Require that municipalities utilize density bonusing or other incentives in all Inclusionary Zoning and Affordable Housing policies that apply to market housing.
    - Permit municipalities that have not passed Inclusionary Zoning policies to offer incentives and bonuses for affordable housing units.
  - Encourage government to closely monitor the effectiveness of Inclusionary Zoning policy in creating new affordable housing and to explore alternative funding methods that are predictable, consistent and transparent as a more viable alternative option to Inclusionary Zoning policies in the provision of affordable housing.
  - Rebate MPAC market rate property tax assessment on below-market affordable homes.



## APPENDIX C:

# Government Surplus Land

Surplus government lands fell outside the mandate of the Task Force. However, this question came up repeatedly as a solution to housing supply. While we take no view on the disposition of specific parcels of land, several stakeholders raised issues that we believe merit consideration:

- Review surplus lands and accelerate the sale and development through RFP of surplus government land and surrounding land by provincially pre-zoning for density, affordable housing, and mixed or residential use.
- All future government land sales, whether commercial or residential, should have an affordable housing component of at least 20%.
- Purposefully upzone underdeveloped or underutilized Crown property (e.g., LCBO).
- Sell Crown land and reoccupy as a tenant in a higher density building or relocate services outside of major population centres where land is considerably less expensive.
- The policy priority of adding to the housing supply, including affordable units, should be reflected in the way surplus land is offered for sale, allowing bidders to structure their proposals accordingly.

## APPENDIX D: Surety Bonds

### Moving to surety bonds would free up billions of dollars for building

When a development proposal goes ahead, the developer typically needs to make site improvements, such as installing common services. The development agreement details how the developer must perform to the municipality's satisfaction.

Up until the 1980s, it was common practice for Ontario municipalities to accept bonds as financial security for subdivision agreements and site plans. Today, however, they almost exclusively require letters of credit from a chartered bank. The problem with letters of credit is that developers are often required to collateralize the letter of credit dollar-for-dollar against the value of the municipal works they are performing.

Often this means developers can only afford to finance one or two housing projects at a time, constraining housing supply. The Ontario Home Builders' Association estimates that across Ontario, billions of dollars are tied up in collateral or borrowing capacity that could be used to advance more projects.

Modern "pay on demand surety bonds" are proven to provide the same benefits and security as a letter of credit, while not tying up private capital the way letters of credit do. Moving to this option would give municipalities across Ontario access to all the features of a letter of credit with the added benefit of professional underwriting, carried out by licensed bonding companies, ensuring that the developer is qualified to fulfill its obligations under the municipal agreement.


Most important from a municipal perspective, the financial obligation is secured. If a problem arises, the secure bond is fully payable by the bond company on demand. Surety companies, similar to banks, are regulated by Ontario's Office of the Superintendent of Financial Institutions to ensure they have sufficient funds in place to pay out bond claims.


More widespread use of this instrument could unlock billions of dollars of private sector financial liquidity that could be used to build new infrastructure and housing projects, provide for more units in each development and accelerate the delivery of housing of all types.


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**TAB 10**

- 1  One person suffers life-threatening injuries Saturday after pedestrian...

TRENDING 🔥
- 2  Essex County meeting cancelled after unruly protest

TRENDING 🔥
- 3  Hit-and-run driver who killed pedestrian receives conditional sentence

TRENDING 🔥
- 4  Planning for new hospital nears next step

TRENDING 🔥
- 5



Local News

# Huge new west-end residential/retail complex gets council committee support

Taylor Campbell

Published Apr 06, 2023 • Last updated 1 day ago • 3 minute read

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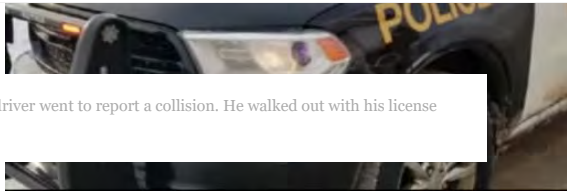
Concept design by Baird AE shows part of a proposed apartment and retail complex on Huron Church Road near Tecumseh Road West. PHOTO BY COURTESY OF BAIRD AE /Windsor Star

A large apartment complex with commercial units proposed for long-vacant Huron Church Road land was among several residential developments a committee of council greenlit this week to help Windsor move the needle on a tight local housing supply.

STORY CONTINUES BELOW

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A Canadian driver went to report a collision. He walked out with his license suspended



The development standing committee approved a rezoning application proposal by Westdell Development Corp. that includes 640 residential and eight retail units.

The plan would see four buildings — three apartment structures and the fourth a mix of apartments and retail space — on more than nine acres of greenspace between University Mall and Assumption College Catholic High School.

“There’s a housing demand and there will be for years to come, so we wanted to create a community there, a residential community,” Iyman Meddoui, president of Westdell, told the Star. “We’re excited about the development because it’s another phase in continuing the transformation of that whole Huron Church and Tecumseh quadrant.”



STORY CONTINUES BELOW

Westdell also owns more than eight acres of land kitty-corner at that intersection, where Studio 4 once was. Part of that land now houses a Giant Tiger.

Meddoui hopes to break ground on the new retail and apartment complex sometime next year.

“The four buildings will be of varying heights and varying capacities,” said Paul Weidl, principal architect at Baird AE. “We tried to break it up, step it up, so it’s not just four identical buildings. They step down (in height) towards the residential to the east.

“The central portion is one large courtyard that all the buildings actually open onto — it’s going to be very attractive, very walkable, very dense urban-type development.”

In order for the development to proceed, city council must now pass the committee-recommended zoning bylaw amendment and official plan amendment to allow for apartments on what is currently zoned for commercial use.

STORY CONTINUES BELOW



'A very attractive, very walkable, very dense urban-type development.' Concept design by Baird AE showing part of a proposed apartment and retail complex on Huron Church Road. PHOTO BY COURTESY OF BAIRD AE /Windsor Star

The committee on Wednesday also supported a zoning bylaw amendment for property in Windsor's east end to allow for 172 apartment units in a nine-storey building at the corner of Forest Glade Drive and Meadowbrook Lane.

In addition to the Huron Church and Forest Glade proposals, the committee supported zoning bylaw amendments for 44 units on Lauzaon Parkway, eight units at the corner of Westcott Road and Tecumseh Road East, and a duplex on Ellrose Avenue.

"We're making a big statement in the city of Windsor this evening. Just tonight, we've approved 866 new dwelling units. That is very significant," said Ward 10 Coun. Jim Morrison, who chairs the development committee.

Morrison reminded those present of the commitment Windsor made in February to meet a lofty goal set by the province of building 13,000 new local homes in the next decade at a rate of 1,300 per year. That's in accordance with the More Homes Built Faster Act (Bill 23) and More Homes for Everyone Act (Bill 109), the Doug Ford government's efforts to tackle Ontario's housing crisis by building 1.5 million new homes.

STORY CONTINUES BELOW



A large apartment complex is proposed for this parcel of land on Huron Church Road just north of Tecumseh Road West shown on Thursday, April 6, 2023. PHOTO BY DAN JANISSE /Windsor Star

In the first quarter of this year, Morrison said, the committee has approved rezoning, zoning bylaw amendments, and official plan amendments for more than 1,500 units.

“There are people that didn’t believe we could get to 1,300 (in a year) — so I’m really thrilled that we’re making this statement,” he said.

“It really shows developers know that Windsor is on the verge of booming. We have a lot of jobs coming to Windsor in the next couple of years.

“We are making these units available and it really is something we haven’t seen for years and years. We have basically zero vacancy in the city right now. Developers know when they build, they’re going to be occupied as soon as they’re available.”

To keep up with the demand from developers, city council on Monday approved the hiring of five more full-time employees to the city’s planning and development department as part of the 2023 budget.

STORY CONTINUES BELOW

“I know we have the right people here to get the job done. I feel really good about what is happening and what this says about the city of Windsor right now,” said Morrison.

He also noted how few delegates were present at Wednesday’s meeting. Large-scale developments regularly draw crowds of concerned residents to committee meetings, where the phrase “not in my backyard” is often repeated. But neither the Huron Church Road project nor the Forest Glade Drive project were met with neighbourhood resistance.

“That shows we’re putting units on really good pieces of property without any opposition,” Morrison said.

All five projects the committee supported Wednesday are still subject to city council approve.

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[twitter.com/wstarcampbell](https://twitter.com/wstarcampbell)





A huge multi-unit residential and commercial project is planned for a large chunk of vacant land south of the Canadian side of the Ambassador Bridge. PHOTO BY DAN JANISSE /Windsor Star



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1 One person suffers life-threatening injuries Saturday after pedestrian struck



2 Essex County meeting cancelled after unruly protest



3 Hit-and-run driver who killed pedestrian receives conditional sentence



4 Planning for new hospital nears next step

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Windsor's parks and playgrounds are poised to see an investment over the next several months of \$21 million following recent approval of the 2023 municipal budget.

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Local News



**One person suffers life-threatening injuries Saturday after pedestrian struck**

The Windsor Police Service is investigating a motor-vehicle collision involving a pedestrian at the intersection of Tecumseh Road and Kildare Road on Saturday afternoon.

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**City to consider Roseland clubhouse rebuild – without curling**

The future of curling at Roseland remains uncertain with city council awaiting options for the aging South Windsor clubhouse and its oversized parking lot.

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Local News



**Windsor fraud suspect wanted in connection with another case of the 'grandparent scam'**

A woman previously arrested in relation to multiple incidents of the 'grandparent scam' in Essex County is now wanted by Windsor police in connection with another case of the scam – in Amherstburg.

4 days, 21 hours ago  
Local News



St. Clair College on its main campus on Thursday morning will conduct the second of three emergency communication exercises that feature an active attacker for students and staff at the South Windsor campus.

3 days, 20 hours ago  
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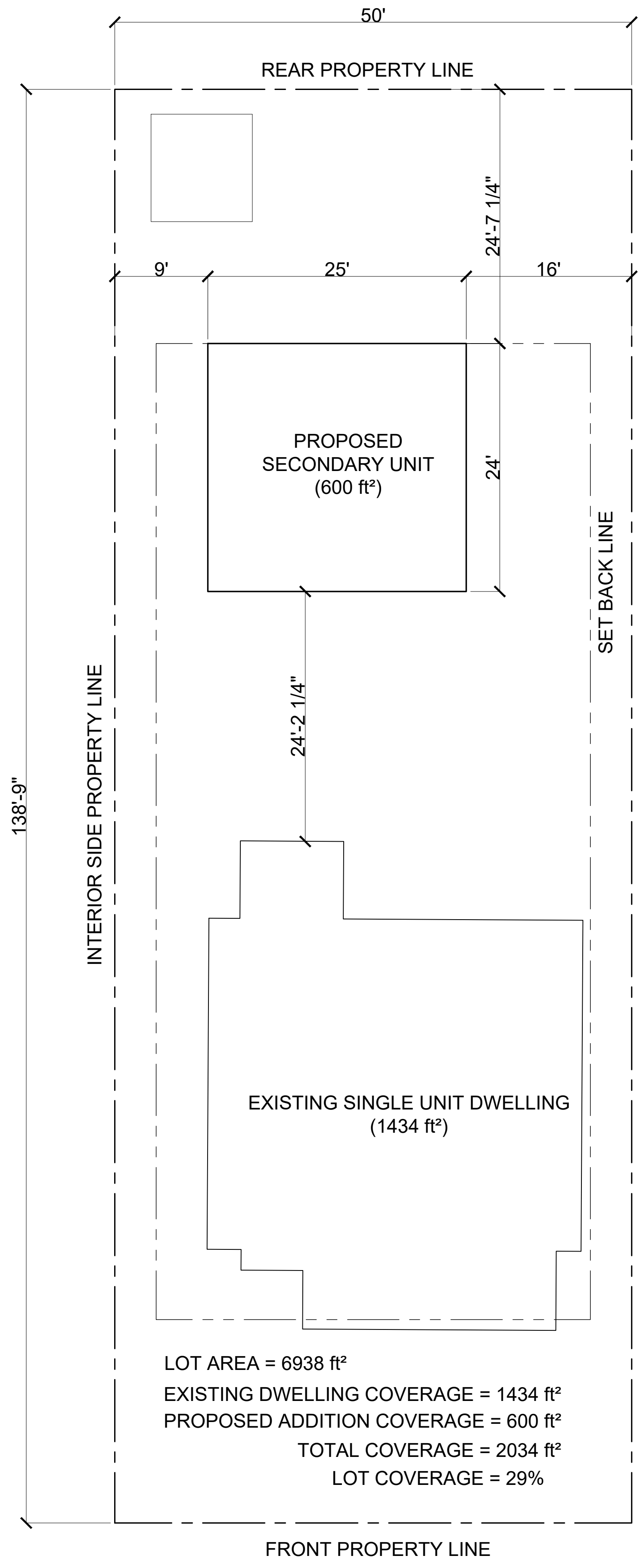


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**TAB 11**

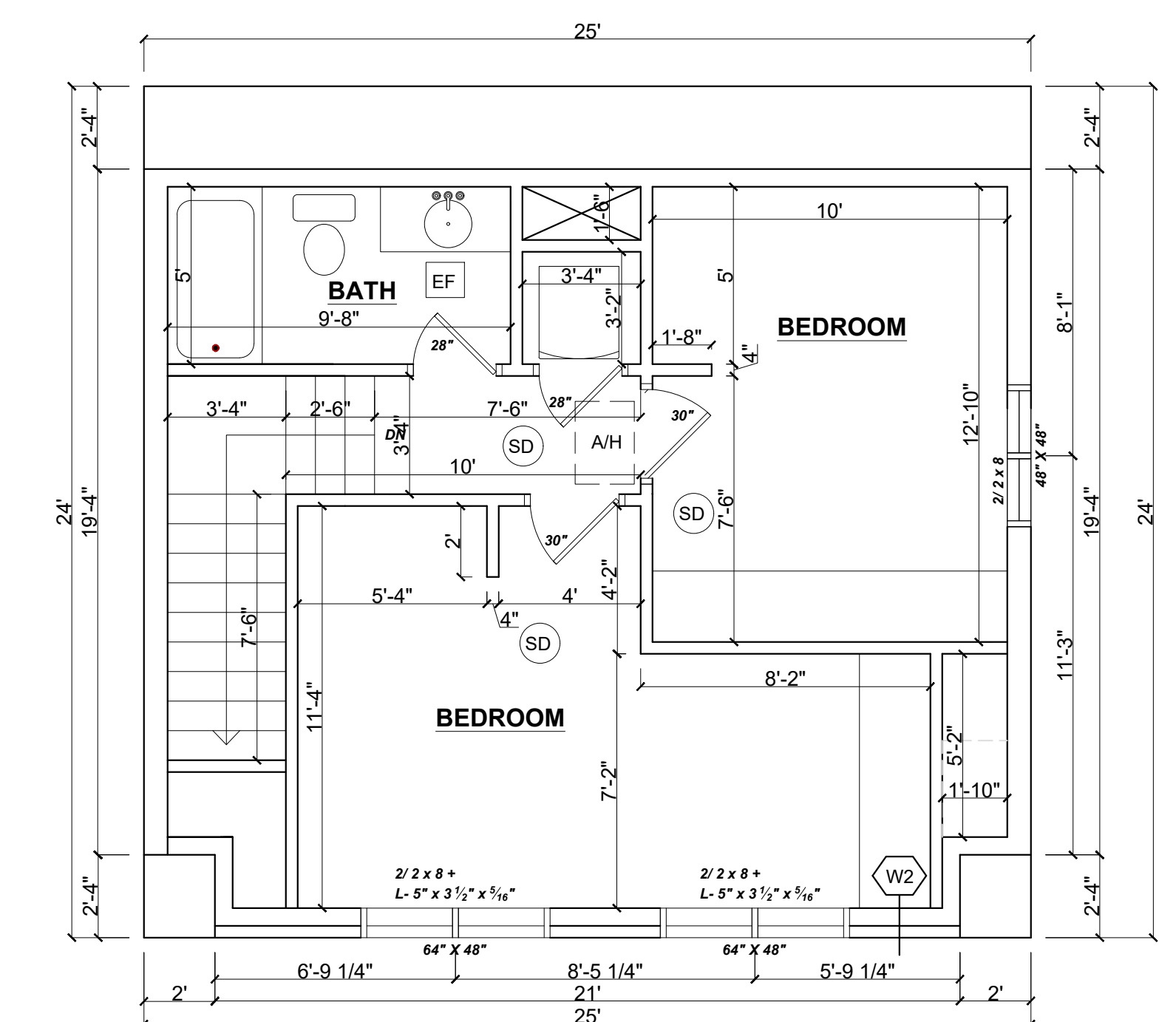
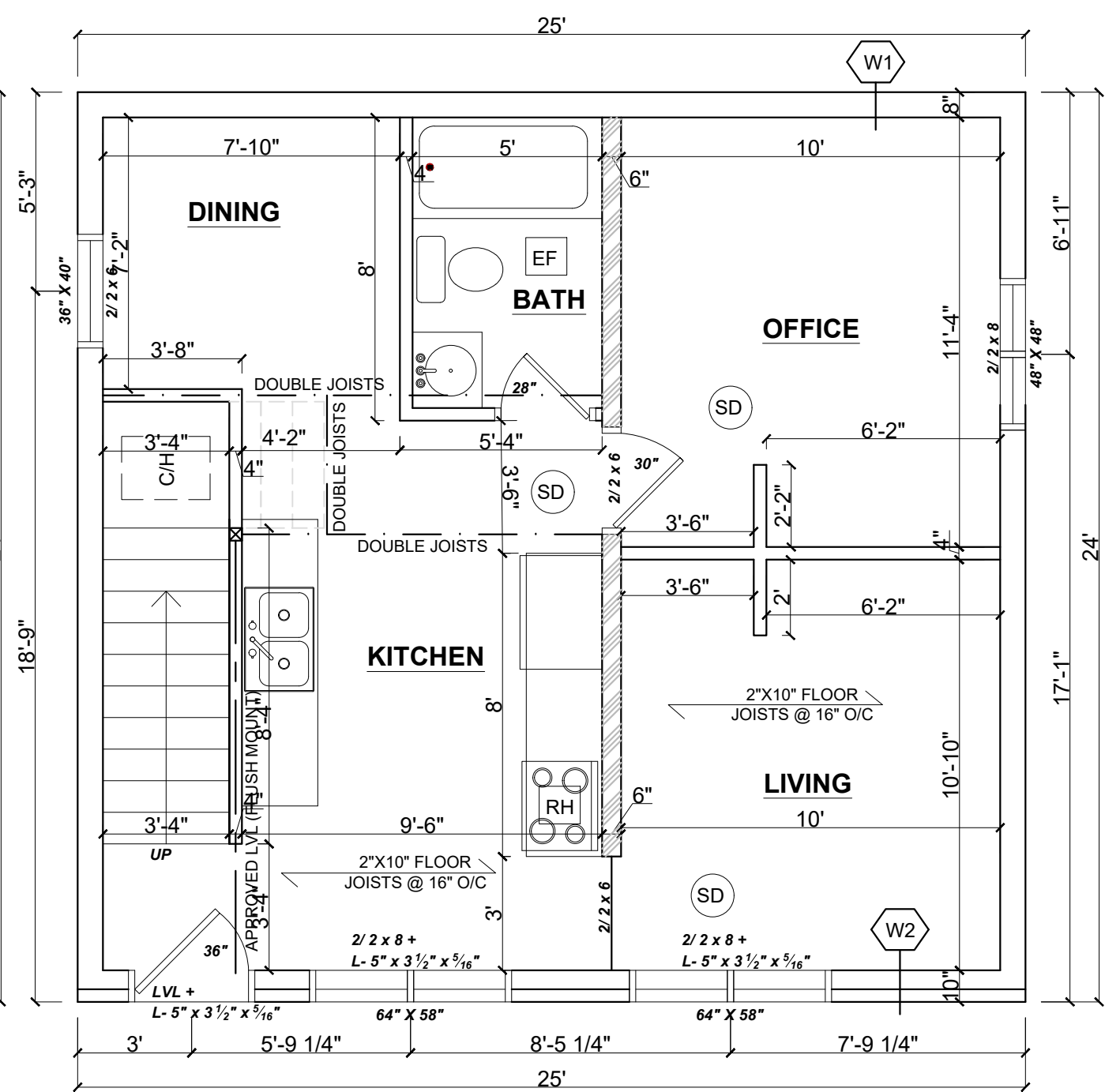
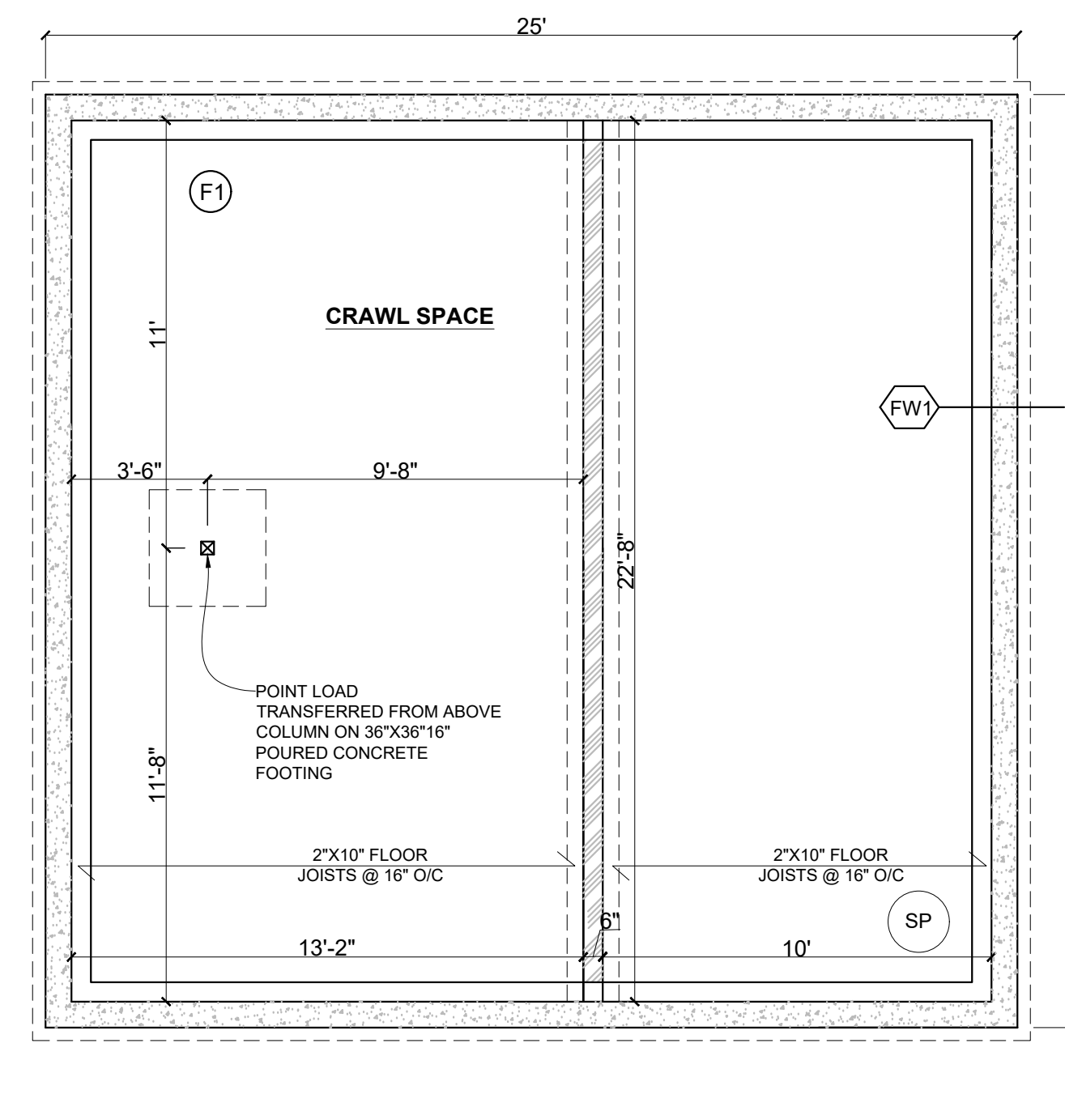


LEGEND		LOAD BEARING INTERIOR WALL		SP		SD	
(FW1)	BITUMINOUS DAMP PROOFING 8" POURED CONCRETE FOUNDATION WALL, R20 BLANKET INSULATION, ON 20"X8" POURED CONCRETE FOOTING ON UNDISTURBED SOIL	[Hatched]	2X6 WOOD STUDS @ 16" O/C W/ SINGLE BOTTOM PLATE AND DOUBLE TOP PLATE OVER LINTELS 2X6 WOOD BLOCKING @ 3'-11" O/C HORIZONTAL	(SP)	SUMP PUMP C/W COVER TO RESIST REMOVAL BY CHILDREN AND SEALED TO MAINTAIN CONTINUITY OF THE AIR BARRIER SYSTEM	(SD)	DENOTES SMOKE ALARM C/W CO <sup>2</sup> DETECTOR. REFER TO GENERAL NOTES.
(W1)	EXTERIOR WALL - SIDES & REAR SIDING - AS PER OWNER 7/16" O.S.B. EXTERIOR GRADE SHEETING 2X6 WOOD STUDS @ 24" O/C, R20 BATT INSULATION COVERED WITH 6 MIL POLY V.B & 1/2" DRYWALL	[Hatched]	LOAD BEARING INTERIOR WALL 2X6 WOOD STUDS @ 16" O/C W/ SINGLE BOTTOM PLATE AND DOUBLE TOP PLATE OVER LINTELS 2X6 WOOD BLOCKING @ 3'-11" O/C HORIZONTAL ON 16" X 8" POURED CONCRETE FOOTING ON UNDISTURBED SOIL	[CH]	CRAWL SPACE ACCESS HATCH 32"X24" MINIMUM. INSTALLED AS PER OBC REQUIREMENTS.	[A/H]	ATTIC ACCESS HATCH 32"X24" MINIMUM. INSTALLED AS PER OBC REQUIREMENTS.
(W2)	EXTERIOR WALL - SIDES & REAR 4" BRICK VENEER 1" AIR SPACE 7/16" O.S.B. EXTERIOR GRADE SHEETING 2X6 WOOD STUDS @ 24" O/C R20 BATT INSULATION COVERED WITH 6 MIL POLY V.B & 1/2" DRYWALL	[Hatched]	LOAD BEARING INTERIOR WALL 2X6 WOOD STUDS @ 16" O/C W/ SINGLE BOTTOM PLATE AND DOUBLE TOP PLATE OVER LINTELS 2X6 WOOD BLOCKING @ 3'-11" O/C HORIZONTAL ON 16" X 8" POURED CONCRETE FOOTING ON UNDISTURBED SOIL	(P1)	INTERIOR PARTITION 1/2" DRYWALL ON BOTH SIDES OF 2"X4" WOOD STUDS @ 16" O/C		
(EF)	DENOTES EXHAUST FAN VENTED DIRECTLY TO EXTERIOR AS PER O.B.C REQUIREMENTS.	(#)	DENOTES NEW INTERIOR DOOR SIZE. SITE VERIFY				
(RH)	DENOTES RANGE HOOD VENTED DIRECTLY TO EXTERIOR AS PER O.B.C REQUIREMENTS.						

**NOTES**

1. MECHANICAL AND ELECTRICAL SERVICES DONE BY OTHERS.

SECOND FLOOR GFA = 475 ft<sup>2</sup>  
 MAIN FLOOR GFA = 600 ft<sup>2</sup>  
 TOTAL GFA = 1075 ft<sup>2</sup>

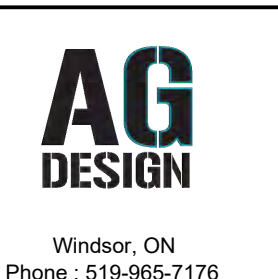


GENERAL NOTES		STAIR AND GUARD INFORMATION	
<p><b>CODE AND PROCEDURES</b></p> <p>THESE PLANS HAVE BEEN PREPARED IN ACCORDANCE WITH THE CURRENT EDITION OF THE ONTARIO BUILDING CODE. THE OWNER / BUILDER IS RESPONSIBLE FOR ENSURING THAT ANY CHANGES TO THE CODE ARE COMPLIED WITH AND ALL AMENDMENTS ARE INCORPORATED IN THE CONSTRUCTION OF THIS PLAN. ALL WORK SHALL CONFORM TO LOCAL CODES AND BYLAWS. IT IS THE OWNER/BUILDERS RESPONSIBILITY TO NOTIFY AG DESIGN OF ANY REQUIREMENTS THAT EXCEED THE ONTARIO BUILDING CODE.</p> <p><b>CONCRETE</b></p> <p>THE COMPRESSIVE STRENGTH OF CONCRETE AFTER 28 DAYS SHALL NOT BE LESS THAN:        - 32 MPA (4650 PSI) WITH 5 TO 8 % AIR ENTRAINMENT FOR GARAGE FLOORS, CARPORTS FLOORS AND ALL EXTERIOR FLATWORK.        - 20 MPA (2900 PSI) FOR INTERIOR FLOORS OTHER THEN THOSE FOR GARAGES AND CARPORTS        - 15 MPA FOR FOUNDATION WALLS, COLUMNS, FOOTINGS, PIERS AND OTHER APPLICATIONS</p> <p>SITE BATCHED CONCRETE SHALL CONFORM TO THE ONTARIO BUILDING CODE REQUIREMENTS.</p> <p>WHEN THE AIR TEMPERATURE IS BELOW 5°C CONCRETE SHALL BE KEPT AT A TEMPERATURE OF NOT LESS THAN 10°C OR MORE THAN 25°C WHILE BEING PLACED AND MAINTAINED AT A TEMPERATURE OF NOT LESS THAN 10°C FOR 72 HOURS AFTER PLACING. NO FROZEN MATERIAL OR ICE SHALL BE USED IN THE CONCRETE.</p> <p><b>FOOTINGS</b></p> <p>FOOTINGS AND PADS ARE TO BE PLACED ON UNDISTURBED SOIL, ROCK, OR COMPACTED GRANULAR FILL, TO AN ELEVATION BELOW FROST PENETRATION WITH A MINIMUM SOIL BEARING CAPACITY OF 75 KPA. IT IS THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO VERIFY THE SOIL BEARING CAPACITY PRIOR TO CONSTRUCTION. IF A LESSER BEARING CAPACITY IS ENCOUNTERED IT IS THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO HAVE THE FOUNDATION REDESIGNED BY A QUALIFIED PROFESSIONAL TO SUIT SITE CONDITION.</p> <p>WHERE WATER TABLE LEVELS ARE WITHIN A DISTANCE BELOW THE BEARING SURFACE LESS THAN OR EQUAL TO THE WIDTH OF THE FOOTING, THE FOOTINGS SHALL BE DOUBLED IN WIDTH UNDER WALLS AND DOUBLED IN AREA UNDER POSTS.</p> <p><b>FOUNDATION WALLS</b></p> <p>FOUNDATION WALLS TO EXTEND A MINIMUM 8" ABOVE FINISHED GRADE.</p> <p>GRADE LINES ON PLANS ARE ASSUMED, OWNER/CONTRACTOR TO VERIFY.</p> <p>WHERE EXTERIOR FINISHED GROUND LEVEL IS AT A HIGHER ELEVATION THAN THE GROUND LEVEL INSIDE THE FOUNDATION WALLS SHALL BE DAMP PROOFED &amp; WHERE HYDROSTATIC PRESSURE OCCURS WATER PROOFING IS REQUIRED.</p>		<p><b>ROOF FRAMING</b></p> <p>ROOF SHEETING SHALL BE INSTALLED WITH THE SURFACE GRAIN AT RIGHT ANGLES TO THE ROOF FRAMING JOINTS PERPENDICULAR TO ROOF RIDGE SHALL BE STAGGERED WITH EDGES SUPPORTED ON TRUSSES. IF TONGUED AND GROOVED EDGE PANEL TYPE SHEETING IS NOT USED THAN EDGES PARALLEL TO THE ROOF RIDGE SHALL BE SUPPORTED BY METAL 1" CLIPS OR NOT LESS THAN 1.5"X1.5" BLOCKING SECURELY NAILED BETWEEN FRAMING MEMBERS.</p> <p>VENTILATION OF ROOF SPACE TO BE VENTED TO A MINIMUM OF 1/150 OF INSULATED ROOF AREA.</p> <p><b>MECHANICAL &amp; ELECTRICAL</b></p> <p>MECHANICAL AND ELECTRICAL SERVICES DONE BY OTHERS.</p> <p><b>SMOKE ALARMS</b></p> <p>SMOKE ALARMS SHALL CONFORM TO CAN/ULC-S531 "SMOKE ALARMS"</p> <p>SMOKE ALARMS SHALL BE INSTALLED ON OR NEAR THE CEILING AND BE INSTALLED AS PER CAN/ULC-S553 "INSTALLATION OF SMOKE ALARMS"</p> <p>SMOKE ALARMS SHALL HAVE A VISUAL SIGNALLING COMPONENT CONFORMING TO THE REQUIREMENTS IN 18.5.3. OF NFPA 72, "NATIONAL FIRE ALARM AND SIGNALING CODE"</p> <p>SMOKE ALARMS SHALL BE INSTALLED WITH PERMANENT CONNECTIONS TO AN ELECTRICAL CIRCUIT. C/W BATTERY BACKUP AS PER O.B.C REQUIREMENTS</p> <p>ALL SMOKE ALARMS SHALL BE INTERCONNECTED SO THE ACTIVATION OF ONE ALARM WILL CAUSE ALL ALARMS TO SOUND</p> <p><b>STEEL LINTELS SUPPORTING MASONRY VENEER</b></p> <p>STEEL LINTELS SUPPORTING MASONRY VENEER OVER OPENINGS SHALL HAVE EVEN AND LEVEL BEARING AND SHALL HAVE NOT LESS THAN 6" LENGTH OF BEARING AT END SUPPORTS, AND BEAR ON MASONRY, CONCRETE OR STEEL.</p> <p>STEEL ANGLE LINTELS SHALL BE PRIMED OR PAINTED OR OTHERWISE PROTECTED FROM CORROSION</p> <p><b>DEADBOLT</b></p> <p>DOORS THAT REQUIRE A DEADBOLT SHALL BE EQUIP WITH A DEADBOLT LOCK WITH A CYLINDER HAVING NO MORE THAN FIVE PINS AND A BOLT THROW NOT LESS THAN 25MM LONG, PROTECTED WITH A SOLID OR HARDENED FREE-TURNING RING OR BEVELED CYLINDER HOUSING</p> <p><b>WOOD FRAMING GENERAL</b></p> <p>ALL WOOD FRAMING SHALL COMPLY WITH SECTION 9.23 OF THE ONTARIO BUILDING CODE.</p> <p>ALL STRUCTURAL FRAMING LUMBER SHALL BE GRADE STAMPED AS SPRUCE - PINE - FIR (S-P-F) NO 2 OR BETTER WITH A MOISTURE CONTENT OF 19% OR LESS AT TIME OF CONSTRUCTION.</p> <p>WOOD FRAMING MEMBERS THAT ARE NOT TREATED WITH A WOOD PRESERVATIVE AND BEAR ON CONCRETE OR IN DIRECT CONTACT WITH THE GROUND SHALL BE SEPARATED WITH A 6 MIL POLY OR TYPE 'S' ROLL ROOFING.</p> <p>ALL NOTCHING AND DRILLING OF FRAMING MEMBERS SHALL CONFORM TO SUBSECTION 9.23.5 OF THE ONTARIO BUILDING CODE.</p> <p>FLUSHED FRAMED WOOD MEMBERS SHALL BE SUPPORTED WITH APPROPRIATE JOIST HANGERS AND FASTENERS.</p>	
<p><b>TREAD DIMENSIONS</b></p> <p>TREADS SHALL HAVE A UNIFORM RUN WITH A MAXIMUM TOLERANCE OF 1/8" BETWEEN ADJACENT TREADS, AND 3/8" BETWEEN THE TALLEST AND SHORTEST RISERS IN A FLIGHT.</p> <p>TREADS SHALL HAVE A UNIFORM RUN WITH A MAXIMUM TOLERANCE OF 1/8" BETWEEN ADJACENT TREADS, AND 3/8" BETWEEN THE DEEPEST AND SHALLOWEST TREADS IN A FLIGHT</p> <p><b>HANDRAILS</b></p> <p>THE HEIGHT OF HANDRAILS ON STAIRS AND RAMPS SHALL BE NOT LESS THAN 34" AND NOT MORE THAN 38"</p> <p><b>GUARDS</b></p> <p>THE MINIMUM HEIGHT OF GUARDS SHALL BE NOT LESS THAN 36"</p> <p>ALL GUARDS SHALL BE CONSTRUCTED AS PER SB-7 REQUIREMENTS</p>		<p>TREAD - MAX = 1'-2"        MIN = 10"</p> <p>RISE - MAX = 7 7/8"        MIN = 4 1/8"</p> <p>NOSING - MAX = 1"</p>	

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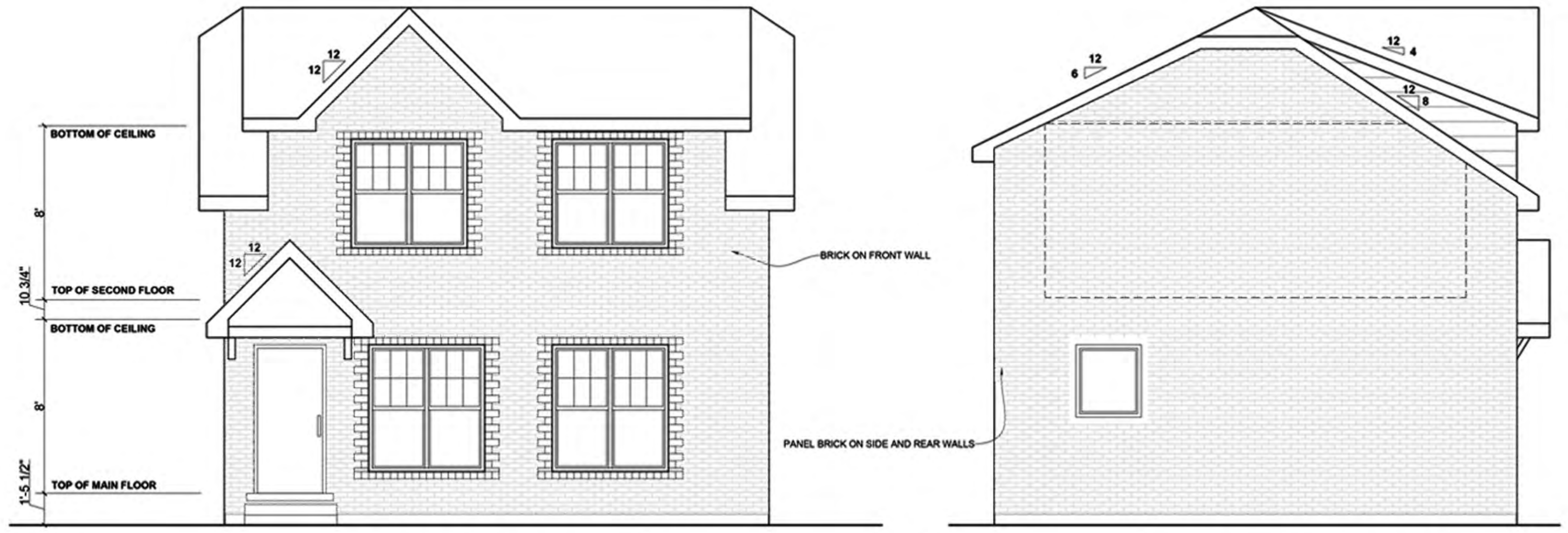
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**DETACHED ADU**  
 436 ASKING AVENUE  
 Windsor, ON

**SITE PLAN, FLOOR PLANS & GENERAL NOTES**

Date: February 10, 2023  
 Scale: 1/4" = 1'-0"  
 Project No.: 060/22  
 Drawing No.: A-1.0



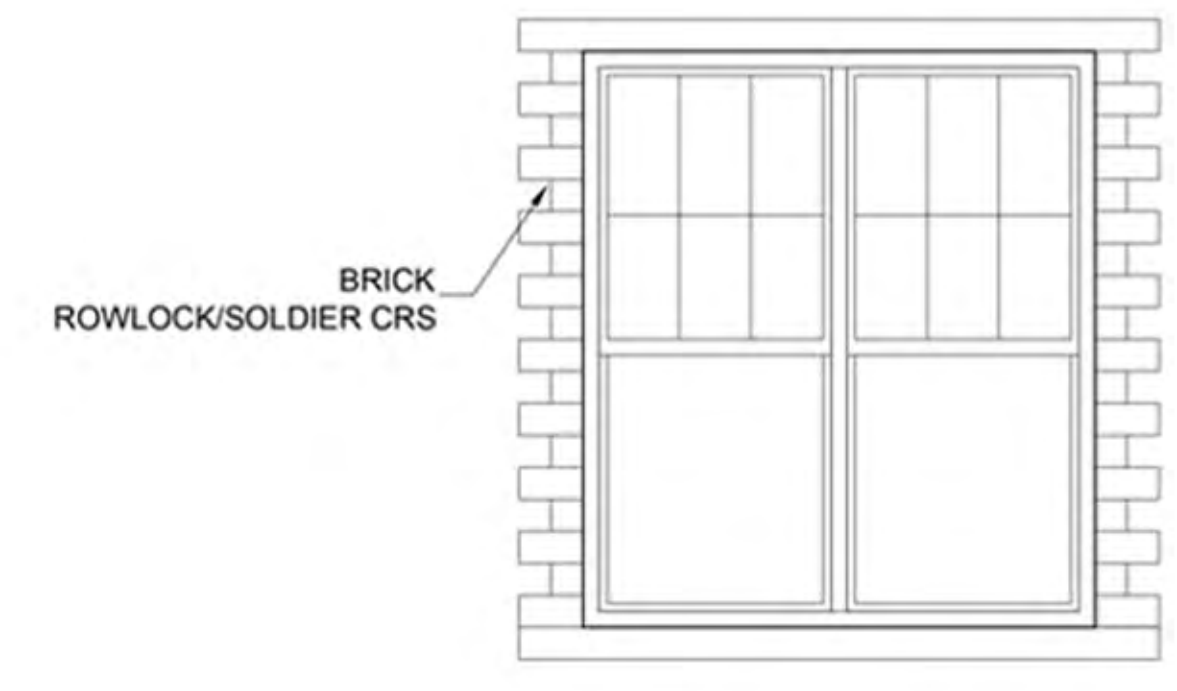
FRONT ELEVATION

<b>FRONT ELEVATION</b>
TOTAL WINDOW AREA: 94 SQ.FT
TOTAL WALL AREA: 417 SQ.FT

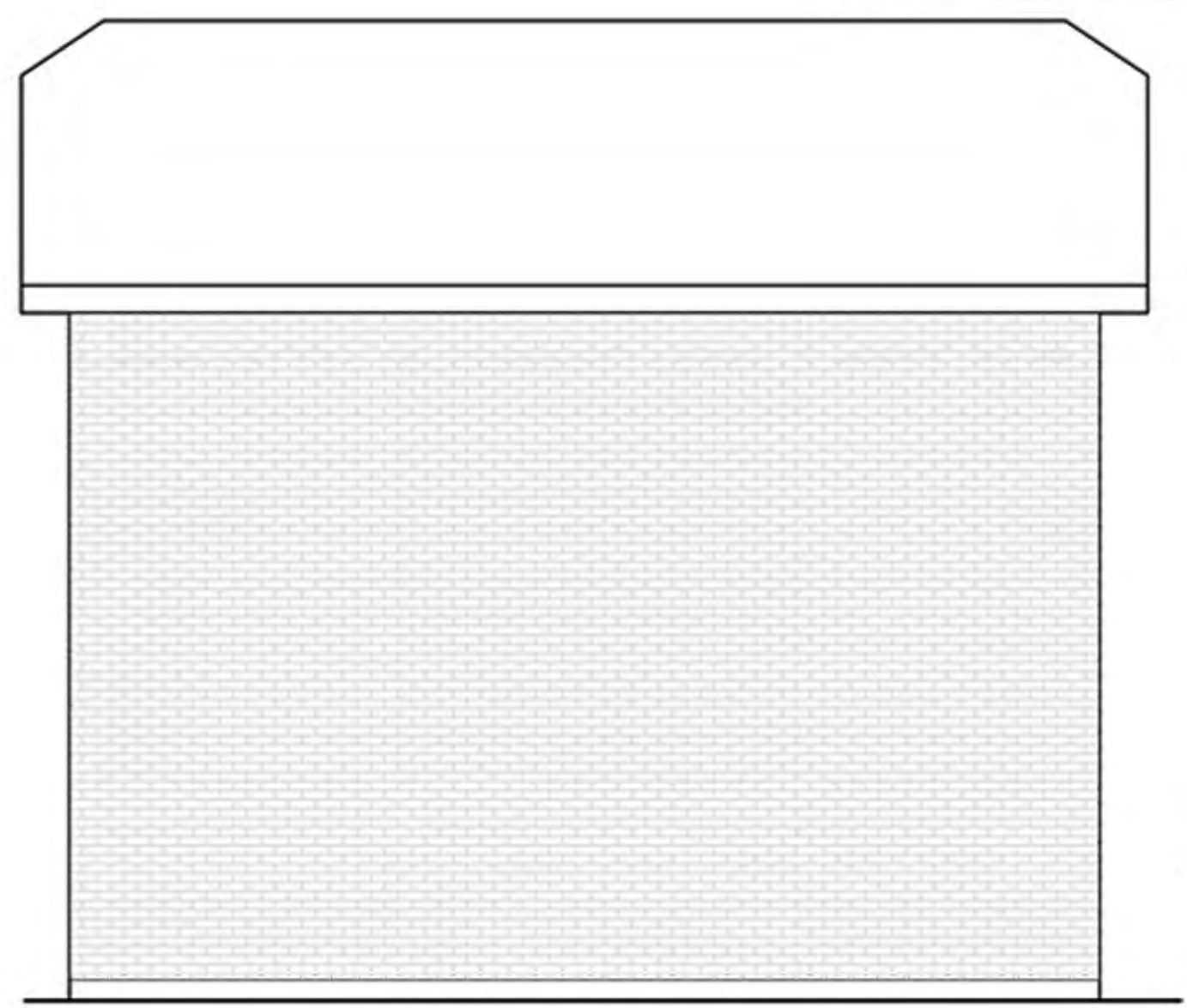
SIDE ELEVATION

<b>SIDE ELEVATION</b>
TOTAL WINDOW AREA: 19 SQ.FT
TOTAL WALL AREA: 421 SQ.FT

LEFT SIDE ELEVATION

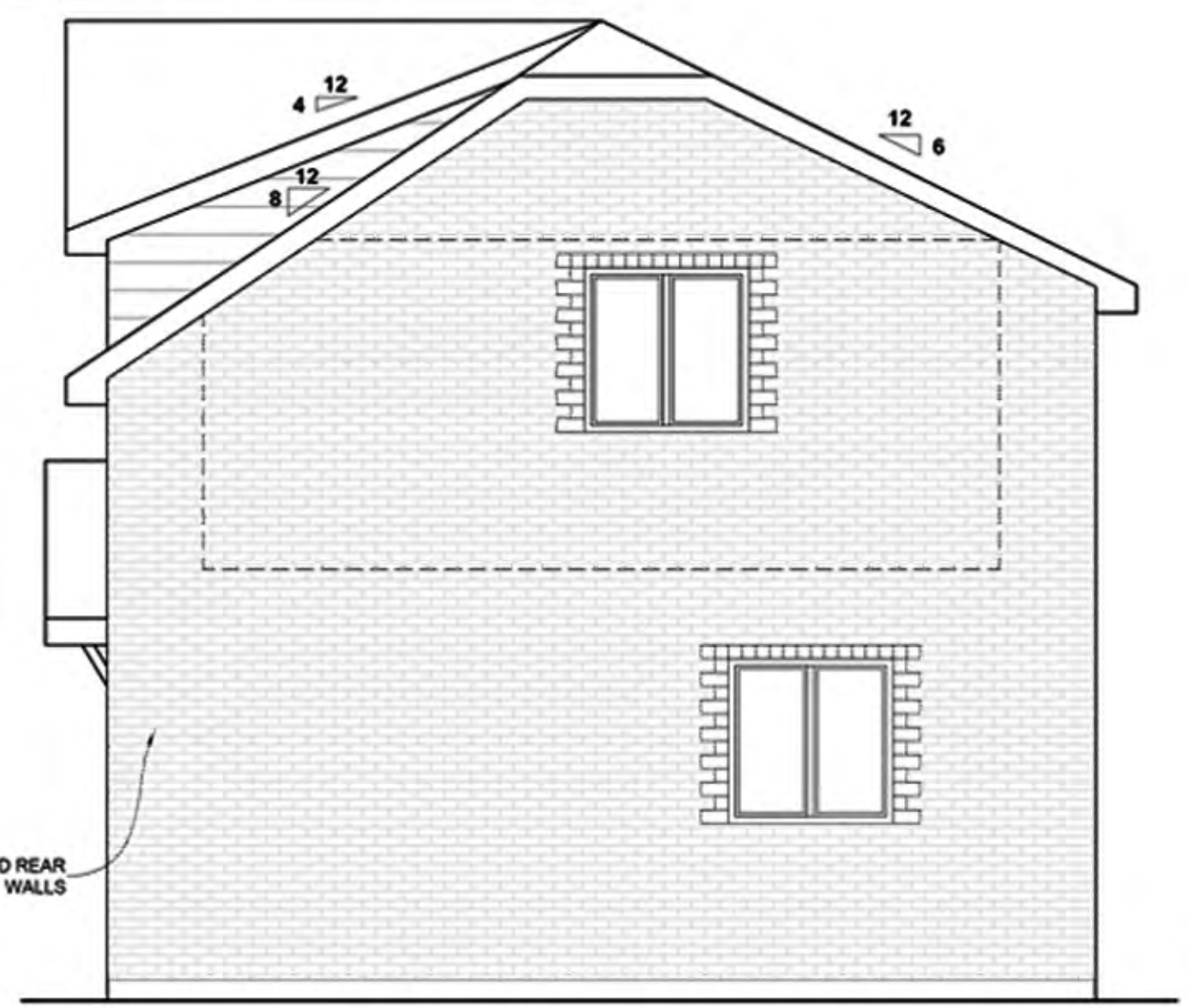


WINDOW DETAIL



REAR ELEVATION

<b>REAR ELEVATION</b>
TOTAL WINDOW AREA: 0 SQ.FT
TOTAL WALL AREA: 417 SQ.FT

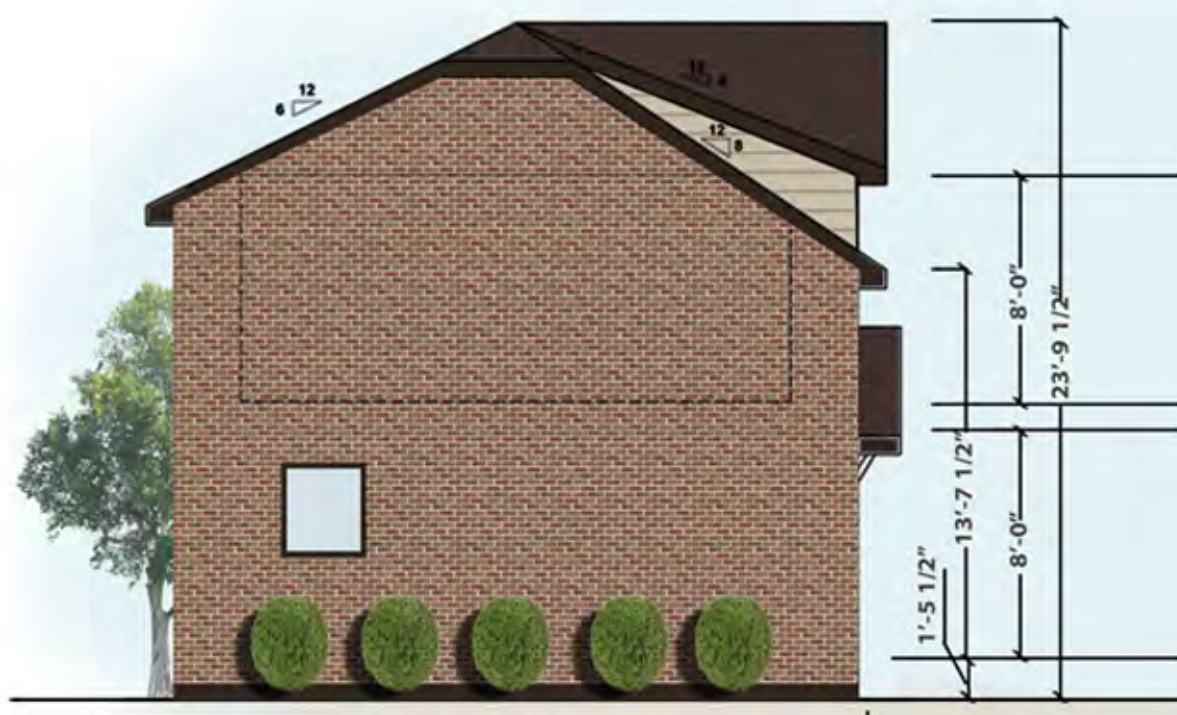


RIGHT SIDE ELEVATION

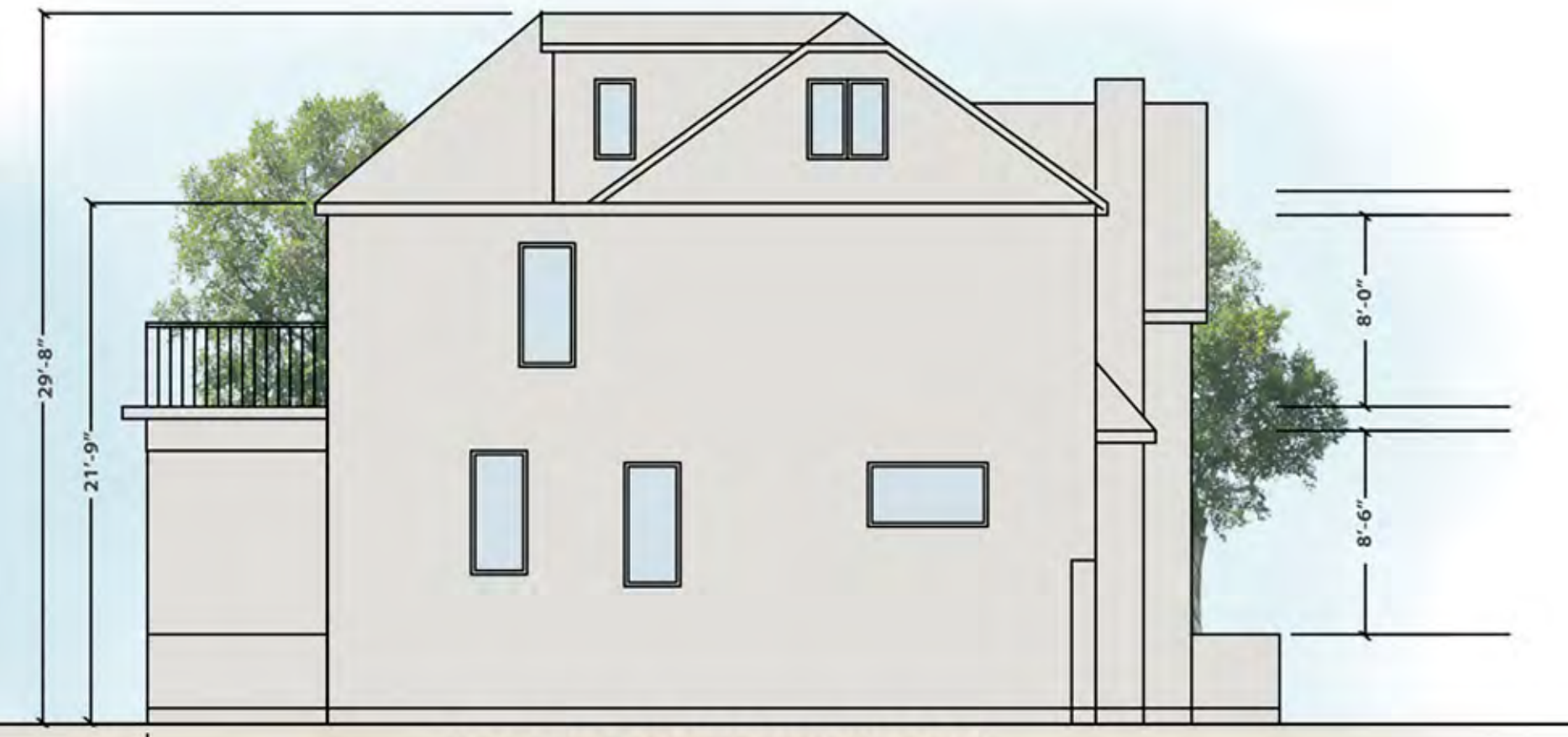
<b>SIDE ELEVATION</b>
TOTAL WINDOW AREA: 32 SQ.FT
TOTAL WALL AREA: 421 SQ.FT



FRONT ELEVATION



SIDE ELEVATION



LEFT SIDE ELEVATION EXISTING DWELLING

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Individual BCIN: 37168 Firm BCIN: 43361



**DETACHED ADU**  
436 ASKING AVENUE  
Windsor, ON  
ELEVATIONS

Date : March 13, 2023  
Scale : 1/4" = 1'-0"  
Project No. : 060/22  
Drawing No. : **A-2.0**

**BRICK SPECIFICATIONS**



**CANYON**  
SIZES: PREMIUM PLUS



**CHURCH HILL**  
SIZES: PREMIUM PLUS

**SIZE**

**SPECIFICATIONS**



**Premier Plus**  
Length 257 mm (10 1/8")  
Height 79 mm (3 1/8")  
Depth 90 mm (3 1/2")  
Bricks per square foot 3.9  
Bricks per square meter 42

BRAMPTON, ONTARIO PLANT	Weight/Cube (kg)	Weight/Cube (lb)	Weight/Brick (kg)	Weight/Brick (lb)	Bricks/Cube	Bricks/m <sup>2</sup>	Bricks/ft <sup>2</sup>
Premier Plus	1,160	2,552	2.5	5.5	464	42.0	3.9

**NOTES**

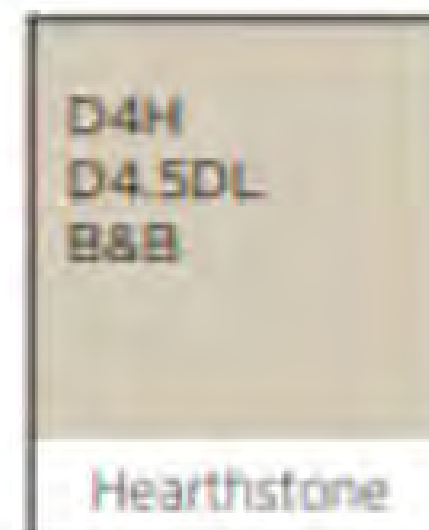
- Refer to your local building codes for proper installation of product.
- All Brampton Brick's clay brick products fully meet or exceed the latest version of the following standards: ASTM C216 and the Can/CSA A82 specifications.
- Sizes are available only in standard stock products. Please refer to individual colors for standard stock item sizes available.

**ROOF SPECIFICATIONS**



**CERTAINTED LANDMARK SHINGLES**  
COLOR - WEATHERED WOOD

**MITTEN VINYL SIDING SPECIFICATIONS**



**COLOR - HEARTHSTONE**  
**SENTRY 44 SERIES**  
D4H  
D4.5DL  
B&B

**WINDOW SPECIFICATIONS**



**PELLA® IMPERVIA®**

**Fiberglass Single-Hung Window**

Pella Impervia mulled single-hung windows include two units joined by their frames in the factory. This doubles the size of a single unit, creating a more expansive look. Made from the strongest material for windows, Pella's exclusive fiberglass provides lasting durability and sleek, timeless style.<sup>16</sup> Single-hung windows have a moveable bottom sash for ventilation with a top sash that remains fixed. Achieve your design vision with a variety of popular features and options to choose from.

- Two fiberglass single-hung windows mulled together as a combined unit.
- Fiberglass material is tested beyond industry standards to perform from -40°F to 180°F.
- Equal sightlines deliver a clean, consistent aesthetic unlike other single-hung designs that trade off aesthetic details.
- Product #401002

**EXISTING BUILDING PICTURES**



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Individual BCIN: 37168 Firm BCIN: 43361

**AG DESIGN**  
Windsor, ON  
Phone: 519-965-7176

**DETACHED ADU**  
436 ASKING AVENUE  
Windsor, ON  
ELEVATIONS

Date: February 10, 2023  
Scale: 1/4" = 1'-0"  
Project No.: 060/22  
Drawing No.: **A-2.1**



ACROSS THE STREET PROSPECTIVE



STREET MAP SHOWING HOMES WITH 2 CAR GARAGES APPROXIMATELY THE SAME FOOTPRINT AS THE PROPOSED ADU



STANDING IN FRONT OF 424 ASKIN LOOKING SLIGHTLY NORTH TOWARD PROPERTY



STANDING IN FRONT OF 424 ASKIN LOOKING SLIGHTLY SOUTH TOWARD PROPERTY

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DETACHED ADU  
436 ASKING AVENUE  
Windsor, ON  
ELEVATIONS

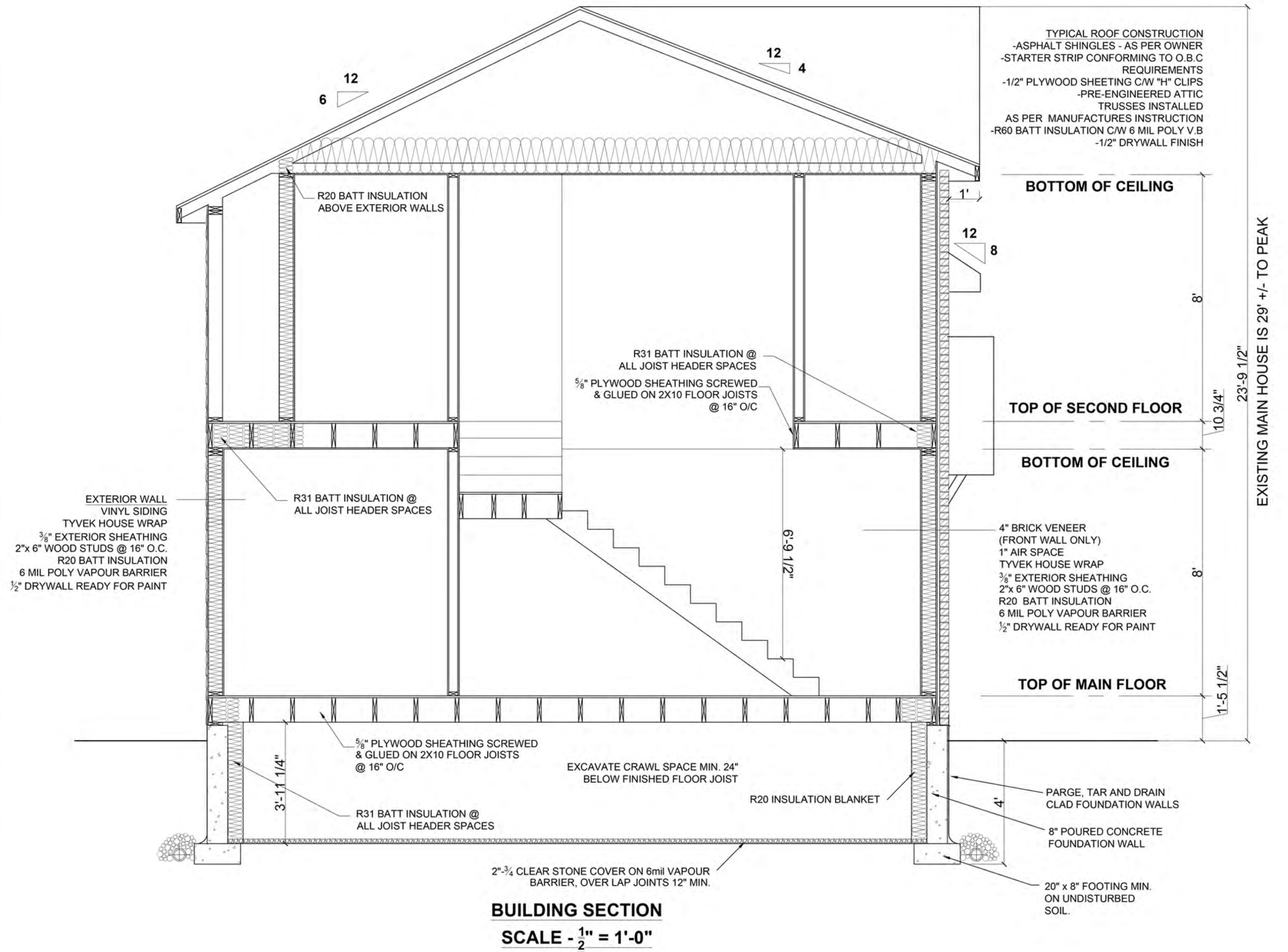
Date: March 13, 2023  
Scale: 1/4" = 1'-0"  
Project No.: 060/22  
Drawing No.:

A-2.2





BUILDING PERSPECTIVE



BUILDING SECTION  
SCALE - 1/2" = 1'-0"

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Individual BCIN: 37168 Firm BCIN: 43361

**TAB 12**

Damages for injury to health may be recovered in an action for nuisance if there is also interference with the use and enjoyment of land,<sup>94</sup> but it is still unclear whether, standing alone, personal injury is actionable under nuisance theory.

If the defendant's conduct causes only an inconvenience or a minor discomfort to the plaintiff, it is unlikely that the court will hold it to be a private nuisance as the *Restatement of Torts* explains:

Life in organized society and especially in populous communities involves an unavoidable clash of individual interests. Practically all human activities, unless carried on in a wilderness, interfere to some extent with others or involve some risk of interference, and these interferences range from trifling annoyances to serious harms. It is an obvious truth that each individual in a community must put up with a certain amount of annoyance, inconvenience, and interference, and must take a certain amount of risk in order that all may get on together. The very existence of organized society depends on the principle of "give and take, live and let live", so that the law of torts does not attempt to impose liability or shift the loss in every case where one person's conduct has some detrimental effect on another. Liability is imposed only in those cases where the harm or risk to one is greater than he ought to be required to bear under the circumstances.<sup>95</sup>

Whether an annoyance is trifling and must be put up with or whether it is serious and actionable is not always easy to determine. It is clear that "not all amenities . . . commonly associated with beneficial use of land are vindicated by the law of private nuisance".<sup>96</sup> Thus, just because a person's peace of mind may be affected, an action in nuisance does not necessarily lie. For example, the use of land for an isolation hospital, however unpopular and disconcerting that may be, rarely amounts to a nuisance.<sup>97</sup> To interfere with a person's view or privacy by building a highway next to their land is no nuisance.<sup>98</sup> Neither is a nuisance caused if the defendant fails to preserve the aesthetic appearance of a land for the neighbour's benefit.<sup>99</sup> Nor is it a nuisance to spy on someone from a

<sup>94</sup> *Bottom v. Ontario Leaf Tobacco Co.*, [1935] O.R. 205 (C.A.). See also *Morris v. Dominion Foundries & Steel*, [1947] O.W.N. 413 (H.C.J.); *Muirhead v. Timber Bros. Sand & Gravel Ltd* (1977), 3 C.C.L.T. 1 (Ont. H.C.J.).

<sup>95</sup> See 4 *Restatement of Torts, Second*, Comment "G", p. 112. Copyright 1965 by The American Law Institute. Reprinted with the permission of the American Law Institute. See also *Bamford v. Turnley* (1862), 3 B. & S. 66, 122 E.R. 27 (Ex.).

<sup>96</sup> Fleming, *supra*, n. 2, at p. 467.

<sup>97</sup> See *Shuttleworth v. Vancouver General Hospital*, [1927] 2 D.L.R. 573 (B.C.S.C.); *Metropolitan Asylum District v. Hill* (1881), 6 App. Cas. 193, smallpox hospital held to be nuisance.

<sup>98</sup> *St. Pierre v. Ontario (Minister of Transportation and Communications)*, [1987] S.C.J. No. 27, [1987] 1 S.C.R. 906, 75 N.R. 291. See also *Jagtoo v. 407 E.T.R. Concession Co.*, [1999] O.J. No. 4944 (S.C.J.), unsuccessful effort to have Highway 407 declared a nuisance; *Strachan v. Sterling*, [2004] B.C.J. No. 1451 (Prov. Ct.).

<sup>99</sup> *Walker v. Pioneer Construction Co. (1967) Ltd.*, (1975), 8 O.R. (2d) 35 (H.C.J.); *Muirhead v. Timber Bros. Sand & Gravel*, *supra*, n. 94. See also Silverstone, "Visual Pollution: Unaesthetic Use of Land as Nuisance" (1974), 12 Alta. L. Rev. 542, for an argument in opposition to the view; see also *Philip v. Scarborough*, [1990] O.J. No. 2737 (Prov. Ct.).

**Larry St. Pierre and Mary Grace St. Pierre**  
*Appellants*

v.

**The Minister of Transportation and Communications** *Respondent*

INDEXED AS: ST. PIERRE v. ONTARIO (MINISTER OF TRANSPORTATION AND COMMUNICATIONS)

File No.: 18268.

1986: March 26; 1987: June 4.

Present: McIntyre, Chouinard\*, Lamer, Wilson and Le Dain JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

*Expropriation — Injurious affection — Compensation — Land acquired for highway adjacent to appellants' property — None of appellants' lands expropriated — Whether or not damages resulting from construction of highway compensable — Expropriations Act, R.S.O. 1970, c. 154, ss. 1, 21 (now R.S.O. 1980, c. 148).*

In 1961 appellants bought land zoned "open space" in a quiet, rural neighbourhood near London and built their retirement home. Some time prior to 1976, respondent acquired a strip of land adjoining the eastern boundary of the appellants' land to construct a highway which was opened to traffic in 1977. No part of the appellants' lands was taken or acquired. Appellants brought a claim for injurious affection of their land. The decision of the Land Compensation Board, now the Ontario Municipal Board, to allow the claim for compensation was upheld by the Divisional Court but overturned by the Court of Appeal. At issue here was whether the construction of the highway with its resultant damage to the appellants' property was actionable at common law.

*Held:* The appeal should be dismissed.

Appellants' claim was for loss of amenities—loss of prospect and elements of loss of privacy. The courts have consistently denied recovery for the loss of prospect. The use of the highway too, while probably a disruptive element, was not a field of damage which could be

\* Chouinard J. took no part in the judgment.

**Larry St. Pierre et Mary Grace St. Pierre**  
*Appellants*

c.

**Le ministre des Transports et Communications** *Intimé*

RÉPERTORIÉ: ST. PIERRE c. ONTARIO (MINISTRE DES TRANSPORTS ET COMMUNICATIONS)

*b* N° du greffe: 18268.

1986: 26 mars; 1987: 4 juin.

Présents: Les juges McIntyre, Chouinard\*, Lamer, Wilson et Le Dain.

EN APPEL DE LA COUR D'APPEL DE L'ONTARIO

*Expropriation — Atteinte préjudiciable — Indemnisation — Bien-fonds acquis pour la construction d'une route adjacente au bien-fonds des appellants — Aucune expropriation du bien-fonds des appellants — Les dommages résultant de la construction de la route ouvrent-ils droit à une indemnisation? — Expropriations Act, R.S.O. 1970, chap. 154, art. 1, 21 (maintenant R.S.O. 1980, chap. 148).*

En 1961, les appelants ont acheté un bien-fonds faisant partie d'un zonage «général» dans un endroit calme et rural près de London et y ont construit une maison pour leur retraite. Peu avant 1976, l'intimé a acquis une bande de terrain adjacente à la limite est du bien-fonds des appelants pour y construire une route qui a été ouverte à la circulation en 1977. Le bien-fonds des appelants n'a aucunement été exproprié. Les appelants ont demandé une indemnisation pour atteinte préjudiciable à leur bien-fonds. La décision de l'Office d'indemnisation foncière, maintenant la Commission des affaires municipales de l'Ontario, de faire droit à la demande d'indemnisation a été confirmée par la Cour divisionnaire mais infirmée par la Cour d'appel. La question qui se pose en l'espèce est de savoir si la construction de la route et les dommages qui en ont résulté à l'égard du bien-fonds des appelants ouvrent droit à une action en *common law*.

*i Arrêt:* Le pourvoi est rejeté.

La réclamation des appelants est fondée sur la perte d'agrément—perte de perspective et perte d'intimité. Les tribunaux ont systématiquement jugé qu'il ne peut y avoir d'indemnisation pour la perte de perspective. L'utilisation de la route constitue probablement un élément

\* Le juge Chouinard n'a pas pris part au jugement.

considered: any claim must be limited to loss caused by the construction. Respondent's use of the land, moreover, was not unreasonable. Highways are necessary and may cause disruption but in the balancing process inherent in the law of nuisance their utility for the public good far outweighs the disruption and injury visited upon adjoining lands. The law of nuisance will not extend to allow for compensation in this case.

perturbateur, mais n'est pas un type de dommage dont on peut tenir compte: toute réclamation doit être limitée à la perte occasionnée par la construction. L'utilisation que le ministre a faite du bien-fonds n'était pas abusive.

a Les routes sont nécessaires et peuvent causer des inconvénients mais, dans l'exercice d'équilibre inhérent au droit de la nuisance, leur utilité pour le bien public l'emporte de beaucoup sur les inconvénients et les préjudices que subissent les biens-fonds adjacents. Le droit de la nuisance ne va pas jusqu'à permettre une indemnisation en l'espèce.

### Cases Cited

**Distinguished:** *Re City of Windsor and Larson* (1980), 29 O.R. (2d) 669; *The Queen v. Loiselle*, [1962] S.C.R. 624; *Nor-Video Services Ltd. v. Ontario Hydro* (1978), 4 C.C.L.T. 244; *T. H. Critelli Ltd. v. Lincoln Trust and Savings Co.* (1978), 86 D.L.R. (3d) 724; *Schenck v. The Queen in right of Ontario* (1981), 34 O.R. (2d) 595; **referred to:** *Canadian Pacific Railway Co. v. Albin* (1919), 59 S.C.R. 151; *Fried v. Minister of Transportation and Communications* (1972), 3 L.C.R. 262; *The King v. MacArthur* (1904), S.C.R. 570; *Pugliese v. National Capital Commission* (1977), 17 O.R. (2d) 129; *William Aldred's Case* (1610), 9 Co. Rep. 57 b, 77 E.R. 816; *Foli v. Devonshire Club* (1887), 3 T.L.R. 706; *Walker v. Pioneer Construction Co. (1967) Ltd.* (1975), 8 O.R. (2d) 35; *Muirhead v. Timbers Brothers Sand & Gravel Ltd.* (1977), 3 C.C.L.T. 1.

### Jurisprudence

**Distinction d'avec les arrêts:** *Re City of Windsor and Larson* (1980), 29 O.R. (2d) 669; *The Queen v. Loiselle*, [1962] R.C.S. 624; *Nor-Video Services Ltd. v. Ontario Hydro* (1978), 4 C.C.L.T. 244; *T. H. Critelli Ltd. v. Lincoln Trust and Savings Co.* (1978), 86 D.L.R. (3d) 724; *Schenck v. The Queen in right of Ontario* (1981), 34 O.R. (2d) 595; **arrêts mentionnés:** *Canadian Pacific Railway Co. v. Albin* (1919), 59 R.C.S. 151; *Fried v. Minister of Transportation and Communications* (1972), 3 L.C.R. 262; *The King v. MacArthur* (1904), R.C.S. 570; *Pugliese v. National Capital Commission* (1977), 17 O.R. (2d) 129; *William Aldred's Case* (1610), 9 Co. Rep. 57 b, 77 E.R. 816; *Foli v. Devonshire Club* (1887), 3 T.L.R. 706; *Walker v. Pioneer Construction Co. (1967) Ltd.* (1975), 8 O.R. (2d) 35; *Muirhead v. Timbers Brothers Sand & Gravel Ltd.* (1977), 3 C.C.L.T. 1.

### Statutes and Regulations Cited

*Expropriations Act*, R.S.O. 1970, c. 154, ss. 1, 21, (now R.S.O. 1980, c. 148).

### f Lois et règlements cités

*Expropriations Act*, R.S.O. 1970, chap. 154, art. 1, 21, (maintenant R.S.O. 1980, chap. 148).

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Buckley, R. A. *The Law of Nuisance*. London: Butterworths, 1981.  
 Fleming, John G. *The Law of Torts*, 4th ed. Sydney: Law Book Co., 1971.  
 Fleming, John G. *The Law of Torts*, 6th ed. Sydney: Law Book Co., 1983.  
 Linden, Allen M. *Canadian Tort Law*, 3rd ed. Toronto: Butterworths, 1982.  
 Street, Harry. *The Law of Torts*, 6th ed. London: Butterworths, 1976.

### g Doctrine citée

Buckley, R.A. *The Law of Nuisance*. London: Butterworths, 1981.  
 Fleming, John G. *The Law of Torts*, 4th ed. Sydney: Law Book Co., 1971.  
 Fleming, John G. *The Law of Torts*, 6th ed. Sydney: Law Book Co., 1983.  
 Linden, Allen M. *Canadian Tort Law*, 3rd ed. Toronto: Butterworths, 1982.  
 Street, Harry. *The Law of Torts*, 6th ed. London: Butterworths, 1976.

APPEAL from a judgment of the Ontario Court of Appeal (1983), 43 O.R. (2d) 767, 2 D.L.R. (4th) 558, 28 L.C.R. 1, allowing an appeal from a judgment of the Divisional Court (1982), 38 O.R. (2d) 341, 25 L.C.R. 250, dismissing an appeal and cross-appeal from a judgment of the Land Com-

POURVOI contre un arrêt de la Cour d'appel de l'Ontario (1983), 43 O.R. (2d) 767, 2 D.L.R. (4th) 558, 28 L.C.R. 1, qui a accueilli un appel contre un jugement de la Cour divisionnaire (1982), 38 O.R. (2d) 341, 25 L.C.R. 250, qui avait rejeté un appel contre un jugement de l'Office

pensation Board (now the Ontario Municipal Board) (1981), 21 L.C.R. 68. Appeal dismissed.

*Earl A. Cherniak, Q.C., and Mary Anne Sanderson*, for the appellants.

*R. Allan O'Donnell, Q.C.*, for the respondent.

The judgment of the Court was delivered by

MCINTYRE J.—This appeal concerns a claim by property owners for compensation for injurious affection of their land, caused by the acquisition of adjoining land by the respondent Minister and the construction thereon of a public highway. No part of the claimants' lands was taken or acquired.

In 1961, the appellants purchased 125 acres of land some two miles east of downtown London, Ontario, and about one mile from the city limits. They considered the land, because of the quiet, rural nature of the neighbourhood, an ideal location for a retirement home which they constructed on the property. Zoning in the area was "open space" and remains so. Some time prior to 1976, the Minister acquired a strip of land for the purpose of highway construction, approximately 250 feet wide, adjoining the eastern boundary of the claimants' land. Construction commenced in June of 1976 and the highway was opened to traffic in 1977. These proceedings resulted.

The Land Compensation Board, now the Ontario Municipal Board, upheld the claim for compensation (1981), 21 L.C.R. 68. The Board (R. M. Grant, Q.C.) held that damages resulting from the construction of the highway were compensable. He relied on the *Re City of Windsor and Larson* (1980), 29 O.R. (2d) 669, and *The Queen v. Loiselle*, [1962] S.C.R. 624, which latter case listed the four conditions that must be met in order to maintain an action for injurious affection when no land is taken. The four conditions are expressed by Abbott J., at p. 627, in these words:

d'indemnisation foncière (maintenant la Commission des affaires municipales de l'Ontario) (1981), 21 L.C.R. 68. Pourvoi rejeté.

*Earl A. Cherniak, c.r., et Mary Anne Sanderson*, pour les appelants.

*R. Allan O'Donnell, c.r.*, pour l'intimé.

Version française du jugement de la Cour rendu par

LE JUGE MCINTYRE—Le présent pourvoi porte sur une demande d'indemnisation pour atteinte préjudiciable à un bien-fonds, résultant de l'acquisition par le Ministre intimé de biens-fonds adjacents et de la construction d'une route sur ces derniers. Le Ministre ne s'est approprié aucune partie du bien-fonds des plaignants.

En 1961, les appelants ont acheté 125 acres de terre à quelque deux milles à l'est du centre-ville de London (Ontario) et à environ un mille des limites de la ville. À cause de la nature calme et rurale des environs, ils ont considéré que ce terrain était un emplacement idéal pour une maison qu'ils y ont construite pour leur retraite. L'endroit faisait partie d'un zonage «général» et l'est encore. Peu avant 1976, le Ministre a acquis une bande de terrain pour la construction d'une route, d'une largeur d'environ 250 pieds, adjacente à la limite est du bien-fonds des plaignants. La construction a commencé en juin 1976 et la route a été ouverte à la circulation en 1977. Les présentes procédures en ont résulté.

L'Office d'indemnisation foncière, maintenant la Commission des affaires municipales de l'Ontario, a fait droit à la demande d'indemnisation (1981), 21 L.C.R. 68. L'Office (R. M. Grant, c.r.) a conclu que les dommages résultant de la construction de la route ouvraient droit à une indemnisation. Il s'est fondé sur la décision la *Re City of Windsor and Larson* (1980), 29 O.R. (2d) 669, et sur l'arrêt *The Queen v. Loiselle*, [1962] R.C.S. 624; cet arrêt énumère les quatre conditions qu'il faut remplir pour obtenir gain de cause en matière d'atteinte préjudiciable lorsqu'on ne s'est approprié aucun bien-fonds. Les quatre conditions sont formulées comme il suit par le juge Abbott, à la p. 627:

The conditions required to give rise to a claim for compensation for injurious affection to a property, when no land is taken, are now well established; *Autographic Register Systems Ltd. v. Canadian National Railway Company* [[1933] Ex. C.R. 152]; Challies "The Law of Expropriation", p. 136. These conditions are:

(1) the damage must result from an act rendered lawful by statutory powers of the person performing such act;

(2) the damage must be such as would have been actionable under the commonlaw, but for the statutory powers;

(3) the damage must be an injury to the land itself and not a personal injury or an injury to business or trade;

(4) the damage must be occasioned by the construction of the public work, not by its user.

The Board was of the view that all the above conditions were met. It held that the proper date for the establishment of the damages was the date upon which the highway construction was completed and opened to traffic. On conflicting evidence as to the effect of such construction on the value of the property, it was found that its value had been reduced to the extent of \$35,000. The claim for personal damages under *The Expropriations Act*, R.S.O. 1970, c. 154, now R.S.O. 1980, c. 148, was dismissed on the basis that they were minimal.

An appeal to the Divisional Court by the Minister (1982), 38 O.R. (2d) 341, was dismissed (Krever, Smith and Potts JJ.) Smith J., writing for the court, said that he was not convinced that the Board was wrong. The Board, in his view, had applied the correct principles and reached the correct result. While it is evident that Smith J. considered that the liability of the Minister depended on a finding that the Minister would be liable at common law, save for the defence of statutory authority, he said at p. 344:

The actionable rule can have reference to what the law historically recognized as being proper subjects of compensation. The common law, however, in this instance, as in any other, is not a frozen instrument. Any suggestion that the compensation will be confined to a viola-

[TRANSDUCTION] Les conditions requises pour donner naissance à une demande d'indemnisation pour atteinte préjudiciable à un bien, lorsqu'on ne s'approprie aucun bien-fonds, sont maintenant bien établies; *Autographic Register Systems Ltd. v. Canadian National Railway Company* [[1933] Ex. C.R. 152]; Challies «The Law of Expropriation», p. 136. Ces conditions sont les suivantes:

(1) le dommage doit résulter d'un acte légalisé par les pouvoirs que la loi confère à la personne qui exécute cet acte;

(2) le dommage doit être tel qu'il aurait pu faire l'objet d'une action en *common law*, n'eussent été les pouvoirs conférés par la loi;

(3) le dommage doit être un préjudice au bien-fonds lui-même, ce ne doit pas être un préjudice personnel ou commercial;

(4) le dommage doit être occasionné par la construction d'un ouvrage public, et non par son utilisation.

Selon l'Office, ces conditions étaient remplies. Il a conclu que la date de fixation des dommages-intérêts était la date à laquelle la route a été complétée et ouverte à la circulation. Pour ce qui est de la preuve contradictoire quant à l'effet de cette construction sur la valeur du bien, il a conclu que sa valeur avait été réduite de 35 000 \$. La demande de dommages-intérêts personnels fondée sur *The Expropriations Act*, R.S.O. 1970, chap. 154, maintenant R.S.O. 1980, chap. 148, a été rejetée pour le motif qu'ils étaient minimes.

L'appel que le Ministre a interjeté devant la Cour divisionnaire composée des juges Krever, Smith et Potts a été rejeté (1982), 38 O.R. (2d) 341. Le juge Smith, qui a rédigé l'opinion de la cour, a dit qu'il n'était pas convaincu que l'Office avait eu tort. À son avis, l'Office avait appliqué les bons principes et était arrivé à la bonne conclusion. Bien qu'il soit évident que le juge Smith a estimé que la responsabilité du Ministre reposait sur une conclusion que celui-ci serait responsable en *common law*, n'eût été le pouvoir conféré par la loi, il a dit à la p. 344:

[TRANSDUCTION] Pour déterminer ce qui ouvre droit à une poursuite on peut se rapporter à ce qui a historiquement été reconnu comme pouvant faire l'objet d'une indemnisation. La *common law*, cependant, dans cette affaire, comme dans toute autre, n'est pas un instrument figé.

1987 CanLII 60 (SCC)

tion of a specific right traditionally recognized by law is, with respect, erroneous.

In dealing with the Minister's question as to what right had been violated, he said at p. 344:

It appears to me that the emphasis must not be on "right", except in the very broad sense of user without interference as a right. An owner has a private right to the use of his property in all its aspects and it is the alleged violation of that *user right* that must be scrutinized in each case.

He suggested that such scrutiny will always boil down to "a question of substantial interference with enjoyment with all that enjoyment implies". Applying this approach, he supported the judgment of the Board.

The Minister's appeal to the Court of Appeal (1983), 43 O.R. (2d) 767, (Lacourcière, Houlden and Weatherston J.J.A.) was allowed. Weatherston J.A. wrote for himself and Lacourcière J.A. Houlden J.A. wrote a separate concurring judgment. Weatherston reviewed the case-law on the subject of compensation for injurious affection, finding it against the claimants' position. Citing the words of Anglin J. in *Canadian Pacific Railway Co. v. Albin* (1919), 59 S.C.R. 151, at p. 159, he held that in order to succeed in such an action the claimants had to show "a physical interference with a right which the owner was entitled to use in connection with his property" which substantially diminished its value". It was not sufficient to merely show an indefinable loss in the enjoyment of the property. He concluded with this statement, at p. 773:

The definition of injurious affection in the *Expropriations Act* uses the language of the case-law, but it does not in express terms exclude a nuisance caused by the reasonable apprehension of the use (or misuse) of authorized works, where no land is acquired from an owner. The apprehension of the intended use of authorized works can be said to result from their construction, and not their use, but I think this is too fine a point. Where the *Expropriations Act* broadens the definition of injurious affection, it does so in clear terms; where, as in this case, it employs the language of the case-law, it must be held that the Legislature intended that the

Toute proposition portant que l'indemnisation sera limitée à la violation d'un droit spécifique traditionnellement reconnu par la loi est, avec égards, erronée.

À la question du Ministre sur le droit qui avait été violé, il a répondu à la p. 344:

[TRADUCTION] J'estime que l'accent ne doit pas être mis sur le «droit», excepté dans le sens très large de droit d'utilisation sans entrave. Un propriétaire a le droit privé d'utiliser son bien dans tous ses aspects et c'est la violation alléguée de ce *droit d'utilisation* qui doit être examinée dans chaque cas.

Il a dit que cet examen se réduira toujours à [TRADUCTION] «une question d'entrave importante à la jouissance et à tout ce que celle-ci comporte». Appliquant cette façon de voir, il a confirmé la décision de l'Office.

L'appel du Ministre à la Cour d'appel (1983), 43 O.R. (2d) 767, composée des juges Lacourcière, Houlden et Weatherston a été accueilli. Le juge Lacourcière a souscrit à l'opinion rédigée par le juge Weatherston. Le juge Houlden a rédigé des motifs distincts au même effet. Le juge Weatherston a passé en revue la jurisprudence sur l'indemnisation pour atteinte préjudiciable et a conclu qu'elle n'était pas favorable à la position des plaignants. Citant les mots du juge Anglin dans l'arrêt *Canadian Pacific Railway Co. v. Albin* (1919), 59 R.C.S. 151, à la p. 159, il a conclu que, pour réussir dans une telle action, les plaignants devaient démontrer [TRADUCTION] «une entrave matérielle à un droit que le propriétaire était en droit d'exercer en relation avec son bien» qui en diminue la valeur d'une façon importante». Il ne suffisait pas de simplement démontrer une perte indéfinissable de jouissance du bien. Il a conclu à la p. 773 en affirmant:

[TRADUCTION] La définition de l'atteinte préjudiciable dans l'*Expropriations Act* emploie les termes de la jurisprudence, mais elle n'exclut pas expressément une nuisance créée par la crainte raisonnable de l'utilisation (ou la mauvaise utilisation) d'ouvrages autorisés, lorsqu'on ne s'approprie aucun bien-fonds d'un propriétaire. On peut dire que la crainte de l'utilisation envisagée d'ouvrages autorisés résulte de leur construction et non de leur utilisation, mais je crois qu'il s'agit d'un point trop subtil. Lorsque l'*Expropriations Act* élargit la définition d'atteinte préjudiciable, elle le fait en des termes clairs; lorsque, comme en l'espèce, elle emploie les



words used would have the same meaning that they had before. The reduction in the market value of the claimants' lands, caused by the apprehension that the new highway would be used for its intended purpose, was not "injurious affection" within the meaning of the Act, and is not compensable.

In concurring reasons, Houlden J.A. expressed the view that the statement of Anglin J. in *Albin*, *supra*, was too restrictive. The court's duty, in his view, was simply to construe the relevant statutory provisions. Under the Act, the claimants were required to establish that they did have a cause of action at common law. He acknowledged that on rare occasions a landowner could recover damages in a case of this nature, referring to *Re City of Windsor and Larson*, *supra*, (interference with access to the claimants' property); *The Queen v. Loiselle*, *supra*, (closing or relocating an existing road); and *Fried v. Minister of Transportation and Communications* (1972), 3 L.C.R. 262, (altering the course of a creek bed). He did not, however, consider that the appellants' claim fell into that category. The appellants' claim, in his view, was simply based upon the fact that the neighbourhood had changed. They have lost the privacy they once enjoyed and they have lost their good view. In his opinion, the Minister in constructing the highway did not make unreasonable use of his lands and, accordingly, no action could lie. He quoted with approval the following passage from the judgment of Nesbitt J., speaking for this Court, in *The King v. MacArthur* (1904), 34 S.C.R. 570, at pp. 576-77:

It was never intended that where the execution of works, authorized by Acts of Parliament, sentimentally affected values in the neighbourhood, all such property owners could have a claim for damages. In most of our large cities values are continually changing by reason of necessary public improvements made, and if, although no lands are taken, everybody owning lands in the locality could, by reason of the changed character of the neighbourhood or interference with certain convenient highways, claim compensation by reason of a supposed falling of the previous market value of property in the

termes de la jurisprudence, il faut présumer que le législateur voulait que les mots employés aient le même sens qu'ils avaient auparavant. La réduction de la valeur marchande du bien-fonds des plaignants, causée par la crainte que la nouvelle route soit utilisée pour la fin à laquelle elle est destinée, n'est pas une «atteinte préjudiciable» au sens de la Loi, et elle n'ouvre pas droit à une indemnisation.

Dans ses motifs au même effet, le juge Houlden a exprimé l'opinion que l'affirmation du juge Anglin dans l'arrêt *Albin*, précité, était trop restrictive. À son avis, le devoir de la cour consistait simplement à interpréter les dispositions pertinentes de la loi. En vertu de la Loi, les plaignants étaient tenus d'établir qu'ils avaient bien une cause d'action en *common law*. Il a reconnu qu'en de rares occasions un propriétaire foncier pouvait recouvrer des dommages-intérêts dans une affaire de ce genre, renvoyant aux affaires *Re City of Windsor and Larson*, précitée (entrave à l'accès à la propriété des plaignants); *The Queen v. Loiselle*, précitée (fermeture ou relocalisation d'un chemin existant) et *Fried v. Minister of Transportation and Communications* (1972), 3 L.C.R. 262 (déplacement du lit d'un ruisseau). Il n'a cependant pas estimé que la réclamation des appelants relevait de cette catégorie. À son avis, la réclamation des appelants était simplement fondée sur le fait que les environs avaient changé. Ils ont perdu l'intimité dont ils jouissaient auparavant et ils ont perdu leur bonne vue. À son avis, en construisant la route, le Ministre n'a pas fait un usage abusif de ses biens-fonds et, par conséquent, il n'y avait pas de recours. Il a cité et approuvé l'extrait suivant des motifs du juge Nesbitt, parlant au nom de cette Cour, dans l'arrêt *The King v. MacArthur* (1904), 34 R.C.S. 570, aux pp. 576 et 577:

[TRADUCTION] On n'a jamais voulu que, lorsque la construction d'ouvrages autorisés par des lois du Parlement porte atteinte à la valeur sentimentale de biens dans les environs, tous les propriétaires puissent réclamer des dommages-intérêts. Dans la plupart de nos grandes villes, les valeurs changent continuellement en raison de travaux d'amélioration publics nécessaires et si, quoiqu'on ne s'approprie aucun bien-fonds, chaque propriétaire foncier de la localité pouvait, en raison de la modification de la nature des environs ou de certaines routes utiles, réclamer une indemnisation en raison

neighbourhood, it would render practically impossible the obtaining of such improvements.

The appellants argued that the Ontario Court of Appeal had erred in ignoring the test of nuisance set out in Fleming, *The Law of Torts* (4th ed. 1971), at p. 346. This test had been approved by that court in *Pugliese v. National Capital Commission* (1977), 17 O.R. (2d) 129, and is reproduced below (p. 154):

The paramount problem in the law of nuisance is, therefore, to strike a tolerable balance between conflicting claims of landowners, each invoking the privilege to exploit the resources and enjoy the amenities of his property without undue subordination to the reciprocal interests of the other. Reconciliation has to be achieved by compromise and the basis for adjustment is reasonable user. Legal intervention is warranted only when an excessive use of property causes inconvenience beyond what other occupiers in the vicinity can be expected to bear, having regard to the prevailing standard of comfort of the time and place. Reasonableness in this context is a two-sided affair. It is viewed not only from the standpoint of the defendant's convenience, but must also take into account the interest of the surrounding occupiers. It is not enough to ask: Is the defendant using his property in what would be a reasonable manner if he had no neighbour? The question is, Is he using it reasonably, having regard to the fact that he has a neighbour?

In their submission, this is the only realistic test in the modern world and to require physical interference with a definable or ascertainable right, in order to establish the existence of a nuisance, is contrary to recent authority and would hinder the development of the law of nuisance. The appellants argue that recent authority has extended the concept of nuisance and opened up a new range of matters which, in accordance with the Fleming test, would justify a finding of nuisance outside of traditional categories established by the courts. As an example, the appellants refer to *Nor-Video Services Ltd. v. Ontario Hydro* (1978), 4 C.C.L.T. 244, where Robins J., of the Ontario Supreme Court, held that the inability to receive television signals or an unreasonable interference with them

d'une chute supposée de la valeur marchande antérieure des propriétés dans les environs, il deviendrait pratiquement impossible d'obtenir ce type d'amélioration.

Les appelants allèguent que la Cour d'appel de l'Ontario a commis une erreur en ne tenant pas compte du critère de la nuisance exposé dans Fleming, *The Law of Torts* (4th ed. 1971), à la p. 346. Cette cour avait approuvé ce critère dans l'arrêt *Pugliese v. National Capital Commission* (1977), 17 O.R. (2d) 129; je le reproduis (p. 154):

[TRADUCTION] Le plus grave problème dans le droit de la nuisance consiste donc à établir un équilibre tolérable entre des réclamations incompatibles de propriétaires fonciers qui invoquent chacun le privilège d'exploiter les ressources et de jouir des agréments de leurs biens sans avoir à se soumettre indûment aux intérêts réciproques d'autrui. La conciliation s'obtient par le compromis et le fondement du rajustement est l'utilisation raisonnable. L'intervention de la loi n'est justifiée que lorsqu'une utilisation excessive du bien cause des inconvénients qui vont au-delà de ce que les autres occupants dans les environs peuvent s'attendre de supporter, compte tenu des normes de confort acceptées à cette époque et à cet endroit. Dans ce contexte, le caractère raisonnable présente deux volets. Il est envisagé non seulement du point de vue de l'agrément du défendeur, mais il doit également tenir compte de l'intérêt des occupants des environs. Il ne suffit pas de se demander si le défendeur utilise son bien d'une façon qui serait raisonnable s'il n'avait pas de voisin. La question est plutôt de savoir s'il l'utilise de manière raisonnable, compte tenu du fait qu'il a un voisin.

Selon eux, c'est là le seul critère réaliste de nos jours, et exiger une entrave matérielle à un droit définissable ou vérifiable, pour établir l'existence d'une nuisance, est contraire à la jurisprudence et à la doctrine récentes et générerait l'évolution du droit de la nuisance. Les appelants allèguent que la jurisprudence et la doctrine récentes ont élargi la notion de nuisance et ont accepté une nouvelle gamme de choses qui, conformément aux critères de Fleming, justifieraient que l'on trouve de la nuisance en dehors des catégories traditionnelles établies par les tribunaux. Par exemple, les appelants renvoient à la décision *Nor-Video Services Ltd. v. Ontario Hydro* (1978), 4 C.C.L.T. 244, dans laquelle le juge Robins de la Cour suprême de l'Ontario a conclu que l'incapacité de capter des

would detract from the beneficial ownership of property. He stated, at p. 256:

The notion of nuisance is a broad and comprehensive one which has been held to encompass a wide variety of interferences considered harmful and actionable because of their infringement upon or diminution of an occupier's interest in the undisturbed enjoyment of his property. I can see no warrant for refinements in approach which would preclude from protection the interest in TV reception even assuming it to be a recreational amenity. In this day and age it is simply one of the benefits and pleasures commonly derived from domestic occupancy of property; its social value and utility to a community, perhaps even more so to a remote community such as the one in this case, cannot be doubted. The category of interests covered by the tort of nuisance ought not to be and need not be closed, in my opinion, to new or changing developments associated from time to time with normal usage and enjoyment of land. Accordingly I would reject the defendant's submission and hold that television reception is an interest worthy of protection and entitled to vindication in law.

The appellants cite a number of other cases in which actions in nuisance have been maintained, such as *T. H. Critelli Ltd. v. Lincoln Trust and Savings Co.* (1978), 86 D.L.R. (3d) 724 (Ont. H.C.) (construction of a tall building in the city causing accumulation of snow on the roof of an existing building), and *Schenck v. The Queen in right of Ontario* (1981), 34 O.R. (2d) 595 (H.C.) (damage to fruit-growing land adjoining highway by salt from highway maintenance).

I am in agreement with Houlden J.A. in the Court of Appeal, when he said: "Our task is to interpret the language of the *Expropriations Act*". Section 21 of that Act provides that a statutory authority shall compensate the owner of land for loss or damage caused by injurious affection. Injurious affection is defined in s. 1 of the Act in the following terms:

1. ...

(e) "injurious affection" means,

signaux de télévision ou qu'une interférence inacceptable à leur égard porte atteinte à la propriété réelle du bien. Il dit à la p. 256:

[TRADUCTION] La nuisance est une notion générale et complète qui, a-t-on conclu, englobe une grande variété d'entraves considérées comme nuisibles et comme ouvrant droit à une poursuite parce qu'elles violent ou réduisent l'intérêt d'un occupant dans la jouissance paisible de son bien. Je ne vois aucune justification des subtilités de raisonnement qui empêcheraient de protéger l'intérêt à capter des signaux de télévision même si on présume qu'il s'agit d'agrément qui relèvent des loisirs. De nos jours, ce n'est qu'un des avantages et des agréments qui découlent ordinairement de l'occupation d'une propriété privée; on ne peut douter de sa valeur et de son utilité sociales pour une collectivité, peut-être encore davantage quand il s'agit d'une collectivité éloignée comme celle en l'espèce. La catégorie des intérêts visés par le délit que constitue la nuisance ne doit pas ni n'a besoin, à mon avis, d'être fermée à l'évolution ou aux nouveautés que l'on associe à l'utilisation et à la jouissance normales d'un bien-fonds. Par conséquent je suis d'avis de rejeter la prétention de la défenderesse et de conclure que la réception de signaux de télévision est un intérêt qui mérite d'être protégé et qui peut être revendiqué en droit.

Les appelants citent plusieurs autres décisions dans lesquelles des actions en nuisance ont été accueillies, par exemple *T. H. Critelli Ltd. v. Lincoln Trust and Savings Co.* (1978), 86 D.L.R. (3d) 724 (H.C. Ont.) (construction d'un grand édifice dans la ville qui cause des accumulations de neige sur le toit d'un édifice existant), et *Schenck v. The Queen in right of Ontario* (1981), 34 O.R. (2d) 595 (H.C.) (dommages à des terrains de culture de fruits adjacents à une route causés par le sel épandu pour l'entretien de la route).

Je partage l'avis du juge Houlden de la Cour d'appel qui dit: [TRADUCTION] «Notre tâche consiste à interpréter les termes de l'*Expropriations Act*. L'article 21 de la Loi prévoit qu'une autorité créée par la loi doit indemniser le propriétaire foncier à l'égard de la perte ou des dommages causés par une atteinte préjudiciable. L'atteinte préjudiciable est définie à l'art. 1 de la Loi dans les termes suivants:

[TRADUCTION] 1. ...

e) «atteinte préjudiciable» désigne,

- |   |  |   |
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| <p>(i) where a statutory authority acquires part of the land of an owner,</p> <p>a. the reduction in market value thereby caused to the remaining land of the owner by the acquisition or by the construction of the works thereon or by the use of the works thereon or any combination of them, and</p> <p>b. such personal and business damages, resulting from the construction or use, or both, of the works as the statutory authority would be liable for if the construction or use were not under the authority of a statute,</p> <p>(ii) where the statutory authority does not acquire part of the land of an owner,</p> <p>a. such reduction in the market value of the land of the owner, and</p> <p>b. such personal and business damages, resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute,</p> | <p>a</p> <p>b</p> <p>c</p> <p>d</p> <p>e</p> | <p>(i) lorsqu'une autorité légale s'approprie une partie du bien-fonds d'un propriétaire,</p> <p>a. la diminution de la valeur marchande de la partie restante du bien-fonds du propriétaire, causée par l'appropriation, par la construction d'ouvrages sur ce bien-fonds, par l'utilisation des ouvrages s'y trouvant ou par la réunion de plusieurs de ces éléments, et</p> <p>b. le dommage personnel et commercial, résultant de la construction ou de l'utilisation des ouvrages ou des deux à la fois, dont l'autorité légale serait responsable si la construction ou l'utilisation n'intervenait pas en vertu d'une loi, ou</p> <p>(ii) lorsque l'autorité légale ne s'approprie pas une partie du bien-fonds d'un propriétaire,</p> <p>a. la diminution de la valeur marchande du bien-fonds du propriétaire, et</p> <p>b. le dommage personnel et commercial, qui résultent de la construction et non de l'utilisation des ouvrages par l'autorité légale et dont celle-ci serait responsable si la construction n'intervenait pas en vertu d'une loi,</p> |
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As none of the appellants' land was acquired in this case, the matter falls to be determined under para. (ii). The reduction in market value of the land is accepted at \$35,000 and the statutory authority for the work has not been questioned. The sole question for determination then is whether the construction of the highway with its resultant damage to the property of the appellants would have been actionable at common law.

The only basis for an action to recover damages in the circumstances of this case would be the tort of nuisance. Nuisance has been variously described. In this case both parties have suggested definitions and there seems to be little if any dispute between them on the general description of the concept of nuisance. Reference has already been made to the comprehensive definition in Fleming, *The Law of Torts*. I would add the definition expressed in Street, *The Law of Torts* (6th ed. 1976), at p. 219:

A person, then, may be said to have committed the tort of private nuisance *when he is held to be respon-*

Comme on ne s'est approprié aucun bien-fonds des appelants en l'espèce, la question doit être tranchée en vertu de l'al. (ii). On reconnaît que la valeur marchande du bien-fonds a été réduite de 35 000 \$ et on ne conteste pas que l'ouvrage a été construit en vertu d'une loi. La seule question à trancher est alors de savoir si la construction de la route, qui a entraîné des dommages au bien des appelants, ouvre droit à une poursuite en *common law*.

Une action visant à recouvrer des dommages-intérêts dans les circonstances de l'espèce ne peut avoir comme fondement que le délit de nuisance. La nuisance a été décrite de diverses façons. Les deux parties en l'espèce ont proposé des définitions qui semblent comporter peu de différence sur la description générale de la notion de nuisance. J'ai déjà mentionné la définition globale donnée par Fleming dans *The Law of Torts*. Je désire ajouter la définition formulée par Street dans *The Law of Torts* (6th ed. 1976), à la p. 219:

[TRADUCTION] On peut alors dire qu'une personne a commis le délit de nuisance privée *lorsqu'elle est tenue*

sible for an act indirectly causing physical injury to land or substantially interfering with the use or enjoyment of land or of an interest in land, where, in the light of all the surrounding circumstances, this injury or interference is held to be unreasonable.

I am far from suggesting that there are not other definitions, and I do not suggest that the categories of nuisance are or ought to be closed. The above definitions, however, cover the general concept and we must now seek to apply it in the circumstances of this case.

The principal cases relied on by the appellants—*Nor-Video Services Ltd.*, *supra*; *T. H. Critelli Ltd.*, *supra*; and *Schenck*, *supra*—are said to take a broader approach to the question of nuisance than did the earlier cases. In my view, however, they are distinguishable from the circumstances which face the Court here. In each of those cases the action of the public authority substantially altered the nature of the claimant's property itself or at least interfered to a significant extent with the actual use being made of the property, with a resultant loss of value of the property. The same is true of the cases cited by Houlden J.A. in the Court of Appeal and relied on by the Land Compensation Board as instances in which recovery for injurious affection has been allowed. For example, in *Loiselle*, *supra*, the claimant's service station was left at the dead end of a *cul-de-sac* as a result of a diversion of a highway in order to accommodate the construction of the St. Lawrence Seaway. Similarly, in *Larson*, *supra*, a concrete median was built in the middle of the highway running in front of the claimant's motel, thereby severely restricting access with a resultant loss of value of the property. In both cases, the construction of the public works in close proximity to the lands so changed their situation as to greatly reduce if not eliminate their value for the uses to which they had been put prior to the construction and could, therefore, be classed as nuisances.

pour responsable d'un acte qui cause indirectement un préjudice matériel à un bien-fonds ou qui entrave de façon importante l'utilisation ou la jouissance du bien-fonds ou d'un intérêt dans le bien-fonds lorsque, compte tenu des circonstances, ce préjudice ou cette atteinte sont considérés comme déraisonnables.

Loin de moi l'idée qu'il n'y a pas d'autres définitions et je ne dis pas que les catégories de nuisance sont ou doivent être immuables. Les définitions qui précèdent, cependant, englobent la notion générale et nous devons maintenant tenter de l'appliquer dans les circonstances de l'espèce.

On dit que les principales décisions invoquées par les appelants, soit *Nor-Video Services Ltd.*, *T. H. Critelli Ltd.* et *Schenck*, précitées, adoptent une conception plus générale de la question de la nuisance que le faisaient les décisions antérieures. À mon avis, cependant, il faut établir une distinction entre ces affaires et les circonstances qui nous occupent ici. Dans chacune de ces affaires, l'acte de l'autorité publique a modifié de façon importante la nature du bien même du plaignant ou a, à tout le moins, entravé de manière importante l'utilisation réelle qu'il faisait du bien, ce qui a entraîné une diminution de sa valeur. Cela est également vrai des décisions citées par le juge Houlden en Cour d'appel et invoquées par l'Office d'indemnisation foncière comme étant des cas dans lesquels on a accordé une indemnisation pour atteinte préjudiciable. Par exemple, dans l'affaire *Loiselle*, précitée, la station-service du plaignant s'est retrouvée à l'extrémité d'une impasse par suite du détournement d'une route pour s'adapter à la construction de la Voie maritime du St-Laurent. De même, dans l'affaire *Larson*, précitée, une bande médiane de béton a été érigée au milieu de la route qui passait devant le motel du plaignant, en réduisant ainsi l'accès de façon importante, ce qui a entraîné une réduction de sa valeur. Dans les deux cas, la construction des ouvrages publics dans les environs immédiats des biens-fonds a changé leur situation au point de réduire grandement, sinon d'anéantir, leur valeur vu les fins pour lesquelles on les utilisait avant la construction, et cette construction pouvait donc être considérée comme une nuisance.

No such interference is to be found in the circumstances of this case. I agree with the Court of Appeal that what the appellants complain of here is the loss of prospect or the loss of view. There are as well the elements of loss of privacy, but in essence the complaint is that once they dwelt in a rural setting with a pleasing prospect and now they are confronted on one side of their land at least with a modern highway. It is a claim for loss of amenities. That the use of the highway will constitute a disruptive element is probably true but that is a field of damage which may not be considered. The claim is limited to loss occasioned by the construction.

From the very earliest times, the courts have consistently held that there can be no recovery for the loss of prospect, (*William Aldred's Case* (1610), 9 Co. Rep. 57 b, 77 E.R. 816; *Foli v. Devonshire Club* (1887), 3 T.L.R. 706; *Walker v. Pioneer Construction Co. (1967) Ltd.* (1975), 8 O.R. (2d) 35 (H.C.); *Muirhead v. Timbers Brothers Sand & Gravel Ltd.* (1977), 3 C.C.L.T. 1 (Ont. H.C.); see also Linden, *Canadian Tort Law* (3rd ed. 1982), at pp. 539-40; Buckley, *The Law of Nuisance* (1981), at p. 34; Fleming, *The Law of Torts* (6th ed. 1983), at p. 385). Moreover, I am unable to say that there is anything unreasonable in the Minister's use of the land. The Minister is authorized—indeed he is charged with the duty—to construct highways. All highway construction will cause disruption. Sometimes it will damage property, sometimes it will enhance its value. To fix the Minister with liability for damages to every landowner whose property interest is damaged, by reason only of the construction of a highway on neighbouring lands, would place an intolerable burden on the public purse. Highways are necessary: they cause disruption. In the balancing process inherent in the law of nuisance, their utility for the public good far outweighs the disruption and injury which is visited upon some adjoining lands. The law of nuisance will not extend to allow for compensation in this case.

The appeal is dismissed without costs.

En l'espèce on ne rencontre pas ce type d'en-trave. Je partage l'opinion de la Cour d'appel que ce dont les appelants se plaignent en l'espèce est la perte de perspective ou de vue. Il y a également la perte d'intimité, mais la plainte porte essentiellement qu'ils habitaient avant dans un site rural avec une perspective agréable et qu'ils font maintenant face, sur au moins un côté de leur bien-fonds, à une route moderne. Il s'agit d'une réclamation pour perte d'agrément. Il est probablement exact que l'utilisation de la route constituera un élément perturbateur, mais c'est un type de dommage dont on ne peut tenir compte. La réclamation est limitée à la perte occasionnée par la construction.

Depuis le début, les tribunaux ont systématiquement jugé qu'il ne peut y avoir d'indemnisation pour perte de perspective, (*William Aldred's Case* (1610), 9 Co. Rep. 57 b, 77 E.R. 816; *Foli v. Devonshire Club* (1887), 3 T.L.R. 706; *Walker v. Pioneer Construction Co. (1967) Ltd.* (1975), 8 O.R. (2d) 35 (H.C.); *Muirhead v. Timbers Brothers Sand & Gravel Ltd.* (1977), 3 C.C.L.T. 1 (H.C. Ont.); voir également Linden, *Canadian Tort Law* (3rd ed. 1982), aux pp. 539 et 540; Buckley, *The Law of Nuisance* (1981), à la p. 34; Fleming, *The Law of Torts* (6th ed. 1983), à la p. 385). En outre, je suis incapable de dire qu'il y ait quelque chose d'abusif dans l'utilisation que le Ministre fait du bien-fonds. Le Ministre a le pouvoir, il en a même le devoir, de construire des routes. Toute construction de route causera des inconvénients. Parfois elle endommagera la propriété, parfois elle en augmentera la valeur. Imputer au Ministre une responsabilité en dommages-intérêts envers chaque propriétaire foncier dont les intérêts de propriétaire sont lésés, uniquement à cause de la construction d'une route sur des terrains environnants, placerait un fardeau inadmissible sur le trésor public. Les routes sont nécessaires: elles causent des inconvénients. Dans l'exercice d'équilibre inhérent au droit de la nuisance, leur utilité pour le bien public l'emporte de beaucoup sur les inconvénients et les préjudices que subissent certains biens-fonds adjacents. Le droit de la nuisance ne va pas jusqu'à permettre une indemnisation en l'espèce.

Je suis d'avis de rejeter le pourvoi sans dépens.

*Appeal dismissed.*

*Pourvoi rejeté.*

*Solicitors for the appellants: Lerner & Associates, London.*

*Procureurs des appelants: Lerner & Associates, London.*

*Solicitors for the respondent: O'Donnell & Frank, Toronto.*

*Procureurs de l'intimé: O'Donnell & Frank, Toronto.*

**CITATION:** Desando v. Canadian Transit Company, 2018 ONSC 1859  
**COURT FILE NO.:** CV-13-19777  
**DATE:** 20180319

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

Giuseppe Desando, Immacolata Desando,  
 Raffaele Desando, Giulio Desando, Joseph  
 Anthony Desando and Stephen Chaborek

Stephen Chaborek, deceased by his Estate  
 Trustees With a Will, Jean Marie Chaborek  
 and Judy Ann Goodfellow

Plaintiffs

– and –

The Canadian Transit Company

Defendant

)  
 )  
 )  
 ) Harvey T. Strosberg, Q.C., William V. Sasso  
 ) Sharon R. Strosberg and Ryan Solcz, for the  
 ) Plaintiffs

)  
 )  
 )  
 ) Sheila Block, Rachael Saab and Emily  
 ) Sherkey, for the Defendant

)  
 )  
 )  
 ) **HEARD:** March 6, 7, 8, 9, 10, 13, 14, 15,  
 ) 16, 17, 20, 21, 22, June 1, 2, 8 and 9, 2017.  
 ) **RE-SUBMISSIONS REQUESTED:**  
 ) September 9, 2017; **REC'D:** Nov. 17, 2017.

**REASONS FOR JUDGMENT**

**CAREY J.:**

**Introduction**

- [1] This action in nuisance pits two sets of homeowners in the Sandwich area of the City of Windsor (the “City”) against the corporate owner of the Ambassador Bridge (“the Bridge”), North America’s busiest border crossing. There are other similar cases that are pending the resolution of this litigation.
- [2] The plaintiffs seek general, specific and punitive damages in excess of \$15 million as a result of the purchase of homes by the defendant in the vicinity of the Bridge. These



homes were vacated for the purpose of demolition in order to facilitate the construction of a new bridge and customs facility. While some houses were demolished, many have been vacated and boarded up for over ten years creating an actionable nuisance according to the plaintiffs. The defendant, the Canadian Transit Company (“CTC”), argues that its desire to demolish these buildings has been thwarted by the City refusing to issue demolition permits.

### **Summary of the Evidence**

- [3] This court heard 19 days of oral evidence and (often acrimonious) argument and received multiple binders and shelves of boxes of evidence. There are photos, charts, plans, studies and transcripts both from previous cases and from discoveries and examinations. Mr. Chaborek’s evidence was received on video. There was a View conducted of the area by the court accompanied by the parties, their representatives and the media. In the end, the plaintiffs say “It is a simple case”. The defendants seem to agree for different reasons. The defendant was able to sum up their “case in shorthand” in a page and a half, single-spaced. Both parties have focussed their argument on the nature of nuisance and causation, in addition to damages.
- [4] Mr. Chaborek’s evidence was received on consent through video from his discovery as he was too ill to attend court. He recounted over 60 years of living in the same house, a home that he primarily built himself after returning to Windsor from the Second World War. He was unhappy and sad about what had happened to his neighbourhood and the emptying of most of his neighbours’ homes. He refused to leave however, and after the trial began, sadly died, while still in possession of his home. His daughter Jean and neighbours Hayat Selin and Alicia Desouza also testified about changes in the neighbourhood and concerns about crime, vandalism and vermin.
- [5] None of the Desando family presently resides in the properties that they own. The family is from Sault Ste. Marie (the “Sault”) and purchased a home initially to provide a residence for successive sons as they attended the University of Windsor. The long term plan was that the parents, Giuseppe and Immacolata, would move from the Sault into one of the two houses to be close to their sons who had settled in southern Ontario. They indicate that they had to abandon their plans and buy in Amherstburg because the area had become rundown due to the boarded up houses and a proliferation of student housing. The houses that the family owns are both rented to students. The Desando’s claim includes damages for the reduction in value of those properties as well as lower rents they say that they are receiving due to the undesirability of the area. Both sides called evidence concerning property values and the effect of the empty houses on them.
- [6] Among the witnesses for the defendant were CTC executives Dan Stamper, Stan Korosec and Scott Korpi. Mr. Stamper, who has been president of CTC since 1990, testified that Windsor had traditionally supported the Bridge’s expansion plans. He gave extensive evidence about CTC’s plans for replacement of the Bridge, and the many years and requirements for final government approval. These included engineering plans, traffic studies and environmental and heritage assessment. The 10-acre expanded Canada

Border Security facility has been designed to eliminate a two kilometre drive into Windsor for Canada Border Services Agency (“CBSA”) secondary truck inspections. He believes the City’s current hostility is motivated, at least in part, by their being in competition for border tolls as co-owners of the tunnel. Stan Korosec and Scott Korpi also testified about the plans CTC had for the CBSA facility and plaza and the repair and eventual replacement of the Ambassador Bridge. Mr. Korosec outlined the 24-hour security in place for the boarded up homes, as well as the ongoing maintenance program, including exterior repairs, grass cutting and snow removal. As well, he gave evidence with extensive drawings, diagrams and designs for landscaping the areas around the Bridge when the demolition of houses is complete. The former Forster Secondary School, whose field area was acquired for the expansion of the CBSA facility, is being renovated and will be donated for community purposes.

- [7] Mr. Art Ussoletti from Titan Group testified in relation to the cost of repairing a representative single house at 663 Indian Road. He estimated that work in 2017 would cost slightly over \$100,000.
- [8] Kevin Flood gave evidence that his student housing business has profited, his rents have been high and his houses full of good tenants during the period of time the houses were boarded up.
- [9] Final submissions were completed on June 9, 2017. While the decision was still on reserve, on September 6, 2017 the Government of Canada announced its approval for a six-lane bridge to replace the almost 90-year-old current crossing. As a result of this not widely anticipated development, I requested further submissions from both sides concerning the reasonableness of the defendant’s actions, including the public utility of their proposal, and the City’s conduct in preventing the demolition of the houses. I received extensive argument, reply and sur-reply submissions from the parties.

### **Positions of the Parties**

- [10] The plaintiffs seek general, special and punitive damages in private nuisance for deliberately and without government approval or mandate, purchasing 144 homes in the most historic part of Windsor in order to destroy them and the residential character of the neighbourhood for its own private profit to the detriment of the plaintiffs’ use, comfort, enjoyment and value of their property.
- [11] The plaintiffs’ case in nuisance was encapsulated in the written submissions submitted in their closing argument. At paras. 3-6 of those submissions the plaintiffs set out the heart of their argument:

The use, comfort and enjoyment of Stephen (Chaborek)’s Property and the Desandos’ Properties were diminished by the External Obsolescence created by CTC’s Conduct. CTC’s purchase of 144 homes in this long-standing residential neighbourhood, was for the stated purpose of destroying the

houses and constructing on those lands and properties a new bridge and ancillary structures to the west of the existing Ambassador Bridge.

CTC's Conduct was not mandated by the federal government. Instead, the federal government selected another site for the new international crossing.

CTC's Conduct was not mandated by the City. Instead, the City opposed the destruction of the houses on the properties purchased by CTC and continues to battle CTC over the preservation of this long-standing residential community.

CTC's Conduct was deliberate. CTC intended to convert the residential character of the neighbourhood, in which Stephen's and Desandos' Properties are located, into business uses for CTC's financial gain. CTC's Conduct is continuing – the boarded up homes have been in that state of disrepair for a decade or more – without regard to the fact that it is causing substantial discomfort and it is a source of damage to CTC's neighbours such as Stephen and the Desandos.

- [12] They have also relied on two previous court decisions on related issues: *Canadian Transit Company v. Canada (Transport)*, 2011 F.C. 515 (CanLII), confirmed 2012 F.C.A. 70; and *Hilary Payne et al v. The Corporation of the City of Windsor et al*, (Sept. 12, 2011), Windsor, CV-10-14295, (S.C.J.) ONSC 5123 [unreported].
- [13] Both the Federal Court decision (Killeen J.) and the Ontario Superior Court case (Gates J.) accepted the position of the plaintiffs here that the federal government's choice of a new location for the construction of the Gordie Howe International Bridge had eliminated any public utility in expanding or replacing the Ambassador Bridge.
- [14] For its part, CTC adamantly asserts that the law does not recognize what they categorize as the plaintiffs' claim on the basis of "an eyesore," loss of view or character of the neighbourhood. In any event, they say the plaintiffs essentially are living in the past, an imagined, bucolic "Pleasantville" that if it ever existed, was long gone before the CTC began acquiring and demolishing/boarding up the houses. "Everything changes, nothing stays the same" was a recurring theme of the defence.
- [15] The plaintiffs assert that the defendant's conduct amounts to an unreasonable substantial interference with the use and enjoyment of their own property. The defendant states they acted reasonably, legally and the plaintiffs' claims are trifling and not such as to attract a damages award. As well, what the plaintiffs bring suit for is actually public nuisance, an action that contrary to the plaintiffs, the defendant says can only be commenced by the Attorney General.
- [16] The defendant submits that the plaintiffs have failed to show an interference with the plaintiffs' use and enjoyment of land that is both substantial and unreasonable. In any event the continued existence of the boarded up homes has been caused by the City which has refused permissions to CTC to demolish the homes.

## **Historical Background**

- [17] The Ambassador Bridge sits, on its Canadian side, between the campus of the University of Windsor and the historic Sandwich area of Windsor. There is a significant indigenous history in this area. Prior to European colonization, the area was inhabited by “Neutral Nations” including the Ottawa, Pottawatomi, Wyandotte and Chippewa. Beginning in the early 1700s, French settlers left Fort Pontchartrain, a military base and trading post established by Cadillac in present day Detroit, to form a community on the Detroit River’s south bank. By 1728, Jesuit missionaries had built a mission with the Huron now residing there adjacent to the present Bridge crossing.
- [18] The area became British territory following the 1759 Battle of the Plains of Abraham and subsequent treaty. With the American Revolution and the later surrender of Detroit by the British in 1796, many Loyalists moved across the river and settled. In 1797, Sandwich was established as a British administrative and judicial centre. The town was the scene of significant events in the War of 1812 and the 1837-38 Upper Canada Rebellions, as well as a terminus for fugitive slaves travelling “the Underground Railway.”
- [19] The Essex County Court House operated from Sandwich until 1962 when its current home opened. The 1850s structure now known as Mackenzie Hall remains both a prominent landmark as well as an event centre and venue for tribunal hearings.
- [20] Prior to Sandwich’s depression era amalgamation with other municipalities into the City of Windsor, it approved the building of the current bridge, completed in 1929. Earlier in the century, a train tunnel had been constructed under the river. In 1930, a second tunnel for motor vehicles opened. Today, it is owned jointly by the cities of Windsor and Detroit. Although not primarily handling tractor trailers, it competes for passenger vehicle traffic with the Ambassador Bridge.
- [21] Today, the Bridge’s commercial traffic is estimated to count for between 25-40 percent of the trade travelling between Canada and the United States. The importance of the Windsor/Detroit trade corridor was amplified after the events of “9/11” in 2001 when the border was closed for a time and traffic on the Bridge came to a temporary halt. Even before 9/11, the United States and Canada had been meeting and discussing the future needs for this crucial international trade route.
- [22] Eventually, after years of studies, meetings and litigation, the Detroit River International Crossing (“DRIC”) was approved by the Canadian government, at a site several kilometres west, down river from the Ambassador Bridge. Work has been completed on the Herb Gray Expressway, designed to link the crossing to be called the Gordie Howe International Bridge with Highway 401 to Toronto and beyond.
- [23] While construction of the Gordie Howe Bridge is not expected to be finished before 2023, work has begun on the Canadian side approach and at this writing, it appears the land assembly required in the United States is complete.

## **Previous Litigation**

- [24] There was a proposal put forward by the CTC to have the DRIC built beside the existing Ambassador Bridge. For reasons set out by the Federal Court in *Canadian Transit Company v. Canada (Transport)*, 2011 FC 515, CTC's claim that the Canadian government's choice of the new bridge location was biased, predetermined and would "cause significant adverse environmental effects" were dismissed as without merit and were found to have delayed the project.
- [25] In 2013, a claim by some Sandwich area property owners, alleging malfeasance against the City, its mayor and some councillors was dismissed by the Superior Court of Justice (Gates J.) in Windsor. That action challenged an Interim Demolition Control by-law (IDCB) passed initially in 2007, a Heritage District by-law passed in 2009 and other by-laws related to their implementation. It is those by-laws that the CTC says have prevented their intention to tear down the boarded up former homes that are the focus of these nuisance claims. The plaintiffs relied on these decisions in part to demonstrate a propensity for litigation on the part of the defendant that is motivated by the CTC's desire to protect their profitable "transborder toll bridge traffic". That economic motive they say has been behind the CTC's strategic use of these properties by leaving them standing to pressure the City to allow CTC to demolish them and open the door to expanding the Bridge's footprint into the residentially zoned neighbourhood. The plaintiffs argue that if the CTC really believed that as a federal initiative the Ambassador Bridge was beyond the City's jurisdiction, the defendant should have demolished the subject buildings despite the non issuance of permits. They also rely on the comments and findings in these decisions to discredit CTC's arguments that any actionable nuisance is the fault of the City. The previous findings are instructive as to the reasonableness of the defendants' conduct they argued. Plaintiffs' counsel on this case also represented the Mayor and Councillors in that litigation.
- [26] The defendant CTC disputes the relevancy of their previous litigation history. It was properly exercising its rights in American and Canadian courts. Further, it asserts the Payne litigation was dismissed on a *Limitations Act* argument, making most of the decision non-binding conclusions of fact that are obiter.

### **Legal Overview**

- [27] In the *Law of Torts in Canada*, 3d ed (Toronto: Carswell, 2010) by Gerald H.L. Fridman, Professor Fridman outlines the challenges courts are presented when "[t]he impossibility of providing a definition of nuisance for legal purposes has frequently been stated. Nuisance is a vague doctrine, very difficult to define accurately."
- [28] In *Canadian Tort Law: Cases, Notes and Materials*, 14th ed (Markham: LexisNexis Canada, 2014) by The Hon. Allen M. Linden, Lewis N. Klar, and Bruce Feldthusen, the authors open with an encapsulation:

Nuisance is a field of liability that describes a type of harm suffered by the plaintiff, rather than a type of objectionable conduct engaged in by the defendant. Public nuisance deals with the use and enjoyment of the general

public's right to use and enjoy public areas such as rights of way. A private nuisance is a substantial interference with an occupier's use and enjoyment of land, an interference which is unreasonable in the circumstances. The "substantial" requirement eliminates consideration of trivial interferences. The "unreasonable" requirement is determined by a balancing exercise that considers factors such as the severity of the interference, the duration, the character of the neighbourhood, the sensitivity of the plaintiff and the utility of the defendant's conduct. . . . In the absence of physical damage, the so-called loss of amenity cases, the balancing exercise may be detailed and difficult.

- [29] The plaintiffs say the tort of private nuisance has been made out because they have shown that the defendant for its private profit and gain sought to convert its residential properties for their business and, in the process, caused substantial discomfort to Mr. Chaborek and the Desandos. They say there has been an increase in fear of crime, vermin, unsavoury people and coinciding loss in their enjoyment of their properties. Both say their properties have diminished in value. They rely on the observations of Gates J. in *Hilary Payne et al. v. The Corporation of the City of Windsor et al.*, 2011 ONSC 5123, at paras. 36–37:

In my view, CTC has attempted to challenge the integrity of council and its process as a means of diverting attention from its relentless efforts to advance its own economic interests. The new DRIC bridge downstream in combination with the new parkway leading to it, will no doubt reduce in a significant way the profitable revenue stream from truck traffic moving in both directions across the Bridge. CTC's ongoing challenge to council's planning studies and the by-laws in question relating to the most historic part of the city of Windsor, is a thinly veiled disguise of CTC's true purpose, which is to maintain the control of the busiest crossing in North America in private lands and to reap the profits from this business enterprise.

- [30] The defendant says the plaintiffs are suing for "unoccupied houses they don't like the look of." They further argue that if nuisance is made out, it is public nuisance and requires the Attorney General to prosecute if the subject houses are a nuisance as the Crown officer representing the public.

***Can the boarded up houses constitute nuisance?***

- [31] The heart of the defendant's argument is that there is historically no claim for loss of view or neighbourhood. It relies on multiple cases set out in their "Loss of View" brief. The cases relied on by the defendant enunciate principles in the common law that are centuries old. The defendant cites in its U.S. Case Law Brief at tab 1, the summary of the legal principles found in *Myrick v. Peck Electric Company*, 2017 VT 4, at para. 5:

An unattractive site—without more—is not a substantial interference as a matter of law because the mere appearance of the property of another does not affect a citizen’s ability to use and enjoy his or her neighbouring land. . . . A landowner’s interest “in freedom from annoyance and discomfort in the use of land is to be distinguished from the interest in freedom from emotional distress. The latter is purely an interest of personality and receives limited legal protection,” since emotional distress is not an interference with the use or enjoyment of land. For example, there is a difference between, on the one hand, a complaint that solar panels are casting reflections and thereby interfering with a neighbor’s ability to sleep or watch television and, on the other hand, the landowners’ complaint in this case—that the solar panels are unattractive. The former involves a potential interference with the use or enjoyment of property, while the latter involves emotional distress.

Additionally, a complaint based solely on aesthetic disapproval cannot be measured using the unreasonableness standard that underpins nuisance law. This is because unlike traditional bases for nuisance claims—noise, light, vibration, odor—which can be quantified, the propriety of one neighbor’s aesthetic preferences cannot be quantified because those preferences are inherently subjective. *Naegele Outdoor Ad. Co. of Minn. v. Vill. Of Minnetonka*, 281 Minn. 492, 162 N.W.2d 206, 212 (1968) (observing “primary objection” to aesthetic-based regulation is “its subjective nature, for what may be attractive to one man may be an abomination to another”). The appellants find the solar panels unsightly, but other equally reasonable people may find them attractive. And while the landowners may be frustrated by the appearance of solar arrays adjacent to their property, “they surely can see the converse mischief (and infringement) on a homeowner’s property rights if homeowners could prevent their neighbors from construction deemed unattractive.” *Oliver*, 76 Cal.App.4th at 536, 90 Cal.Rptr.2d 491; see also *Rankin v. FPL Energy, LLC*, 266 S.W.3d 506, 512 (Tex. App. 2008) (observing that recognizing aesthetic nuisance would give neighbors “in effect, the right to zone the surrounding property”).

...

This understanding of nuisance law—as requiring more than aesthetic disapproval—has been settled law in Vermont since this Court’s iconic 1896 decision in *Hager*, when we held that

[t]he law will not declare a thing a nuisance because it is unsightly and disfigured, nor because it is not in a proper and suitable condition, nor because it is unpleasant to the eye, and a violation of the rules of propriety and good taste, nor because the property of another is rendered less valuable.

[32] The footnotes to that decision are helpful:

A handful of states have taken the approach of recognizing aesthetic nuisance only when the alleged aesthetic interference is accompanied by traditional elements of nuisance. See, e.g., *Leaf River Forest Prods., Inc. v. Ferguson*, 662 So.2d 648 (Miss. 1995); *Burch v. Nedpower Mount Storm, LLC*, 220 W.Va. 443, 647 S.E. 2d 879, 891–92 (2007). An even smaller number of states recognize aesthetic nuisance, and most of those states do so only in areas that are zoned for residential use. See, e.g., *Hay v. Stevens*, 271 Or. 16, 530 P.2d 37, 39 (1975). Moreover, actions taken out of spite are different from traditional nuisance analysis. As we observed in *Coty*, “the great majority of jurisdictions have held that where a defendant has acted solely out of malice or spite, such conduct is indefensible on social utility grounds, and nuisance liability attaches.” 149 Vt. at 458, 546 A.2d at 196 (citing *Prosser, supra*, § 89, at 598–99). Here, however, the landowners have not argued that the solar panels at issue were constructed out of spite or malice, and as such we need not address the role of aesthetics in the context of a spite case.

### Analysis

- [33] The American jurisprudence, of course, is only of persuasive value. However the plaintiffs do allege that the houses have remained standing for the purpose of wearing down resistance to the bridge expansion by proposing to remove the eyesores and replace them in large part with green space and landscaped parkland with amenities. As well, the plaintiffs emphasize that the bridge expansion would necessarily change the residential nature of the 144 buildings that the defendant owns in this residentially-zoned neighbourhood.
- [34] Further, the plaintiffs say the evidence has demonstrated that it has allowed the properties to deteriorate, fanned the flames of fear among residents for safety from crime, vermin and property depreciation, in order to pressure the City to allow the destruction of the neighbourhood. This has led to the spreading of concerns and anxiety as toxic to the plaintiff’s enjoyment and use of their property as runoff sewage or foul polluted air. This was not done in the public interest but in CTC’s own financial interest. The plaintiffs say there need not be fault or intent for there to be nuisance. Here, the plaintiffs continue, the defendant embarked on a course of action without prior authorization at any level, the consequences of which are such as to be intolerable to the average person. This is demonstrated by the number of people who signed a petition to Windsor City Council some seven years ago. The houses have all deteriorated since then. It is no surprise, that almost to a person, the plaintiffs’ witnesses in this trial all would prefer green space to the boarded up houses. The exception was Mr. Chaborek’s daughter Jean. She said the community did not need more parks and was hoping that the boarded up properties would be restored to family homes.
- [35] It is understandable that they have had their resistance to the defendant’s actions worn down by the passing years and the depressing effect. In addition, argue plaintiff’s counsel, the defendant’s continuous litigation and reputation for getting its way due its



wealth, deep pockets and political influence has clearly had its effect on the community's will to continue to fight.

- [36] In my view, the evidence here does not support that this is a case simply about subjective taste, a cornerstone of the rationale of the principle that one cannot sue for loss of a view. Not one witness on either side argued that the effect of the houses appearance was a positive one for the plaintiffs or the neighbourhood. The defendant's argument advanced through cross-examination of some of the plaintiffs' witnesses contrasted the better view that would be afforded by their plans for green space along Indian Road.
- [37] I have concluded that the allegations of the plaintiffs are much more than a loss of view complaint. They combine a complaint about unpleasant aesthetics with alleged malicious and entirely self-serving motives that serve no public good.

**Did the defendant have a duty to the plaintiffs to keep the houses in good repair, occupied and by not doing so create an actionable slum?**

- [38] There was a viewing by the court of the area in question in this lawsuit. While there was never any real issue that the properties were not pleasant to view, how to describe the properties was hotly contested.
- [39] The boarded up houses do not meet the accepted definition of slum. The *Concise Oxford English Dictionary* (11th ed. revised 2011) defines slum as "a squalid and over-crowded urban area inhabited by very poor people".
- [40] The properties seen on the court viewing were uninhabited and the area in general appeared underpopulated. The houses were generally behind fences with boards protecting their windows. In some cases they were missing roof shingles, eaves troughs and downspouts. The lawns were well-groomed and most of the trees and shrubs on the properties were still present.
- [41] The main complaint of the plaintiffs related to the length of time the houses remain boarded up and the deterioration of the houses while the approval process dragged on. The plaintiffs suggest the houses should have been rented out pending federal government approval.
- [42] It would not be reasonable or practical, in my view, to require a legitimate developer of property in the position of CTC to wait until all approvals had been given to start acquiring property. Indeed, it would likely make acquisition more difficult, expensive and delay the plans. I note that the plaintiffs point to the required acquisition of some further properties by the defendant in the government's September 6, 2017 announcement to argue that the approval is conditional and that the public utility of the proposal therefore not yet determined.
- [43] I cannot conclude that the defendant had an obligation in law to keep up the unoccupied houses to a level fit for occupancy and occupied while they waited for final approval from the federal government or permission to tear down the houses. That would be an

unreasonable imposition on any property owner with a redevelopment plan. There is no law locally or otherwise that requires houses to be occupied. I find that CTC had both a duty and a right under the legislation that authorized the Ambassador Bridge to take all necessary steps to maintain, repair and if necessary, replace the bridge. The houses' acquisition for demolition was part of that mandate.

- [44] I accept the evidence of the defendant's witnesses concerning maintenance and security of the houses. I find no evidence to support the plaintiffs' contention that the houses were unsafe generally or the breeding ground for wildlife or vermin. I do conclude however that the fear of crime, vermin and fire were all encouraged at various times by both those in the community wanting demolition of the houses and those wanting them restored and occupied. The defendant's witness, student housing landlord Mr. Flood, financed a comically alarmist video in 2010 depicting a bleak Sandwich streetscape of boarded up homes populated by a sinister-looking clown, a dissipated drunken woman collapsed against a tree drinking from a brown paper bag and a sullen older man walking with two sad young girls past vermin and garbage. It was not entirely clear as they turned down a back alley or street whether the trio was simply conveying the utter misery of the area or other more sinister things were implied. In his evidence, Mr. Flood rejected the notion that CTC had helped destroy the neighbourhood and explained the video as an election year effort to pressure the City to allow demolition. I accept that the video was an exaggerated piece of political propaganda. Seeing it did not cause me to reject Mr. Flood's evidence.

**Was the defendant's conduct an unreasonable interference with the plaintiffs' use and enjoyment of their own property?**

- [45] I find that while there was an effect on the plaintiffs' enjoyment of their property it was in combination with other changes in the neighbourhood that were the result of economic downturns and demographic factors which were decades in the making. School closures starting in the early 1990s made the area less attractive to families with younger children. The expansion of the University of Windsor put pressure on this adjacent neighbourhood for off campus housing for the University. The new and expanded engineering school was ironically the location of one of the closed elementary schools serving the area. In turn, a number of homes were converted from single family homes to privately run student housing. That, in turn, both fed the number of homes that were converted and reduced the attractiveness of the area to young families. The expansion of the City of Windsor and the Town of LaSalle to the south of Sandwich, offered attractive and affordable new housing and neighbourhood facilities for families. The Windsor area overall, is generally accepted as having been harder hit than most Canadian communities by the 2008 recession because of the large percentage of workers employed in manufacturing.
- [46] I find, on the evidence in this litigation, that much of the housing stock acquisition by the defendant corporation was taking place while the neighbourhood was changing. Mr. Chaborek saw none of his former neighbours' homes expropriated. What happened was that willing sellers made choices that reflected the kind of factors that go into any real

estate transaction. There was little direct evidence of what motivated the sellers in individual cases. Mr. Stamper's evidence was that CTC believed that CTC paid above market value for the houses.

- [47] This court heard that the Desando family living in the Sault initially invested in the area to have a place for a succession of children to live while attending the University of Windsor. At some point when the children had all graduated and living in southern Ontario, it was part of the plan for the parents to move into one of the houses. That did not happen, they say, because of how the neighbourhood had changed. They blamed that on the houses acquired by the defendant CTC. They bought a house in Amherstburg instead. Meanwhile, changes in the economy in the Sault have made selling their home there difficult.
- [48] The changes in the neighbourhood undoubtedly made property acquisition easier for the defendant in some cases but the uncontradicted evidence that I accept was that CTC paid market prices and higher. The subsequent change to the fabric of the neighbourhood by the houses acquisition contributed further to the change in the neighbourhood.
- [49] Some property owners saw the changes as an economic opportunity. Mr. Kevin Flood expanded his business in student focused housing and claims to be attracting the best prices and the best tenants because of his business plan which provides a high quality residential experience.
- [50] What is relevant here is not the reasonableness of the City's conduct in preventing the destruction of the boarded up houses but the reasonableness of CTC's action. The actions of the City are relevant to the CTC's defence that it acted reasonably in acquiring the properties in question for demolition to pursue the building of a new bridge. That said, the question in this instance should be whether the interference suffered by the plaintiffs is unreasonable, not whether the nature of the defendant's conduct is unreasonable: see *Antrim Truck Centre Ltd. v. Ontario (Transportation)*, [2013] 1 S.C.R. 594, 2013 S.C.C. 13 (CanLII), at para. 28:

Generally, the focus in nuisance is on whether the *interference suffered by the claimant* is unreasonable, not on whether *the nature of the defendant's conduct* is unreasonable. This point was made by the court in *Jespersen's Brake & Muffler Ltd. v. Chilliwack (District)* (1994), 1994 CanLII 1662 (BC CA), 88 B.C.L.R. (2d) 230 (C.A.). In that case, the construction of an overpass resulted in a 40 percent drop in the market value of the claimant's lands. The statutory authority argued that the claimant had to establish (and had failed to do so) that *the statutory authority* had used *its* land unreasonably. The Court of Appeal correctly rejected that contention. The focus of the reasonableness analysis in private nuisance is on the character and extent of the interference with the claimant's land; the burden on the claimant is to show that the interference is substantial and unreasonable, not to show that the defendant's use of its own land is unreasonable.

The nature of the defendant's conduct is not, however, an irrelevant consideration. Where the conduct is either malicious or careless, that will be a significant factor in the reasonableness analysis: see, e.g., *Linden and Feldthusen*, at pp. 590-91; *Fleming*, at s. 21.110; *Murphy and Witting*, at p. 439. Moreover, where the defendant can establish that his or her conduct was reasonable, that can be a relevant consideration, particularly in cases where a claim is brought against a public authority. A finding of reasonable conduct will not, however, necessarily preclude a finding of liability. The editors of *Fleming's The Law of Torts* put this point well at s. 21.120:

. . . unreasonableness in nuisance relates primarily to the character and extent of the harm caused rather than that threatened. . . . [T]he "duty" not to expose one's neighbours to a nuisance is not necessarily discharged by exercising reasonable care or even all possible care. In that sense, therefore, liability is strict. At the same time, evidence that the defendant has taken all possible precaution to avoid harm is not immaterial, because it has a bearing on whether he subjected the plaintiff to an unreasonable interference, and is decisive in those cases where the offensive activity is carried on under statutory authority. . . . [I]n nuisance it is up to the defendant to exculpate himself, once a prima facie infringement has been established, for example, by proving that his own use was "natural" and not unreasonable. [Emphasis added.]

- [51] The plaintiffs have maintained throughout this litigation that the defendant was pursuing its own selfish interest in assembling property after it essentially "lost out" to the new Gordie Howe International Bridge. The defendant says that the announcement in early September of the approval of the CTC's plan for a replacement of the Ambassador Bridge is a clear endorsement of the public interest aspect under their plan. The government supports having two viable crossings in the Windsor/Detroit corridor. The plaintiffs disparage the government's decision stating that (first Canadian astronaut) "Minister Garneau went to the International Space Station but he did not tour the slums in Olde Sandwich Town".
- [52] After the substantial evidence heard on this trial as well as the motion to strike the jury notice, I am satisfied that the political ground around the Ambassador Bridge shifted after the Gordie Howe International Bridge was approved. Locals opposed to the Bridge expansion and what they believed would be a negative impact on the Sandwich neighbourhood, saw an opportunity to defeat the CTC's bridge plans. The Windsor City Council responded with the Heritage by-law and their opposition to demolition of the buildings. The Ambassador Bridge and Mr. Matty Moroun were easy targets to be painted as greedy and insensitive to the community. Their public record of continual litigation and heavy financial contribution to Michigan legislators helped make Mr. Moroun and his company very distrusted in Windsor. After his and Mr. Stamper's brief jailing in Detroit for contempt of court, they became figures for ridicule. The two men

were often depicted in The Windsor Star editorial cartoons in prison stripes. It is clear to me from all of the evidence and press records filed, that the City's response to the Bridge company was largely a popular one at first. Any trust relationship or goodwill largely disappeared. I have concluded the City clearly made a calculated gamble that the federal government, having green-lighted the Gordie Howe project, would not approve the plans of CTC. Denied demolition permission, CTC would have to restore the buildings they controlled. It is also clear that most, including the combating parties, did not anticipate how long the political and litigious battle might drag on. Like many real battles, this one would affect innocents, local residents caught in the figurative crossfire.

### **Federal Government Approval**

- [53] It is a fair comment that the federal final approval of the CTC's plans, while apparently anticipated by the defendant, came as a shock to most in the community. Certainly the plaintiffs' initial submissions in this litigation were grounded on the premise that the defendant's plans had been rejected in favour of the Gordie Howe International Bridge and had no public utility.
- [54] The early September news release is a complete rejection of that premise by the Government of Canada:

September 6, 2017 – Ottawa

The Windsor-Detroit gateway is the busiest commercial land border crossing between Canada and the United States. The Government of Canada is committed to ensuring sufficient capacity to maintain an efficient trade corridor that can handle trade and traffic growth for the long-term, benefitting Canadians for generations to come.

To that end, the Honourable Marc Garneau, Minister of Transport, today announced that the Government of Canada has approved the Canadian Transit Company's application for the proposed Ambassador Bridge Enhancement Project spanning the Detroit River between Windsor, Ontario and Detroit, Michigan to replace the existing bridge. In addition to approving the Canadian Transit Company's application, the Government is moving forward expeditiously with the Gordie Howe International Bridge project.

As a key component of the Windsor-Detroit gateway, the 87-year old Ambassador Bridge is important to the economic well-being of the region, particularly to the automotive industry and for daily commuter traffic between Windsor and Detroit, and needs to be replaced. The project will see the construction of a replacement six-lane bridge as well as an expansion of the Ambassador Bridge's associated Canada Border Services Agency facility.

Under Canada's *International Bridges and Tunnels Act*, the project is subject to conditions that will ensure the efficiency, safety and security of the crossing and mitigate the impacts of the project on the local community. The conditions include the dismantling of the existing bridge when the replacement bridge is open, improving local infrastructure, creating new public green spaces, and protecting the environment and considering Indigenous interests.

- [55] In addition, the release attributes the following quote to the Minister of Transport, the Honourable Marc Garneau:

The Government of Canada recognizes the importance of ensuring the continued flow of trade and travellers between Windsor and Detroit, one of the most important Canada-United States border crossings. The construction of the replacement Ambassador Bridge together with the Gordie Howe International Bridge project will ensure that Canadians continue to benefit from the efficient movement of people and goods at this crossing while providing infrastructure improvements for the local community.

This critical trade corridor needs two viable commercial border crossings to provide sufficient capacity to support the safe and efficient movement of people and goods. Having both the Gordie Howe International Bridge and a fully functioning Ambassador Bridge will enhance capacity and reliability.

- [56] Since this announcement a large number of the Indian Road homes have come down. I have concluded that the federal government's approval of a new Ambassador Bridge to be built to replace the existing bridge, along with the conditions attached is confirmation of the defendant's position of the Bridge's public utility and has effectively removed the factual underpinnings of the allegations that the plaintiffs have relied upon in this lawsuit. It has retroactively approved the CTC's steps towards a new Ambassador Bridge. It has endorsed the need for two bridges in the area.
- [57] The *Antrim* decision deals with claims against a public authority. While the federal government has clearly recognized an important public utility in the Ambassador Bridge's replacement as well as the expansion of the CBSA's facility, it remains a fact that the Ambassador Bridge is a privately owned structure operated for profit. Nonetheless, given the sentiments expressed and conclusions in the government's announcement, I find it appropriate to adopt the test set out in *Antrim* applicable to public authorities. Generally, the acts of a public authority will be of a significant enough utility as to outweigh even very significant interferences with the plaintiffs' occupancy of their land.
- [58] Here, this court needs to consider the non-physical interference with the plaintiffs inconvenience and annoyance with the nature of this neighbourhood. It is one that has been evolving for some time from an essentially single family residential neighbourhood to one of more diversity with many students and multiple occupant buildings. I need to

consider, as well, the fact that the Bridge was part of the neighbourhood, along with its accompanying traffic noise and pollution when all of the plaintiffs, indeed all of their neighbours came to the community. Here, I have concluded that the interference was not substantial. Even if the plaintiffs had persuaded me that the boarded up houses would be intolerable to the reasonable person, the plaintiffs have not shown that it was unreasonable, such that “the interference is greater than the individual should be expected to bear in the public interest without compensation”: see *Antrim*, at para. 34.

- [59] Here, the Desandos do not reside in the community but rent their properties. They have not persuaded me that the acquisition of the homes by the defendant has significantly impacted either the value of the properties or the income derived from them. They have not tried to sell the properties recently. The senior Desandos clearly made a decision to live in Amherstburg based on factors beyond the presence of boarded up houses. Their inability to sell their property in the Sault was not a situation in any way created by the defendant. I accept the evidence of Kevin Flood and the fact that he is able to attract quality student tenants and higher rents by offering quality accommodation in the same neighbourhood. Further, I was not persuaded by the plaintiffs’ evidence regarding the effect of the boarded up buildings on the property values of the plaintiffs. I accept the defendant’s expert’s analysis of the effects of these properties as being negligible.
- [60] Mr. Chaborek’s evidence, while showing an annoyance and sadness with the boarded up houses around him, did not establish that the situation was such as to be intolerable. In fact, he chose not to sell and move but remain in his house until he was hospitalized prior to his death after a long and fulfilling life.
- [61] Mr. Chaborek had built his house almost in the shadow of the Bridge, the neighbourhood changed due to a variety of factors during his long life. The Ambassador Bridge’s presence remained a constant.
- [62] If I had been persuaded that the empty houses constituted a recoverable nuisance, it was very clear on all of the evidence that it was the City that was responsible for their continued presence through their decision not to issue demolition permits, despite an order relating to the majority of the houses from the land use planning committee. I reject that the CTC should have defied the law and proceeded without permit to demolish the buildings. That conduct, in my view, would have been illegal, unsafe and would likely have hardened public opinion against the Bridge.

### **Conclusion**

- [63] I conclude that what was alleged here was in the nature of private not public nuisance and did not require the intervention of the Attorney General. The plaintiffs have failed to show that the houses boarded-up by the defendant created a compensable private nuisance. The plaintiffs’ allegations about the defendant acting without authority and only for a selfish financial purpose have not been made out. The plaintiffs failed to prove that the harm done to the plaintiffs was substantial or persuade me that even if their claim

had been made out, that finding would result any award of damages to Mr. Chaborek or the Desando plaintiffs.

[64] The plaintiffs' claims are dismissed against the defendant in their entirety. It follows that there was no basis shown for the punitive damage claims.

[65] This court sympathizes with the plaintiffs and residents of the adjacent Sandwich area, who were subjected to the unexpected duration of the time during which the fate of the unoccupied houses remained unresolved. The residents of the area were innocent victims and collateral damage in an often bitter, acrimonious battle between the City and the Bridge, almost literally fought house to house in their neighbourhood. No doubt many felt let down when the Bridge's plans were approved by the federal government. They will likely be disappointed with this decision. This was an unusual situation created perhaps by expectations that new energy and life might be given to the neighbourhood with the Ambassador Bridge torn down and traffic noise and pollution diverted down river.

[66] While the law of nuisance perhaps did not ultimately provide a satisfactory remedy, given the evidence heard and seen of the spirit of resilience of the Sandwich community, the

recent upturn in the Windsor economy and the likelihood of substantial local improvements through private and civic investment Sandwich may still very well have a bright and vibrant future ahead of it.

[67] If the parties cannot agree to costs I will receive submissions within ten days of the release of this judgment from the defendant and seven days after the receipt of those submissions from the plaintiffs. Submissions should be no more than three pages in length each in addition to any bill of costs. I would hope that the successful party defendant would not only consider the relative means and circumstances of the plaintiffs but the novel nature of this case when fashioning their costs position.

Original signed by "Carey J."

Thomas J. Carey  
Justice

**Released:** March 19, 2018



**CITATION:** Desando v. Canadian Transit Company, 201 ONSC 1859

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

Giuseppe Desando, Immacolata Desando, Raffaele  
Desando, Giulio Desando, Joseph Anthony Desando and  
Stephen Chaborek

Plaintiffs

**– and –**

The Canadian Transit Company

Defendant

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**REASONS FOR JUDGMENT**

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Carey J.

**Released:** March 19, 2018



## England and Wales Court of Appeal (Civil Division) Decisions

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 URL: <http://www.bailii.org/ew/cases/EWCA/Civ/2020/104.html>  
 Cite as: [2021] 1 All ER 60, [2020] EWCA Civ 104, [2020] 2 WLR 1081, [2020] Ch 621, [2020] JPL 985

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### Summary

Neutral Citation Number: [2020] EWCA Civ 104  
 Case No: A3/2019/0485

IN THE COURT OF APPEAL (CIVIL DIVISION)  
 ON APPEAL FROM THE HIGH COURT OF JUSTICE  
 BUSINESS AND PROPERTY COURTS (CHANCERY DIVISION)  
 Mann J  
[\[2019\] EWHC 246 \(Ch\)](#)

Royal Courts of Justice  
 Strand, London, WC2A 2LL  
 12/02/2020

Before:

THE MASTER OF THE ROLLS  
 LORD JUSTICE LEWISON  
 and  
 LADY JUSTICE ROSE DBE

Between:

Giles FEARN (1)  
 Gerald KRAFTMAN (2)  
 Ian MCFADYEN (3)  
 Helen MCFADYEN (4)  
 Lindsay URQUHART (5)

Appellants/Claimants

- and -

THE BOARD OF TRUSTEES OF THE TATE GALLERY

Respondent/Defendant

Tom Weekes QC and Richard Moules (instructed by Forsters LLP) for the Appellants  
 Guy Fetherstonhaugh QC, Elizabeth Fitzgerald and Aileen McColgan (instructed by Herbert Smith Freehills LLP) for the Respondent

Hearing dates : 21 & 22 January 2020

HTML VERSION OF JUDGMENT APPROVED

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Sir Terence Etherton MR, Lord Justice Lewison and Lady Justice Rose DBE:

- This is an appeal from the order of Mann J dated 12 February 2019 dismissing the claim of the appellants for an injunction requiring the Board of Trustees of the Tate Gallery ("the Tate") to prevent members of the public, or any other licensees, from observing the claimants' flats from certain parts of the viewing gallery at the Tate Modern ("the viewing gallery"), which is on the top floor of an extension to the Tate Modern.
- The case, and this appeal, raise important issues about the application of the common law cause of action for private nuisance to overlooking from one property to another and the consequent invasion of privacy of those occupying the overlooked property.

#### The factual background

- The Judge described the factual background over many paragraphs. The following is a very brief summary, sufficient to understand the context of this appeal. Reference should be made to the Judge's judgment for a full account of the design, planning and construction history of the flats and the viewing gallery. It can be found at [\[2019\] EWHC 246 \(Ch\)](#), [\[2019\] Ch 369](#).
- The claimants are the long leasehold owners of four flats in a striking modern development designed by Richard Rogers and Partners (subsequently, Rogers Stirk Harbour + Partners), comprising four blocks of flats known as Neo Bankside, on the south bank of the River Thames. The design, planning process and construction of the development took place between 2006 and September 2012. The claimants' flats are in Block C of Neo Bankside, and they are directly opposite a new extension of the Tate Modern called the Blavatnik Building. The Blavatnik Building includes the viewing gallery, which runs around all four sides of the top floor, Level 10, and allows visitors to the Tate Modern to enjoy a 360-degree panoramic view of central London.
- The flats which are the subject of the claim are 1301, 1801, 1901, and 2101. The first two digits indicate the floor on which the flat is situated. The floor plans of each flat in Block C vary but each flat involved in this action comprises two parts: a general living space, and a triangular end piece known as a "winter garden". The winter gardens have floor-to-ceiling single-glazed windows, which are separated from the flat by double-glazed glass doors. They have the same heated flooring as the rest of the accommodation but are separated from the rest of the accommodation by a lip and the double-glazed doors. Although the winter gardens were initially conceived by the developers as a type of indoor balcony, in the case of all the claimants' flats the winter garden has become part of the general living accommodation. The other sides of the flats which enclose the living space of the accommodation, including the kitchen, dining, and sitting areas, are made up of floor-to-ceiling clear glass panels but equipped with wooden fascias which prevent a whole view of the interior of the dining and sitting areas.
- Adjacent to Neo Bankside is the Tate Modern (which, as well as the defendants, we shall call "the Tate"). The Tate is free and open to the public. Between 2006 and 2016 the Tate designed, obtained planning permission for and built an extension known as the Blavatnik Building. One of the features of the Blavatnik Building is the viewing gallery. The viewing gallery provides a striking view of London to the north, west, and east, with a less interesting view to the south. The viewing gallery has been open to the public since the Blavatnik Building was completed in 2016. The viewing gallery attracts hundreds of thousands of people a year (with one estimate at 500,000 – 600,000), with a maximum of 300 visitors at one time. Visitors spend 15 minutes on average in the viewing gallery. Originally, the viewing gallery was open when the museum was open: 10am – 6pm Sunday to Thursday and 10am to 10pm on Friday and Saturday. On 26 April 2018 the opening hours for the viewing gallery changed. It is now closed to public access at 5.30pm on Sunday to Thursday, and on Friday and Saturday the south and west sides are closed from 7pm and the north and east sides are closed from 10pm. There is a monthly event called Tate Lates, which currently takes place on the last Friday of each month, and for which the viewing gallery, other than the south side, remains open until 10pm. The viewing gallery also hosts financially lucrative commercial and internal events for the Tate. In its first 17 months 52 external events were hosted there.
- The winter gardens of Block C are roughly parallel to the Blavatnik Building. The distance between the viewing gallery and the 18<sup>th</sup> floor flat in Block C is just over 34m. Absent a barrier, visitors to the viewing gallery can see straight into the living accommodation of the claimants' flats. The most extensive view is of the interior of flats 1801 and 1901, with less for flat 2101, and less again for flat 1301. The flats have been fitted with solar blinds which, when kept down, obscure the view of the interior of the flat from the outside during the day. In the evening, however, when the lights are on, shadows of occupants may be visible to onlookers. The solar blinds also obscure the views of the outside and deprive the occupants of their use of the windows on one side of their flat.
- Visitors in the viewing gallery frequently look into the claimants' flats and take photographs, and less frequently view the claimants and their flats with binoculars. Photographs of the flats are posted on social media by visitors. On the platform Instagram there were 124 posts in the period between June 2016 and April 2018. It has been estimated that those posts reached an audience of 38,600. The Tate took two steps to attempt to address the problem: it posted a notice on the southern gallery asking visitors to respect the privacy of the Tate's neighbours and it instructed security guards to stop photography.

9. The designs for the Blavatnik Building always included a viewing gallery in some form; although its precise extent varied through successive iterations of the design. There is no planning document which indicates that overlooking by the viewing gallery in the direction of Block C was considered by the local planning authority at any stage. It is not likely that the planning authority considered the extent of overlooking. Further, while the Neo Bankside developer was aware of the plans for a viewing gallery, they did not foresee the level of intrusion which resulted.

#### The proceedings

10. The claim form in these proceedings was issued on 22 February 2017 claiming, as we have said, an injunction requiring the Tate to prevent members of the public or any other licensees from observing the claimants' flats from the part of the viewing gallery shown cross-hatched on the plan attached to the particulars of claim. By time of the trial the cross-hatching had been amended to cover the whole of the southern walkway, fronting directly on the flats, and also the southern half of the western walkway. The particulars of claim alleged that the use of that part of the viewing gallery unreasonably interfered with the claimants' enjoyment of their flats so as to be a nuisance. The particulars of claim also alleged that the use of that part of the viewing gallery infringed the claimants' exercise of their rights, conferred by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), to respect for their private and family lives and their homes, and that therefore the Tate, as a public authority, was in breach of section 6 of the Human Rights Act 1998 ("the HRA 1998").
11. In its defence the Tate denied that its use of the viewing gallery unreasonably interfered with the claimants' ordinary enjoyment of their flats. It denied that the viewing gallery diminished the utility of the claimants' land or caused injury to their land. The Tate denied that it was a public authority for the purposes of the HRA 1998, and, insofar as it was a hybrid public authority for the purposes of that Act, the Tate alleged that its use of the relevant part of the viewing gallery was a private act. The Tate denied that it was in breach of section 6 of the HRA 1998. It denied that the claimants were victims of a breach of Article 8 of the Convention. It denied that its use of the relevant part of the viewing gallery interfered with the claimants' right to respect for their private and family lives and their homes. It alleged that, if there was any interference with such rights, such interference was justified under Article 8.2. The Tate alleged that it had taken all reasonable steps to ensure that its visitors did not cause any disturbance to its neighbours, including the claimants. The Tate denied that the claimants' legal rights had in any way been interfered with or breached by it, and that in the circumstances the claimants were entitled to the injunction sought or to any relief.

#### The trial

12. The trial of the action took place before Mann J over five days in November 2018. There was considerable oral and documentary evidence. The oral evidence included that of the claimants and their planning expert, and that of six witnesses for the Tate. They were its director since 2016, its head of audience experience, its head of business, corporate membership and events, its head of regeneration and community partnerships, an architect employed by the firm which designed the Blavatnik Building and an expert on planning and associated matters.
13. The Judge undertook a site visit.

#### The judgment

14. The Judge handed down an impressive, comprehensive and detailed judgment on 12 February 2019, in which he dismissed the claim. The judgment runs to 233 paragraphs and 68 pages.
15. The following is a very brief summary of its critical reasoning, which inevitably does not do adequate justice to the conscientiousness of the Judge in this difficult case.
16. The Judge summarised his conclusion on the facts on the level of intrusion as follows:

"88. Gathering my findings above into one place, I find:

(a) A very significant number of visitors display an interest in the interiors of the flats which is more than a fleeting or passing interest. That is displayed either by a degree of peering or study, with or without photography, and very occasionally with binoculars.

(b) Occupants of the flats would be aware of their exposure to that degree of intrusion.

(c) The intrusion is a material intrusion into the privacy of the living accommodation, using the word "privacy" in its everyday meaning and not pre-judging any legal privacy questions that arise.

(d) The intrusion is greater, and of a different order, from what would be the case if the flats were overlooked by windows, either residential or commercial. Windows in residential or commercial premises obviously afford a view (as do the windows lower down in the Blavatnik Building) but the normal use of those windows would not give rise to the same level of study of, or interest in, the interiors of the flats. Unlike a viewing gallery, their primary (or sole) purpose is not to view.

(e) What I have said above applies to the upper three flats in this case. It applies to a much lesser extent to flat 1301, because that is rather lower down the building and the views into the living accommodation are significantly less, and to that extent the gallery is significantly less oppressive in relation to that flat."

17. On the direct claim in privacy under section 6 of the HRA 1998 and Article 8 of the Convention, the Judge concluded (at [124]) that the Tate does not have, or in this case was not exercising, functions of a public nature within the HRA 1998. Accordingly, the direct privacy claim failed, and the Judge said that he did not have to consider how Article 8 would have operated had the Tate been a public authority.
18. Turning to the nuisance claim, the Judge said that, if there was a nuisance, it would have to be the kind of nuisance caused by interference with a neighbour's quiet enjoyment of their land, and the first issue was whether that type of nuisance is capable of including invasion of privacy.
19. Having reviewed the arguments of counsel for both sides, and the various cases on which they relied, the Judge said (at [169]) that, had it been necessary to do so, he would have been minded to conclude that the tort of nuisance, absent statute, would probably have been capable, as a matter of principle, of protecting privacy rights, at least in a domestic home. He considered (at [170]) that, if there were any doubt about that, then that doubt had been removed by the HRA 1998 and Article 8 of the Convention; and (at [174]) that, if it did not do so before the HRA 1998, since that Act the law of nuisance ought to be, and is, capable of protecting privacy rights from overlooking in an appropriate case.
20. In considering whether there is an actionable nuisance in the present case, he said (at [186] and [188]) that the planning permission for the Blavatnik Building provides little or no assistance as the level of consideration given to the overlooking, if there was any at all, was not apparent from the evidence placed before him; and the planning permission did not really address the viewing gallery, as opposed to the building as a whole, and so it was not possible to draw any conclusions from it as to the views of the planning authority on the relative importance of the viewing gallery to the area.
21. The Judge observed (at [190]) that the locality is a part of urban South London used for a mixture of residential, cultural, tourist and commercial purposes but the significant factor was that it is an inner city urban environment, with a significant amount of tourist activity. He said that an occupier in that environment can expect rather less privacy than perhaps a rural occupier might, and that anyone who lives in an inner city can expect to live quite cheek by jowl with neighbours.
22. The Judge said (at [196]) that there was nothing unreasonable about the use of the Tate's land per se, in its context. He took into account (at [198]) the restrictions imposed by the Tate on the use of the viewing gallery both in respect of times for viewing and the other steps mentioned above.
23. So far as concerns the claimants' flats, he said (at [200]-[204]) that, while at one level the claimants were using their properties in accordance with the characteristics of the neighbourhood as they were used as dwellings, the complete glass walls of the living accommodation meant that the developers, in building the flats, and the claimants as successors in title who chose to buy the flats, had created or submitted themselves to a sensitivity to privacy which was greater than would have been the case of a less glassed design.
24. The Judge said (at [204]) that there was a parallel with nuisance cases in which the claim had failed because the claimant's user which had been adversely affected by the claimant's activity was a particularly sensitive one and that an ordinary use would not have been adversely affected.
25. The Judge also considered (at [209]-[210]) that, by incorporating the winter gardens into the living accommodation, the owners and occupiers of the flats had created their own additional sensitivity to the inward gaze. He concluded (at [211]) that the claimants were, therefore, occupying a particularly sensitive property which they were operating in a way which had increased the sensitivity.
26. The Judge then said that there were remedial steps that the claimants could reasonably be expected to have taken on the basis of the "give and take" expected of owners in this context. He mentioned (at [214]) the following: (1) lowering the solar blinds; (2) installing privacy film; (3) installing net curtains; (4) putting some medium or taller plants in the winter gardens, although the Judge accepted that, as a matter of screening, medium height plants would not be hugely effective. The Judge said (at [215]) that, looking at the overall balance which had to be achieved, the availability and reasonableness of such measures was another reason why he considered there to be no nuisance in the present case.

#### The appeal

27. The claimants were given permission to appeal on only one of their grounds of appeal. That ground is sub-divided into four paragraphs. They can be summarised as being that the Judge wrongly: (1) disregarded interference with the claimants' use of their flats due to their large windows because he wrongly made the counterfactual assumption that the flats were situated in an imaginary building with significant vertical and perhaps horizontal breaks which interrupted the inward view from the viewing balcony; (2) failed to have regard to the use of the viewing gallery to photograph and film individuals in the claimants' flats, with the photos and videos sometimes being posted on social media, contrary to the rights conferred Article 8; (3) failed to hold that the installation in the flats of privacy film and net curtains would be problematic preventive measures as such installation would be in breach of the leases of the flats; and (4) held that, for the purposes of the claimants' claim under the HRA 1998 s.6, the Tate is a "hybrid" authority.
28. The claimants did not proceed with that last criticism on the hearing of the appeal.
29. In preparing for the hearing of the appeal we were concerned that there was no respondent's notice raising the issues of whether, contrary to the view of the Judge (1) there is no cause of action in private nuisance for overlooking, which, as a matter of policy, should be addressed by planning law and practice or some other common law or statutory regime, and (2) it was not right, if necessary, to extend the cause of action for private nuisance to overlooking in view of Article 8. At our request, the parties provided us with written submissions on those additional matters and counsel addressed them in the course of the oral hearing. At the end of the hearing, we gave permission for the Tate to file a respondent's notice formally raising them.

#### Discussion

A. Is there a cause of action in private nuisance for overlooking?

*Relevant general principles of private nuisance*

30. The principles of the cause of action for private nuisance were recently summarised by the Court of Appeal in *Williams v Network Rail Infrastructure Ltd* [2018] EWCA Civ 1514, [2019] OB 601, at [40]-[45]. What was said there may be broken down into the following headline points.

31. First, a private nuisance is a violation of real property rights. It has been described as a property tort. It involves either an interference with the legal rights of an owner or a person with exclusive possession of land, including an interest in land such as an easement or a profit à prendre, or interference with the amenity of the land, that is to say the right to use and enjoy it, which is an inherent facet of a right of exclusive possession: *Hunter v Canary Wharf Ltd* [1997] AC 653 687G-688E (Lord Goff citing FH Newark, "The Boundaries of Nuisance" 65 LQR 480), 696B (Lord Lloyd), 706B and 707C (Lord Hoffmann) and 723D-E (Lord Hope).
32. Second, although private nuisance is sometimes broken down into different categories, these are merely examples of a violation of property rights. In *Hunter's* case, at p 695C, Lord Lloyd said that nuisances are of three kinds:
- "(1) nuisance by encroachment on a neighbour's land, (2) nuisance by direct physical injury to a neighbour's land; and (3) nuisance by interference with a neighbour's quiet enjoyment of his land."
33. The difficulty, however, with any rigid categorisation is that it may not easily accommodate possible examples of nuisance in new social conditions or may undermine a proper analysis of factual situations which have aspects of more than one category but do not fall squarely within any one category, having regard to existing case law.
34. Third, the frequently stated proposition that damage is always an essential requirement of the cause of action for nuisance must be treated with considerable caution. It is clear both that this proposition is not entirely correct and also that the concept of damage in this context is a highly elastic one. In the case of nuisance through interference with the amenity of land, physical damage is not necessary to complete the cause of action. To paraphrase Lord Lloyd's observations in *Hunter*, at 696C, in relation to his third category, loss of amenity, such as results from noise, smoke, smell or dust or other emanations, may not cause any diminution in the market value of the land, such as may directly follow from, and reflect, loss caused by tangible physical damage to the land, but damages may nevertheless be awarded for loss of the land's intangible amenity value.
35. Fourth, nuisance may be caused by inaction or omission as well as by some positive activity.
36. Fifth, the broad unifying principle in this area of the law is reasonableness between neighbours.
37. Overlooking from one property into another, if it is actionable at all as a private nuisance, would fall within Lord Lloyd's third category in *Hunter*. It is necessary, therefore, to consider in the present appeal certain aspects of that category in more detail than in *Williams*.
38. The first is what is often said to be the unifying principle of reasonableness between neighbours. Whether or not there has been a private nuisance does not turn on some overriding and free-ranging assessment by the court of the respective reasonableness of each party in the light of all the facts and circumstances. The requirements of the common law as to what a claimant must prove in order to establish the cause of action for private nuisance, and as to what will constitute a good defence, themselves represent in the round the law's assessment of what is and is not unreasonable conduct sufficient to give rise to a legal remedy.
39. We consider below the authorities discussing what the claimant must prove when the allegation is that the defendant has materially interfered with the amenity of the claimant's land. If material interference is established, the question of whether the defendant can defeat the claim by showing that the use of their land is a reasonable use was answered by *Bamford v Turnley* (1862) 3 B&S 66. In that case the plaintiff alleged that the defendant was liable for nuisance for burning bricks in kilns on the defendant's land which resulted in a bad smell affecting the comfortable and healthy occupation of the plaintiff's land. The jury found for the defendant. What was at issue on appeal in the Exchequer Chamber was whether the Chief Justice had misdirected the jury when he told them that they were to find for the defendant if they were of the opinion that the spot where the bricks were burned was a proper and convenient spot and the burning of them was, under the circumstances, a reasonable use by the defendant of his own land. It was held on appeal that there had been a misdirection. In an influential judgment, which has been cited, approved and applied many times, including at the highest level (see, for example, *Cambridge Water Co. v Eastern Counties Leather plc* [1994] 2 AC 264 at 299, *Southwark London Borough Council v Tanner* [2001] 1 AC 1 at 15-16, 20) Bramwell B said (at p.83):
- "those acts necessary for the common and ordinary use and occupation of land and houses may be done, if conveniently done, without subjecting those who do them to an action. This principle ... would not comprehend the present [case], where what has been done was not the using of land in a common and ordinary way, but in an exceptional manner - not unnatural or unusual, but not the common and ordinary use of land. ... The convenience of such a rule may be indicated by calling it a rule of give and take, live and let live."
40. It will be noted that there are two ingredients for such a defence for causing a nuisance to a neighbour: (1) the act must be "necessary" for the common and ordinary use and occupation of the land, and (2) it must be "conveniently" done. "Necessity" here plainly does not mean that the land would be incapable of occupation without the act being done at all. Its meaning is coloured by association with "the common and ordinary use and occupation of land and houses". "Conveniently" means that the act must be done in a way that is reasonable, having regard to the neighbour's interests. By way of illustration of both points, in *Southwark* (at p.16) Lord Hoffmann, commenting on Bramwell B's comments quoted above, said that it may be reasonable to have appliances such as a television or washing machine in one's flat but unreasonable to put them hard up against a party wall so that noise and vibrations are unnecessarily transmitted to the neighbour's premises.
41. In *Southwark* (at p.20) Lord Millett (with whom three other members of the appellate committee expressly agreed) said that the law of nuisance seeks to protect the competing interests of adjoining owners so far as it can by employing the control mechanism described by Lord Goff in *Cambridge Water* ... at p.299) as "the principle of reasonable user - the principle of give and take", and that it is not enough for a landowner to act reasonably in his own interest: he must also be considerate of the interest of his neighbour. Lord Millett said that "[t]he governing principle is good neighbourliness, and this involves reciprocity". He went on to explain, however, that the law gives effect to those broad concepts by the principle stated by Bramwell B in the passage in *Bamford* quoted above. It is that principle, he said, "which limits the liability of a landowner who causes a sensible interference with his neighbour's enjoyment of their property". Lord Millett extrapolated (at p.21) the following from Bramwell B's statement:
- "[Bramwell B's] conclusion was that two conditions must be satisfied: the acts complained of must (i) "be necessary for the common and ordinary use and occupation of land and houses" and (ii) must be "conveniently done", that is to say done with proper consideration for the interests of neighbouring occupiers. Where these two conditions are satisfied, no action will lie for that substantial interference with the use and enjoyment of his neighbour's land that would otherwise have been an actionable nuisance."
42. In *Barr v Biffa Waste Services Ltd* [2012] EWCA Civ 312, [2013] OB 455, the Court of Appeal reversed the decision of the trial judge that the defendant was not liable in private nuisance for odours caused by the tipping of waste. The essential reasoning of the trial judge was that the claim failed because defendant's use of its land was reasonable, as the use was in accordance with planning permission and the waste management permit granted by the Environment Agency and was without negligence, and some level of odour was inherent in the permitted activity. The Court of Appeal held that the approach of the judge involved errors of law, and so the case had to be remitted to be tried on the correct principles.
43. Carnwath LJ, with whom the other two members of the court agreed, rejected the judge's approach (described at [45]) that, as the "controlling principle" of the modern law of nuisance is that of "reasonable user", then if the user is reasonable, the claim must fail absent proof of negligence. Carnwath LJ said (at [46]) that "reasonable user" "is at most a way of describing old principles, not an excuse for re-inventing them". Having reviewed various references to reasonable user, reasonableness and "give and take" in *Cambridge Water*, *Bamford*, *St Helen's Smelting Co v Tipping* (1865) 11 HL Cas 642 and *Southwark LBC*, Carnwath LJ said as follows:
- "71. None of this history would matter if "reasonable user" in the present case was being used as no more than a shorthand for the traditional common law tests, as I understand it to have been used by Lord Goff [in *Cambridge Water*]. However, it is apparent that the judge, following Biffa's submissions, saw this concept as an important part of the argument for taking account of the statutory scheme and the permit, to which I will come in the next section.
72. In my view, these complications are unsupported by authority, and misconceived. "Reasonable user" should be judged by the well settled tests. ..."
44. We turn to two other matters relevant to the loss of amenity category of private nuisance, which did not arise in *Williams* and so were not necessary to highlight there, but which are relevant to the present case.
45. As the cause of action for private nuisance is a property right, a claim can only be made by someone who has a right to the land affected or who is in exclusive possession of it. A licensee on the land, such as children or guests, has no right to sue: *Hunter*. As Lord Hoffmann said in that case (at pp.702H, 706B-C and 707C):
- "Nuisance is a tort against land, including interests in land such as easements and profits. A plaintiff must therefore have an interest in the land affected by the nuisance. ... In the case of nuisances "productive of sensible personal discomfort," the action is not for causing discomfort to the person but, as in the case of the first category, for causing injury to the land. True it is that the land has not suffered "sensible" injury, but its utility has been diminished by the existence of the nuisance. It is for an unlawful threat to the utility of his land that the possessor or occupier is entitled to an injunction and it is for the diminution in such utility that he is entitled to compensation. ... Once it is understood that nuisances "productive of sensible personal discomfort" (*St. Helen's Smelting Co. v. Tipping*, 11 HL Cas 642, 650) do not constitute a separate tort of causing discomfort to people but are merely part of a single tort of causing injury to land, the rule that the plaintiff must have an interest in the land falls into place as logical and, indeed, inevitable."
46. The next point is that, in the case of the loss of amenity category of private nuisance, there must have been a material interference with the amenity value of the affected land, looked at objectively, having regard to the locality, and without regard to undue sensitivities or insensitivity on the part of the claimant. In *Lawrence v Fen Tigers Ltd* [2014] UKSC 13, [2014] AC 822, Lord Neuberger said (at [4]):
- "In *Sturges v Bridgman* (1879) 11 Ch D 852, 865, Thesiger LJ, giving the judgment of the Court of Appeal, famously observed that whether something is a nuisance "is a question to be determined, not merely by an abstract consideration of the thing itself, but in reference to its circumstances", and "what would be a nuisance in Belgrave Square would not necessarily be so in Bermondsey". Accordingly, whether a particular activity causes a nuisance often depends on an assessment of the locality in which the activity concerned is carried out."
47. Lord Neuberger quoted (at [64]) the following passage from the speech of Lord Westbury in *St Helen's Smelting* ... at p.650):
- "anything that discomposes or injuriously affects the senses or the nerves, whether that may or may not be denominated a nuisance, must undoubtedly depend greatly on the circumstances of the place where the thing complained of actually occurs. If a man lives in a town, it is necessary that he should subject himself to the consequences of those operations of trade which may be carried on in his immediate locality, which are actually necessary for trade and commerce, and also for the enjoyment of property, and for the benefit of the inhabitants of the town and of the public at large. If a man lives in a street where there are numerous shops, and a shop is opened next door to him, which is carried on in a fair and reasonable way, he has no ground for complaint, because to himself individually there may arise much discomfort from the trade carried on in that shop."
48. In *Barr* (at [72]) and in *Lawrence* (at [179]) Lord Carnwath quoted with approval the following passage from *Weir, An Introduction to Tort Law*, 2<sup>nd</sup> ed (2006) p. 160:
- "Reasonableness is a relevant consideration here, but the question is neither what is reasonable in the eyes of the defendant or even the claimant (for one cannot by being unduly sensitive, constrain one's neighbour's freedoms), but what objectively a normal person would find it reasonable to have to put up with."
49. Lord Neuberger in *Lawrence* (at [5]) said, with reference to that passage in Lord Carnwath's judgment, that he agreed that reasonableness in this context is to be assessed objectively.
- Overlooking and the cause of action for private nuisance at common law*
50. The Judge concluded (at [169]) that, had it been necessary to do so, he would have been minded to conclude that the tort of nuisance, absent statute, "would probably have been capable, as a matter of principle, of protecting privacy rights, at least in a domestic home".

51. He reached that conclusion on the basis of the following reasoning. Firstly, having surveyed the many cases cited by each side on the point (at [133]-[163]), he said (at [164]) that none of the cases go so far as to say that nuisance can never protect privacy, the one exception probably being the decision of the majority in the Australian case *Victoria Park Racing and Recreation Grounds Co Ltd v Taylor* (1937) 58 CLR 479. He said that he found the dissents in that case "somewhat compelling", and, furthermore, on the other side of the fence was another Australian case, *Raciti v Hughes* (1995) 7 BPR 14837, which presupposed that an action in nuisance is capable of being deployed to protect privacy. Secondly, he rejected (at [167]) a submission on behalf of the Tate that it was only in exceptional circumstances that loss of amenity resulting from something other than an emanation (such as noise, smell or smoke) could be upheld in nuisance. Thirdly, he said (at [168]) that, if the sight of something on the defendant's land can give rise to a nuisance claim, as in *Thompson-Schwab v Cataki* [1956] 1 WLR 335 (in which an interlocutory injunction was granted restraining the defendants from using premises for the purpose of prostitution), then it should be noted that part of the privacy claim could be founded on the fact that the claimants find it oppressive to see the watchers watch them. Further, fourthly, if it were necessary to find an emanation, the Judge said (at [168]) that he would have been prepared to find that the gaze of a watcher from the viewing gallery is analogous to an emanation for these purposes. Fifthly, he considered (at [169]) that Mr Fetherstonhaugh's acceptance that deliberate overlooking, if accompanied by malice, could give rise to a nuisance:

"gives the game away at the level of principle. It implicitly accepts that, given the right circumstances, a deliberate act of overlooking could amount to an actionable nuisance".

52. We respectfully do not agree with the conclusion or reasoning of the Judge on this issue for the following reasons.

53. Firstly, despite the hundreds of years in which there has been a remedy for causing nuisance to an adjoining owner's land and the prevalence of overlooking in all cities and towns, there has been no reported case in this country in which a claimant has been successful in a nuisance claim for overlooking by a neighbour. There have, however, been cases in which judges have decided and expressed the view that no such cause of action exists.

54. *Chandler v Thompson* (1911) 3 Camp. 80 was a case concerning obstruction of a right of light. *Le Blanc J* is reported to have observed (at p.82):

"that although an action for opening a window to disturb the plaintiff's privacy was to be read of in the books, he had never known such an action maintained; and when he was in the Common Pleas he had heard it laid down by Lord C. J. Eyre that such an action did not lie, and that the only remedy was to build on the adjoining land, opposite to the offensive window."

55. In *Turner v Spooner* (1861) 30 LJ Ch 801 the plaintiff was the owner of a property with "ancient lights", that is to say a property which had the benefit of an easement of light. The plaintiff's property adjoined the defendants' property. The plaintiff replaced the frames of the ancient lights, which had, in part, been painted white and, in part, been fitted with small leaden lattices, with plate glass, which allowed much more light and air. The defendants objected and began to erect a wooden framework in the yard that abutted both properties within a few inches of the plaintiff's ancient lights. The plaintiff brought proceedings for an injunction for, among other things, removal of the wooden framework. The defendants contended that the increase in the amount of light was a new easement, and the defendants were entitled to reduce the light to its original amount. They also argued that there was interference with the privacy of the defendants, for which the court would grant relief. *Kindersley V-C* refused to grant an injunction. He held, on the first argument, that a mere increase in light through the same aperture did not give rise to a new easement. On the privacy argument, he said the following (at p.803):

"With regard to the question of privacy, no doubt the owner of a house would prefer that a neighbour should not have the right of looking into his windows or yard, but neither this Court nor a Court of law will interfere on the mere ground of invasion of privacy; and a party has a right even to open new windows, although he is thereby enabled to overlook his neighbour's premises, and so interfering, perhaps with his comfort."

56. The Judge said (at [159]) that the decision should not be taken further than as applying to acts such as opening windows which happen to overlook, and does not assist in the present problem "which relates to a structure whose whole purpose is to overlook by providing a view to those who visit for that purpose". We do not agree. While there is certainly a substantial difference of degree between the overlooking in *Turner* and the overlooking from the Tate's viewing gallery, the issue of principle as to whether or not an invasion of privacy by overlooking is actionable as a private nuisance is the same. We consider that *Turner* is authority that it is not.

57. In *Tapling v Jones* (1865) 20 CBNS 166, a decision of the House of Lords, the issue was whether the defendant was entitled to build next to the plaintiff's wall, in which there were ancient lights and new windows, in a way which blocked the light to all of those windows, there being no way in which the defendant could obstruct the new windows without at the same time obstructing the ancient lights. The House of Lords, upholding the decision of the lower courts, held that the plaintiff was entitled to damages for interference with his ancient lights. The speeches in the House of Lords considered generally the law relating to the opening of windows overlooking another property. They made clear that there was no cause of action for overlooking, however many new windows there might be, and that the only remedy of the adjoining owner was (in the case of windows which were not ancient windows) to build upon the adjoining land itself so as to obstruct the light to and the views from the new windows.

58. Lord Westbury LC said (at p. 178) that it might be useful to point out "some expressions which are found in the decided cases, and which may seem to have a tendency to mislead". Having addressed, in that context, the phrase "right to obstruct", he addressed the issue of overlooking and privacy, as follows:

"Again, there is another form of words which is often found in the cases on this subject, viz. the phrase "invasion of privacy by opening windows." That is not treated by the law as a wrong for which any remedy is given. If A is the owner of beautiful gardens and pleasure grounds, and B is the owner of an adjoining piece of land, B may build on it a manufactory with a hundred windows overlooking the pleasure grounds, and A has neither more nor less than the right, which he previously had, of erecting on his land a building of such height and extent as will shut out the windows of the newly-erected manufactory."

59. Lord Carnworth said the following (at pp.185-186) on the same point:

"Every man may open any number of windows looking over his neighbour's land; and, on the other hand, the neighbour may, by building on his own land within 20 years after the opening of the window, obstruct the light which would otherwise reach them. Some confusion seems to have arisen from speaking of the right of the neighbour in such a case, as a right to obstruct the new lights. His right is a right to use his own land by building on it as he thinks most to his interest; and if by so doing he obstructs the access of light to the new windows, he is doing that which affords no ground of complaint."

60. Lord Chelmsford said (at pp.191):

"It is not correct to say that the plaintiff, by putting new windows into his house, or altering the dimensions of the old ones, "exceeded the limits of his right;" because the owner of a house has a right at all times (apart, of course, from any agreement to the contrary) to open as many windows in his own house as he pleases. By the exercise of the right he may materially interfere with the comfort and enjoyment of his neighbour; but of this species of injury the law takes no cognizance. It leaves everyone to his self-defence against an annoyance of this description; and the only remedy in the power of the adjoining owner is to build on his own ground, and so to shut out the offensive windows."

61. The Judge again distinguished those statements (at [161]) on the ground that they "do not necessarily deal with the case of a structure whose whole purpose is overlooking". We do not agree. While those statements were not, strictly, part of the *ratio*, or necessary reasoning of the decision, they are clear statements of the highest authority that the construction or alteration of premises so as to provide the means to overlook neighbouring land, whether or not such overlooking would result in a significant diminution of privacy and be the cause of justified annoyance to the neighbouring owner, is not actionable as a nuisance.

62. Before the Judge Mr Fetherstonhaugh placed weight on the decision of *Parker J* in *Browne v Flower* [1911] 1 Ch 219. In that case the plaintiffs, who were tenants of a ground floor flat in a building in respect of which Mrs Flower, as second mortgagee by subdemise, was entitled to the rents and profits, claimed an order for the removal of a staircase erected, with Mrs Flower's consent, on her adjoining land. The staircase was erected by another defendant, Mrs Lightbody, who was the tenant of another flat comprising rooms on the ground, first and second floors of the building, and who wished to subdivide her flat into two smaller flats and to provide a means of access to one of those smaller flats on the first floor. A person accessing the staircase would have a direct view into the plaintiffs' bedroom. The plaintiffs relied on the terms of covenants in Mrs Lightbody's lease not to do anything in her flat causing a nuisance to neighbouring premises; upon the principle of non-derogation from grant, that is to say that no one can be allowed to derogate from his or her own grant; and upon a breach of the covenant for quiet enjoyment in the plaintiffs' lease.

63. *Parker J* dismissed the claim on the grounds that (1) so far as concerns the claim that Mrs Lightbody was in breach of her lease, she had not done anything on the premises demised to her: what was done was on adjoining land belonging to the lessor; (2) so far as concerns non-derogation from grant, the existence of the staircase did not render the plaintiff's premises unfit or materially less fit to be used for the purposes of a residential flat; and (3) the suggestion of a breach of the covenant for quiet enjoyment had not really been pressed, and in any event required some physical interference with the enjoyment of the demised premises and did not extend to a mere interference with the comfort of persons using the demised premises by the creation of a personal annoyance. As the Judge observed, that last finding was disapproved, at least in the context of noise, by Lord Hoffmann in *Southwark LBC* ... at p.11A-C).

64. In the course of his judgment, *Parker J* made some observations about privacy, including (at p.225) that the law does not recognise any easement of prospect or privacy, and (at p.227), in relation to non-derogation from grant, the following:

"A landowner may sell a piece of land for the purpose of building a house which when built may derive a great part of its value from advantages of prospect or privacy. It would, I think, be impossible to hold that because of this the vendor was precluded from laying out the land retained by him as a building estate, though in so doing he might destroy the views from the purchaser's house, interfere with his privacy, render the premises noisy, and to a great extent interfere with the comfortable enjoyment and diminish the value of the property sold by him. ... It is only the comfort of the persons so using the rooms [viz. those overlooked by the staircase] that is interfered with by what has been done. Either they have less privacy, or if they secure their privacy by curtains they have less light. Much as I sympathise with the plaintiffs, it would, in my opinion, be extending the implications based on the maxim that no one can derogate from his own grant to an unreasonable extent if it were held that what has been done in this case was a breach of an implied obligation."

65. The Judge did not think that *Browne* was of much assistance on the general question of principle which we are currently addressing. We agree. The reasoning of *Parker J* is closely related to the particular facts of that case and the particular causes of action alleged, none of which were for private nuisance.

66. As mentioned above, the Judge acknowledged that *Victoria Park Racing*, a decision of the High Court of Australia, is authority for the proposition overlooking is not an actionable nuisance. In that case the defendant Mr Taylor, who was the owner of property neighbouring a racecourse owned by the plaintiff, gave permission to another defendant, the Commonwealth Broadcasting Corporation, to erect an observation platform from which an employee of the company gave a running commentary on the races, which was simultaneously broadcast by the company. The plaintiff claimed that the broadcasting had caused large numbers of people, who would otherwise have attended the race meetings, not to do so but instead to listen to the broadcasts, as a result of which the plaintiff had suffered loss and damage. He sought injunctions against the defendants on the ground of, among other things, common law nuisance. The majority (Latham CJ, Dixon J and McTiernan J) held that the decision of the Supreme Court of New South Wales dismissing the claim should be affirmed. A narrow reading of the judgments of the majority is that the defendants had not interfered with the use and enjoyment of the plaintiff's land, but rather the effect of their actions was to make the business carried on by the plaintiff less profitable. In the course of their judgments, however, the majority considered and rejected the proposition that overlooking was an actionable private nuisance.

67. Latham CJ said (at p.494):

"Any person is entitled to look over the plaintiff's fences and to see what goes on in the plaintiff's land. If the plaintiff desires to prevent this, the plaintiff can erect a higher fence. Further, if the plaintiff desires to prevent its notice boards being seen by people from outside the enclosure, it can place them in such a position that they are not visible to such people. At sports grounds and other places of entertainment it is the lawful, natural and common practice to put up fences and other structures to prevent people who are not prepared to pay for admission from getting the benefit of the entertainment. In my opinion, the law cannot by an injunction in effect erect fences which the plaintiff is not prepared to provide. The defendant does no wrong to the plaintiff by looking at what takes place on the plaintiff's land. Further, he does no wrong to the plaintiff by describing to other persons, to as wide an audience as he can obtain, what takes place on the plaintiff's ground. The court has not been referred to any principle of law which prevents

any man from describing anything which he sees anywhere if he does not make defamatory statements, infringe the law as to offensive language, &c., break a contract, or wrongfully reveal confidential information. The defendants did not infringe the law in any of these respects."

68. Dixon J said (at p. 507):

"It is the obtaining a view of the premises which is the foundation of the allegation. But English law is, rightly or wrongly, clear that the natural rights of an occupier do not include freedom from the view and inspection of neighbouring occupiers or of other persons who enable themselves to overlook the premises. An occupier of land is at liberty to exclude his neighbour's view by any physical means he can adopt. But while it is no wrongful act on his part to block the prospect from adjacent land, it is no wrongful act on the part of any person on such land to avail himself of what prospect exists or can be obtained. Not only is it lawful on the part of those occupying premises in the vicinity to overlook the land from any natural vantage point, but artificial erections may be made which destroyed the previously existing under natural conditions."

69. The Judge said (at [158]) that *Victoria Park Racing* "does not deal with the arguably different situation of looking into someone's home", and that it was not clear to him that the result would have been the same if what was being overlooked was the interior of someone's house. He also said (at [169]) that (the case not being binding on him) "[b]eing free to do so, I would prefer the reasoning of the minority in *Victoria Park Racing*". We consider, however, that the passages in *Victoria Park Racing* which we have quoted above are consistent with the views expressed by judges in this jurisdiction.

70. On this issue of actionability the Judge referred (in [134]-[147]) to a number of cases and some academic commentary relied upon by Mr Weekes, namely *Semayne's Case* (1604) 5 Co Rep 91a, *Morris v Beardmore* [1981] AC 446, *Brooker v Police* [2007] 3 NZLR, the judgments of the dissenting judges in *Victoria Park Racing*, the judgment of Callinan J in *Australian Broadcasting Corp v Lenah Game Meats Pty Ltd* (2001) 28 CLR 199, *Baron Bernstein of Leigh v Skyviews & General Ltd* [1978] QB 479, the Australian case of *Raciti*, an observation of Lord Millett at page 23 of *Southwark*, commentary in Clerk & Lindsell on Torts 21<sup>st</sup> ed (2014) and an article on "Privacy" by Winfield (1931) 47 LQR 23.

71. The Judge analysed each of them. He did not consider that any of cases was clear, let alone binding, authority that overlooking from the Tate viewing gallery is capable in principle of giving rise to a cause of action in nuisance. That was true even of *Raciti*, which, as we have said above, the Judge mentioned (in [164]) as supporting the existence of cause of action in nuisance to protect privacy. That was a decision of Young J in the Equity Division of the Supreme Court of the New South Wales on an application for an interlocutory injunction. In that case the defendants installed on their property floodlights and camera surveillance equipment positioned so as to illuminate the plaintiff's adjoining backyard and record on videotape what occurred in the backyard. The floodlight system appeared to be activated by a sensor which switched on the floodlights with movement or noise in the backyard.

72. Young J granted the injunction both on account of the lights and the surveillance equipment. As regards the surveillance equipment, he said that, on the evidence, there was a deliberate attempt to snoop on the privacy of a neighbour and to record that private activity on video tape. Importantly, for present purposes, he said that the surveillance and accompanying recording "gets sufficiently close to watching and besetting". "Watching and besetting", that is to say watching or besetting a person's house with a view to compelling them to do or not to do what is lawful for them not to do or to do, without lawful authority or reasonable justification, has been held actionable as a common law nuisance: *J Lyons & Sons v Wilkins* [1895] 1 Ch 255. Whether pure watching and besetting, without more, is capable of amounting to a common law nuisance is debatable: *Hubbard v Pitt* [1976] Q.B. 142, 175-177 (per Lord Denning MR, referring to *Ward Lock and Co Ltd v The Operative Printers' Assistants' Society* (1906) 22 TLR 327). In any event, "watching or spying on a person" is now an offence and civilly actionable under the Protection from Harassment Act 1997 ss.2A and 3. It is quite different from just overlooking and what takes place on the Tate's viewing gallery. Moreover, as the Judge noted in the present case (at [146]), Young J in *Raciti* regarded the application for the interlocutory injunction before him as "virtually the hearing of a demurrer" and so it was only necessary for the plaintiff to establish that there was an arguable cause of action.

73. The Judge concluded his survey and analysis of the cases relied upon by the claimants on the issue of actionability as follows (at [148]):

"Thus far on the authorities ... Mr Weekes has not much to go on in trying to establish that the tort of nuisance is capable of covering the acts of which he complains. However, he seeks to bridge the gap by relying on the Human Rights Act 1998, and in particular Article 8. ... He submits that when one balances all the factors which have to be balanced in a nuisance and privacy claim, there has been an actionable nuisance in this case."

74. We, therefore, conclude that the overwhelming weight of judicial authority, particularly in this jurisdiction, is that mere overlooking is not capable of giving rise to a cause of action in private nuisance. There is certainly no decided case to the contrary.

75. Secondly, in our judgment that is not surprising for historical and legal reasons. As can be seen from the cases we have mentioned, such as *Chandler, Turner and Taping*, consideration in the case law of the existence of a cause of action in nuisance for invasion of privacy and overlooking has often been in the context of disputes over obstruction of windows. The absence at common law of a right to light, short of an easement after 20 years' use which satisfies the relevant conditions, and of general air flow and prospect, are mirrored by the absence of a right to prevent looking into a residence. The reason for the former (no general right to light, air flow and prospect) has been judicially explained as being that such a right would constrain building in towns and cities.

76. In *Attorney-General v Doughty*, (1752) 2 Ves.Sen. 453, at 453-454, Lord Hardwicke LC said:

"I know no general rule of common law, which warrants that, or says, that building so as to stop another's prospect is a nuisance. Was that the case, there could be no great towns; and I must grant injunctions to all the new buildings in this town ..."

77. In *Dalton v Angus* [1881] 6 App.Cas 740 at 824, Lord Blackburn agreed with that reason and said:

"I think this decision, that a right of prospect is not acquired by prescription, shows that, whilst on the balance of convenience and inconvenience, it was held expedient that the right to light, which could only impose a burthen upon land very near the house, should be protected when it had been long enjoyed, on the same ground it was held expedient that the right of prospect, which would impose a burthen on a very large and indefinite area, should not be allowed to be created, except by actual agreement."

78. As Lord Lloyd observed in *Hunter* (at p.600F) this was, therefore, purely a matter of policy. It is logical that the same policy consideration underlies both the absence of any successful claim for overlooking, despite the very long history of a cause of action for nuisance, as well as the clear statements in *Chandler and Taping* and the actual decision in *Turner* negating any such claim. Familiar images of cheek-by-jowl buildings in cities such as London in the medieval and early modern period show that overlooking was commonplace and indeed inevitable when the great cities were being constructed.

79. Thirdly, as *Hunter* shows, even in modern times the law does not always provide a remedy for every annoyance to a neighbour, however considerable that annoyance may be. In that case the House of Lords confirmed the decision of the lower courts that the claimants had no claim in nuisance against the defendants who had constructed a very tall and large building which allegedly interfered with the reception of television broadcasts in the plaintiffs' homes. There was no cause of action because of the general principle that at common law anyone may build whatever they like upon their land. Lord Lloyd described (at p.699D) such a situation as "*damnum absque injuria*": a loss which the house-owner has undoubtedly suffered but which gives rise to no infringement of their legal rights.

80. Fourthly, in deciding whether, as a matter of policy, to hold that the cause of action for private nuisance is in principle capable of extending to overlooking, it is necessary to bear in mind the following three matters, all of which militate against any such extension.

81. Unlike such annoyances as noise, dirt, fumes, noxious smells and vibrations emanating from neighbouring land, it would be difficult, in the case of overlooking, to apply the objective test in nuisance for determining whether there has been a material interference with the amenity value of the affected land. While the viewing of the claimants' land by thousands of people from the Tate's viewing gallery may be thought to be a clear case of nuisance at one end of the spectrum, overlooking on a much smaller scale may be just as objectively annoying to owners and occupiers of overlooked properties. The construction of a balcony overlooking a neighbour's garden which results in a complete or substantial lack of privacy for all or part of the garden, with particular significance in the summer months, and which may even diminish the marketability or value of the overlooked property, would appear to satisfy the objective test. There would also be a question whether, in such a case, it makes any difference if there was more than one balcony or more than one family using the balcony or balconies. It is difficult to envisage any clear legal guidance as to where the line would be drawn between what is legal and what is not, depending on the number of people and frequency of overlooking. It is well known that overlooking is frequently a ground of objection to planning applications: any recognition that the cause of action in nuisance includes overlooking raises the prospect of claims in nuisance when such a planning objection has been rejected.

82. Further, when deciding whether to develop the common law by recognising that the cause of action for nuisance extends to overlooking, it is relevant to take into account other ways for protecting the owners of land from overlooking, including in particular planning laws and control. Lord Hoffmann said in *Hunter* (at p.710E), in which the appellate committee was asked to develop the common law by creating a new right of action against an owner who erects a building upon his land, it was relevant to take into account the existence of other methods by which the interests of the locality could be protected. He said the following on that topic (at p.710B/C):

"...we must consider whether modern conditions require these well established principles [of common law nuisance as to the right of landowners to build as they please] to be modified. The common law freedom of an owner to build upon his land has been drastically curtailed by the Town and Country Planning Act 1947 and its successors. It is now in normal cases necessary to obtain planning permission. The power of the planning authority to grant or refuse permission, subject to such conditions as it thinks fit, provides a mechanism for control of the unrestricted right to build which can be used for the protection of people living in the vicinity of a development. In a case such as this, where the development is likely to have an impact upon many people over a large area, the planning system is, I think, is a far more appropriate form of control, from the point of view of both the developer and the public, than enlarging the right to bring actions for nuisance at common law. It enables the issues to be debated before an expert forum at a planning inquiry and gives the developer the advantage of certainty as to what he is entitled to build.

83. Those comments are equally applicable in a case like the present one where there are complex issues about reconciling the different interests – public and private – in a unique part of London, with unique attractions, which draw millions of visitors every year. It is well established that planning permission is not a defence to an action for nuisance: see, for example, *Lawrence*. That, however, is a different issue to the question whether, as a matter of policy, planning laws and regulations would be a better medium for controlling inappropriate overlooking than the uncertainty and lack of sophistication of an extension of the common law cause of action for nuisance.

84. Finally, it may be said that what is really the issue in cases of overlooking in general, and the present case in particular, is invasion of privacy rather than (as is the case with the tort of nuisance) damage to interests in property. There are already other laws which bear on privacy, including the law relating to confidentiality, misuse of private information, data protection (Data Protection Act 2018), harassment and stalking (Protection from Harassment Act 1997). This is an area in which the legislature has intervened and is better suited than the courts to weigh up competing interests: cf. *Wainwright v Home Office* [2003] UKHL 53, [2004] 2 AC 406, esp. at [33], in which the House of Lords held that there is no common law tort of invasion of privacy and that it is an area which requires a detailed approach which can be achieved only by legislation rather than the broad brush of common law principle.

85. For all those reasons, we consider that it would be preferable to leave it to Parliament to formulate any further laws that are perceived to be necessary to deal with overlooking rather than to extend the law of private nuisance.

#### *The significance of Article 8*

86. As stated above, the Judge said (at [170]) that, if there were any doubt that the tort of nuisance is capable, as a matter of principle, of protecting privacy rights, at least in a domestic home, that doubt has been removed by Article 8. Having referred to *McKennitt v Ash* [2008] QB 73, he said (at [171]) that external prying into a home would contravene the privacy protected by Article 8, even without photography. He also said (at [174]) that, if

it did not do so before the HRA1998, since that Act the law of nuisance ought to be, and is, capable of protecting privacy rights from overlooking in an appropriate case. He described this (in [207]) as "developing the common law under the direction of statute".

87. We consider that there are a number of errors of principle in the way the Judge approached the issue of the relevance of Article 8.
88. In principle, the analysis should have been to ask whether, if the tort of nuisance does not otherwise extend at common law to overlooking: (1) there was nevertheless an infringement of Article 8; and (2) if so, whether it is appropriate to extend the common law in order to provide a remedy for the claimants and so avoid a breach of HRA 1998 s.6 on the part of the courts as a public authority.
89. The Judge, however, never made a finding of an infringement of Article 8 because, in effect, he found that in all the circumstances the claimants did not have a reasonable expectation of privacy in the absence of the protective measures which he considered they ought reasonably to have taken.
90. In any event, in determining whether or not Article 8 is engaged, it would be necessary to bear in mind that there has never been a Strasbourg case in which it has been held that mere overlooking by a neighbour or a neighbour's invitees is a breach of Article 8. The "mirror principle" articulated by Lord Bingham in *R(Ullah) v Special Adjudicator* [2004] UKHL 26; [2004] 2 AC 323 (that our courts should keep pace with, but not go beyond, Strasbourg), as clarified by Lord Brown in *Rabone v Pennine Care NHS Foundation Trust* [2012] UKSC 2; [2012] 2 AC 72, dictates caution about any conclusion as to the engagement of Article 8, let alone its infringement, in the case of mere overlooking.
91. Moreover, overlaying the common law tort of private nuisance with Article 8 would significantly distort the tort in some important respects. In the first place, as we have stated above, and all the authorities emphasise, the tort is a property tort and so mere licensees have no cause of action. Article 8 is not limited in that way and so will in principle confer a right on anyone who has a reasonable expectation of privacy: *Re JR38* [2016] AC 1131; *Harrow London Borough Council v Qazi* [2003] UKHL 43, [2004] 1 AC 983, [50], [82], [89]. As Lord Lloyd said in *Hunter* (at p.698B/C), to allow the wife or daughter of those who suffered from harassment on the telephone, whether at home or elsewhere, a remedy in private nuisance:

"would not just be to get rid of an unnecessary technicality. It would be to change the whole basis of the cause of action."

92. Secondly, in assessing whether a person has a reasonable expectation of privacy for the purposes of Article 8, the court will take into account all the circumstances, including matters which are irrelevant to the cause of action for nuisance. For example, the particular sensitivity or insensitivity of the claimant to an invasion of privacy may be highly relevant for the purposes of Article 8, such as if the invasion of privacy is against a child as in *S v Sweden* [2013] ECHR 1128, 5786/08, but irrelevant in applying the objective approach to reasonable user in the tort of nuisance, as in *Robinson v Kilvert* (1889) 41 Ch D 88 (no nuisance for activity damaging a sensitive commercial process).
93. Thirdly, in determining whether or not there has been an infringement of Article 8, it is necessary for the court to consider justification under Article 8(2). That would give rise to a number of difficulties in the context of the tort of nuisance. In the context of the Convention, there can be a contest between the Article 8 rights of one party and other Convention rights of the other party, such as freedom of expression under Article 10 and the peaceful enjoyment of possessions under Article 1 of the First Protocol, which involves a balancing exercise by the court. Such considerations have no place in the tort of nuisance.
94. Fourthly, even in a case where there has been an infringement of Article 8, Member States have a wide margin of appreciation as to the remedy both as regards respect for private life and respect for the home: *Von Hannover v Germany* [2004] Application no. 59320/00), [2004] EMLR 379 para. 104; *Powell and Rayner v United Kingdom* [1990] Application no. 9310/81, [1990] 12 EHRR 355, para 44; and cf. *McDonald v McDonald* [2016] UKSC 28, [2016] 3 WLR 45, [40]-[41]. As mentioned earlier, common law principles of confidentiality and misuse of private information, and statutory intervention, such as the Protection from Harassment Act 1997, the Data Protection Act 2018 and planning law and regulations, suggest that, if there is a legal lacuna as to remedy, that is best left to the legislature rather than to the courts fashion to fashion.
95. In all those circumstances, we see no sound reason to extend the common law tort of private nuisance to overlooking in light of Article 8.

B. If the tort of nuisance applies, without an overlay of Article 8, was the Judge correct to dismiss the claim?

96. In view of our decision that overlooking does not fall within the scope of common law nuisance this appeal must be dismissed.
97. In any event, however, we consider that the Judge made two material errors in applying the principles of common law nuisance to the facts of the present case. We shall comment on those briefly.
98. Firstly, the Judge said (at [205]) that the developers in building the flats, and the claimants as successors in title who chose to buy the flats, had "created or submitted themselves to a sensitivity to privacy which is greater than would the case of a less glassed design"; and that "[i]t would be wrong to allow this self-induced incentive to gaze, and to infringe privacy, and self-induced exposure to the outside world, to create a liability nuisance". It was in that connection that he considered (at [201]-[202]) the counter-factual of a building with significant vertical and perhaps horizontal breaks to interrupt the inward view. He drew an analogy (at [204]-[205] and [211]) with nuisance cases which have established that doing something is not a nuisance if it adversely affects a particularly sensitive process or trade in an adjoining property but would not have affected any ordinary process or trade: see, for example, *Robinson v Kilvert*.
99. In the present case we are not concerned with any undue sensitivity of the claimants as individuals or what is being carried on in the flats which would fall foul of the objective reasonable user test for nuisance. In the context of the tort of nuisance, what is in issue is the impact of the viewing gallery on the amenity value of flats themselves. There being no finding by the Judge that the viewing gallery is "necessary" for the common and ordinary use and occupation of the Tate within Bramwell B's statement in *Bamford* quoted above, once it is established that the use of the viewing balcony has caused material damage to the amenity value of the claimants' flats and that the use of the flats is ordinary and reasonable, having regard to the locality, there would be a liability in nuisance if (contrary to our decision) the cause of action extended to overlooking. There would be no question in those circumstances of any particular sensitivity of the flats, nor of any need on the part of the claimants to take what the Judge described (in [214]) as "remedial steps": *Miller v Jackson* [1977] 1 QB 966 (a claim for nuisance from cricket balls from the neighbouring cricket ground damaging the plaintiffs' house held not defeated by the plaintiffs' refusal of the defendants' offers to provide protective measures).
100. Secondly, and connected to the Judge's approach to the issues of sensitivity and protective measures, the Judge conducted an overall assessment of the reasonableness of the claimants, on the one hand, and the Tate, on the other hand, in the light of all the circumstances. He said (at [180]), for example:

"The question is whether the Tate Modern, in operating the viewing gallery as it does, is making an unreasonable use of its land, bearing in mind the nature of that use, the locality in which it takes place, and bearing in mind that the victim is expected to have to put up with some give and take appropriate to modern society and the locale."

101. In relation to the protective measures which the Judge considered it would be reasonable for the claimants to take, he said as follows (at [215]):

"The victim of excessive dust would not be expected to put up additional sealing of doors and windows; the victim of excessive noise would not be expected to buy earplugs. However, privacy is a bit different. Susceptibilities and tastes differ, and in recognition of the fact that privacy might sometimes require to be enhanced it has become acceptable to expect those wishing to enhance it to protect their own interests. I refer, for example, to net curtains. In the present case, if the occupiers find matters too intrusive they can take at least one of the measures referred to above. It will, of course, detract from their living conditions, but not to an unacceptable degree. Looking at the overall balance which has to be achieved, the availability and reasonableness of such measures is another reason why I consider there to be no nuisance in this case."

102. There was no suggestion in the present case that the claimants have been and are using their flats otherwise than in a perfectly normal fashion as homes. We consider that the Judge's balancing exercise, assessing what would be reasonable as between the claimants and the Tate, including protective measures which it would be open to the claimants to take to reduce the intrusion of privacy into their homes from the viewing gallery, is, for the reasons we have given above, contrary to the general principles of private nuisance.

#### Conclusion

103. For all the reasons above, we affirm the decision of the Judge, but for different reasons from those he gave, and we dismiss this appeal.

**TAB 13**





## Antrim Truck Centre Ltd. v. Ontario (Transportation), 2013 SCC 13 (CanLII), [2013] 1 SCR 594

Date: 2013-03-07  
 File number: 34413  
 Other citations: 26 RPR (5th) 1 — [2013] SCJ No 13 (QL) — [2013] CarswellOnt 2354 — EYB 2013-219083 — JE 2013-433 — 108 LCR 157 — 99 CCLT (3d) 1 — 73 CELR (3d) 1 — [2013] EXP 803 — 301 OAC 281 — 223 ACWS (3d) 970 — 355 DLR (4th) 666 — 441 NR 342  
 Citation: Antrim Truck Centre Ltd. v. Ontario (Transportation), 2013 SCC 13 (CanLII), [2013] 1 SCR 594, <<https://canlii.ca/t/fwdn1>>, retrieved on 2023-04-26



## SUPREME COURT OF CANADA

**CITATION:** Antrim Truck Centre Ltd. v. Ontario **DATE:** 20130307  
 (Transportation), 2013 SCC 13, [2013] 1 S.C.R. **DOCKET:** 34413  
 594

**BETWEEN:**

**Antrim Truck Centre Ltd.**  
 Appellant  
 and  
**Her Majesty The Queen in Right of the Province of Ontario,**  
 as represented by the **Minister of Transportation**  
 Respondent  
 - and -  
**Attorney General of British Columbia,**  
**City of Toronto and Metrolinx**  
 Interveners

**CORAM:** McLachlin C.J. and LeBel, Fish, Abella, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

**REASONS FOR JUDGMENT:** Cromwell J. (McLachlin C.J. and LeBel,  
 (paras. 1 to 57)  
 Fish, Abella, Rothstein, Moldaver,  
 Karakatsanis and Wagner JJ. concurring)

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Antrim Truck Centre Ltd. v. Ontario (Transportation), 2013 SCC 13, [2013] 1 S.C.R. 594

**Antrim Truck Centre Ltd.**

*Appellant*

v.

**Her Majesty The Queen in Right of the Province of Ontario,**  
 as represented by the **Minister of Transportation**

*Respondent*

and

**Attorney General of British Columbia,**  
**City of Toronto and**

Metrolinx

Interveners

**Indexed as: Antrim Truck Centre Ltd. v. Ontario (Transportation)****2013 SCC 13**

File No.: 34413.

2012: November 14; 2013: March 7.

Present: McLachlin C.J. and LeBel, Fish, Abella, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

*Expropriation — Injurious affection — Nuisance — Compensation — Construction of new highway diverting traffic away from appellant's truck stop business — Ontario Municipal Board awarding appellant compensation for injurious affection for business loss and loss of market value of property — Court of Appeal dismissing claim on basis that Board failed to balance competing rights adequately — Whether interference with private enjoyment of land was unreasonable when resulting from construction serving important public purpose — Whether Court of Appeal erred in finding that Board's application of law of nuisance was unreasonable — Expropriation Act, R.S.O. 1990, c. E.26.*

From 1978 until 2004, the appellant owned property on Highway 17 near the hamlet of Antrim where it operated a truck stop complex that included a restaurant and gas bar and enjoyed the patronage of drivers travelling along the highway. In September 2004, the respondent opened a new section of Highway 417 running parallel to Highway 17 near the appellant's property. Highway 17 was significantly altered by the construction of Highway 417 and access to the appellant's land was severely restricted. Motorists travelling on the new highway did not have direct access to the appellant's truck stop and so it was effectively put out of business at that location. The appellant brought a claim for damages for injurious affection before the Ontario Municipal Board under the *Expropriations Act* and was awarded \$58,000 for business loss and \$335,000 for loss in market value of the land. This decision was upheld on appeal to the Divisional Court. The Court of Appeal set aside the Board's decision, however, finding that its application of the law of private nuisance to the facts was unreasonable because it had failed to consider two factors in its reasonableness analysis and because it had failed to recognize the elevated importance of the utility of the respondent's conduct where the interference was the product of an essential public service.

*Held:* The appeal should be allowed.

The main question is how to decide whether an interference with the private use and enjoyment of land is unreasonable when it results from construction which serves an important public purpose. The reasonableness of the interference must be determined by balancing the competing interests, as it is in all other cases of private nuisance. The balance is appropriately struck by answering the question of whether, in all of the circumstances, the individual claimant has shouldered a greater share of the burden of construction than it would be reasonable to expect individuals to bear without compensation. Here, the interference with the appellant's land caused by the construction of the new highway inflicted significant and permanent loss.

The *Expropriations Act* provides a right to compensation for injurious affection, which occurs when the defendant's activities interfere with the claimant's occupation or enjoyment of land, if the claimant can meet three requirements: (i) the damage must result from action taken under statutory authority; (ii) the action would give rise to liability but for that statutory authority; and (iii) the damage must result from the construction and not the use of the works. In this case, the only unresolved question is whether, if the highway construction had not been done under statutory authority, the appellant could have successfully sued for damages caused by the construction under the law of private nuisance.

Nuisance consists of an interference with the claimant's occupation or enjoyment of land that is both substantial and unreasonable. A substantial interference is one that is non-trivial, amounting to more than a slight annoyance or trifling interference. This threshold screens out weak claims and once met, the next inquiry is whether the non-trivial interference was also unreasonable in all of the circumstances to justify compensation.

When assessing unreasonableness where the activity causing the interference is carried out by a public authority for the greater public good, courts and tribunals are not limited by any specific list of factors. Rather, the focus of the balancing exercise is on whether the interference is such that it would be unreasonable in all of the circumstances to require the claimant to suffer it without compensation. Generally, the focus in nuisance is on whether the interference suffered by the claimant is unreasonable, not on whether the nature of the defendant's conduct is unreasonable. The nature of the defendant's conduct is not, however, an irrelevant consideration. Generally speaking, the acts of a public authority will be of significant utility. If simply put in the balance with the private interest, public utility will generally outweigh even very significant interferences with the claimant's land, undercutting the purpose of providing compensation for injurious affection. The distinction is thus between interferences that constitute the "give and take" expected of everyone and interferences that impose a disproportionate burden on individuals. The reasonableness analysis should favour the public authority where the harm to property interests, considered in light of its severity, the nature of the neighbourhood, its duration, the sensitivity of the plaintiff and other relevant factors, is such that the harm cannot reasonably be viewed as more than the claimant's fair share of the costs associated with providing a public benefit.

Further, the reasonableness inquiry should not be short-circuited on the basis that the interference is physical or material as opposed to a loss of amenities or is self-evidently unreasonable. Once a claimant passes the threshold test of showing harm that is substantial in the sense that it is non-trivial, there ought to be an inquiry into whether the interference is unreasonable, regardless of the type of harm involved.

The Court of Appeal erred in finding that the Board's application of the law of nuisance to the facts was unreasonable. Provided that the Board reasonably carried out the analysis in substance, it was not required to specifically enumerate and refer by name to every factor mentioned in the case law. It did not fail to take account of the utility of the respondent's activity or fail to engage in the required balancing as the Court of Appeal concluded it had. It was reasonable for the Board to conclude that in all of the circumstances, the appellant should not be expected to endure permanent interference with the use of its land that caused a significant diminution of its market value in order to serve the greater public good.

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**Applied:** *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64, [2008] 3 S.C.R. 392; *St. Pierre v. Ontario (Minister of Transportation and Communications)*, 1987 CanLII 60 (SCC), [1987] 1 S.C.R. 906; *Royal Anne Hotel Co. v. Village of Ashcroft* (1979), 1979 CanLII 2776 (BC CA), 95 D.L.R. (3d) 756; *Tock v. St. John's Metropolitan Area Board*, 1989 CanLII 15 (SCC), [1989] 2 S.C.R. 1181; *Jespersen's Brake & Muffler Ltd. v. Chilliwack (District)* (1994), 1994 CanLII 1662 (BC CA), 88 B.C.L.R. (2d) 230; *Mandrake Management Consultants Ltd. v. Toronto Transit Commission* (1993), 1993 CanLII 9417 (ON CA), 62 O.A.C. 202; *Schenck v. The Queen* (1981), 1981 CanLII 1797 (ON SC), 34 O.R. (2d) 595; **considered:** *Andreea v. Selfridge & Co.*, [1938] 1 Ch. 1; **referred to:** *Susan Heyes Inc. v. Vancouver (City)*, 2011 BCCA 77, 329 D.L.R. (4th) 92, leave to appeal refused, [2011] 3 S.C.R. xi; *City of Campbellton v. Gray's Velvet Ice Cream Ltd.* (1981), 1981 CanLII 2866 (NB CA), 127 D.L.R. (3d) 436; *The Queen v. Loiselle*, 1962 CanLII 72 (SCC), [1962] S.C.R. 624; *Newfoundland (Minister of Works, Services and Transportation) v. Airport Realty Ltd.*, 2001 NFCA 45, 205 Nfld. & P.E.I.R. 95; *Wildtree Hotels Ltd. v. Harrow London Borough Council*, [2001] 2 A.C. 1; *Allen v. Gulf Oil Refining Ltd.*, [1981] A.C. 1001; *St. Helen's Smelting Co. v. Tipping* (1865), 11 H.L.C. 642, 11 E.R. 1483; *Walker v. McKinnon Industries Ltd.*, 1949 CanLII 105 (ON SC), [1949] 4 D.L.R. 739, varied by 1950 CanLII 285 (ON CA), [1950] 3 D.L.R. 159, aff'd 1951 CanLII 308 (UK JCPC), [1951] 3 D.L.R. 577; *Smith v. Inco Ltd.*, 2011 ONCA 628, 107 O.R. (3d) 321.

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APPEAL from a judgment of the Ontario Court of Appeal (Doherty, Watt and Epstein J.J.A.), 2011 ONCA 419, 106 O.R. (3d) 81, 281 O.A.C. 150, 332 D.L.R. (4th) 641, 6 R.P.R. (5th) 1, 104 L.C.R. 1, 85 C.C.L.T. (3d) 51, [2011] O.J. No. 2451 (QL), 2011 CarswellOnt 4064, setting aside a decision of Wilson, Hill and Lax J.J., 2010 ONSC 304, 100 O.R. (3d) 425, 258 O.A.C. 1, 318 D.L.R. (4th) 229, 91 R.P.R. (4th) 41, 100 L.C.R. 32, [2010] O.J. No. 156 (QL), 2010 CarswellOnt 162, affirming a decision of the Ontario Municipal Board (2009), 96 L.C.R. 100, [2009] O.M.B.D. No. 1 (QL), 2009 CarswellOnt 290. Appeal allowed.

*Shane Rayman* and *Greg Temelini*, for the appellant.

*Leonard F. Marsello*, *Malliha Wilson*, *Shona L. Compton* and *William R. MacLarkey*, for the respondent.

*Matthew Taylor* and *Jonathan Eades*, for the intervener the Attorney General of British Columbia.

*Graham J. Rempe* and *Matthew G. Longo*, for the intervener the City of Toronto.

*Kathryn I. Chalmers* and *Patrick G. Duffy*, for the intervener Metrolinx.

The judgment of the Court was delivered by

CROMWELL J. —

## I. Introduction

[1] Highway construction by the Province of Ontario significantly and permanently interfered with access to the appellant's land. The appellant claimed that this interference was unreasonable and sought an order for compensation before the Ontario Municipal Board. The Board awarded the appellant \$393,000 as compensation for business loss and decline in market value of the land resulting from the highway construction. The Board's award, however, was set aside by the Court of Appeal; it concluded that the interference with the appellant's land had not been unreasonable given the important public purposes served by the highway's construction. In effect, the Court of Appeal found that it was reasonable for the appellant to suffer permanent interference with the use of its land that caused significant diminution of its market value in order to serve the greater public good. The appellant asks this Court to reinstate the Board's award.

[2] The main question on appeal is this: How should we decide whether an interference with the private use and enjoyment of land is unreasonable when it results from construction which serves an important public purpose? The answer, as I see it, is that the reasonableness of the interference must be determined by balancing the competing interests, as it is in all other cases of private nuisance. The balance is appropriately struck by answering the question whether, in all of the circumstances, the individual claimant has shouldered a greater share of the burden of construction than it would be reasonable to expect individuals to bear without compensation. Here, the interference with the appellant's land caused by the construction of the new highway inflicted significant and permanent loss on the appellant; in the circumstances of this case, it was not unreasonable for the Board to conclude that an individual should not be expected to bear such a loss for the greater public good without compensation.

[3] I would allow the appeal and restore the order of the Ontario Municipal Board.

## II. Legal Context and Issues

[4] The legal framework for the appeal is found in the law concerning injurious affection. Injurious affection occurs when the defendant's activities interfere with the claimant's use or enjoyment of land. Such interference may occur where a portion of an owner's land is expropriated with negative effects on the value of the remaining property. Alternatively, it may arise where, although no land is expropriated, the lawful activities of a statutory authority on one piece of land interfere with the use or enjoyment of another property: E. C. E. Todd, *The Law of Expropriation and Compensation in Canada* (2nd ed. 1992), at pp. 331-33. In this case, the appellant claimed compensation for injurious affection where no land is taken because the highway construction had significantly impeded access to its land.

[5] The *Ontario Expropriations Act, R.S.O. 1990, c. E.26*, provides a right to compensation for injurious affection on certain conditions: s. 21. Where none of the claimant's land is expropriated, the Act provides a right to compensation for "such reduction in the market value of the land of the owner, and . . . such personal and business damages, resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute": s. 1(1). Thus, in order to recover under the Act, the claimant has to meet these three statutory requirements, which are often referred to as the requirements of "statutory authority", "actionability" and "construction and not the use". These requirements mean that (i) the damage must result from action taken under statutory authority; (ii) the action would give rise to liability but for that statutory authority; and (iii) the damage must result from the construction and not the use of the works. Where these conditions are present, the Act requires that the complainant be compensated for the amount by which the affected land's market value was reduced because of the interference, and for personal and business damages: ss. 1(1) and 21.

[6] The appellant satisfied the first and third requirements. As for the first, there was never any dispute that the construction of the new section of highway was carried out under statutory authority. With respect to the third, the "construction and not the use" requirement was contested in the earlier proceedings, but it is no longer in issue in this Court. What remains is the question of whether the second requirement is met. That is, whether, if the highway construction had not been done under statutory authority, the appellant could have successfully sued for damages caused by the construction.

[7] The appellant's primary position, which the Board accepted, is that it meets this second requirement because it would be entitled to damages for private nuisance. The Court of Appeal disagreed. While finding no fault in the Board's articulation of the law about private nuisance, the Court of Appeal nonetheless found that the Board had not reasonably applied that law to the facts before it: 2011 ONCA 419, 106 O.R. (3d) 81. Thus, the reviewable error found by the Court of Appeal concerns the application of the legal test for nuisance to the facts.

[8] In this Court, the parties engaged in a wide-ranging debate about how to define the elements of private nuisance and how to assess the reasonableness of the interference. I will address the questions that arose in that debate in the hope of providing further clarity concerning the relevant legal principles. But the core issue on which the appeal turns is whether, as the Court of Appeal decided, the Board was unreasonable in its application of the law of private nuisance to the facts.

[9] The issues I will address are these:

1. What are the elements of private nuisance?
2. How is reasonableness assessed in the context of interference caused by projects that further the public good?
3. Does the unreasonableness of an interference need to be considered when that interference is physical or material?
4. Did the Court of Appeal err in finding that the Board's application of the law of nuisance to the facts was unreasonable?

[10] Before turning to these issues, I will set out a brief summary of the facts and proceedings and address the applicable standard of judicial review.

### III. Facts, Proceedings and Standard of Review

#### A. *Overview of the Facts and Proceedings*

[11] From 1978 until 2004, the appellant owned property on Highway 17 near the hamlet of Antrim. On that property, the appellant operated a truck stop that included a restaurant, bakery, gift shop, gas and diesel bar, offices and a truck sales, leasing and service centre. The business enjoyed the patronage of drivers travelling both east and west along the highway, which formed part of the Trans-Canada Highway system.

[12] In September 2004, the respondent opened a new section of Highway 417 that runs parallel to Highway 17 at the point of the appellant's property. Highway 17 was significantly altered to allow for the extension of Highway 417. Because of these changes, Highway 17 now effectively turns into a dirt road just two kilometres east of the appellant's truck stop. Motorists heading east from the truck stop have to take a circuitous route including a dirt road and two other side roads before they reach Highway 417. Moreover, motorists travelling on the new stretch of Highway 417 do not have direct access to the appellant's truck stop; they have to turn onto a regional road west of the property and drive about two kilometres to reach it. According to the appellant, the construction of the new segment of Highway 417 resulted in the closure of Highway 17, effectively putting its truck stop out of business at that location. It brought a claim before the Ontario Municipal Board for compensation for injurious affection under the *Expropriations Act*. The parties accept the Board's assessment of compensation; only its finding that the injurious affection claim was made out is in issue before this Court.

[13] Having heard the claim, the Ontario Municipal Board awarded the appellant \$58,000 for business loss and \$335,000 for loss in market value of the land. The Board rejected the Province's position that construction of the new highway had not impeded or altered access to the truck stop: (2009), 96 L.C.R. 100, at p. 114. According to the Board, the change in access resulting from the construction constituted a "serious impairment in nuisance": p. 115. The Board found that the construction of the new highway had changed Highway 17 in a manner that severely restricted access to the appellant's land; it had turned Highway 17 into a "shadow of what it was before Highway 417": p. 115. In all of the circumstances, this interference was unreasonable and arose from the construction and not the use of the highway.

[14] The Board's decision was upheld on appeal to the Divisional Court of the Ontario Superior Court of Justice: 2010 ONSC 304, 100 O.R. (3d) 425. The court found that the Board had correctly articulated the law of private nuisance and had applied it reasonably. Specifically, the Divisional Court found that the Board had balanced the public utility of the highway construction against the appellant's interests in deciding that the interference caused by the Province was unreasonable.

[15] On the Province's further appeal to the Court of Appeal, the Board's decision was set aside and the appellant's claim dismissed. The Court of Appeal found that the Board's application of the law of private nuisance to the facts was unreasonable. In particular, the Court of Appeal concluded that the Board had failed to balance the competing rights of the Province and the appellant adequately in two respects. First, the Board failed to consider two of the three factors it was "obliged to take into account in assessing the reasonableness of the interference" with the appellant's use and enjoyment of its land, namely the character of the neighbourhood and the sensitivity of the complainant. Second, the Board "failed to recognize the elevated importance of the utility of the defendant's conduct where the interference is the product of 'an essential public service'": para. 129.

#### B. *Standard of Review*

[16] As I explained above, the Court of Appeal set aside the Board's decision because it unreasonably applied the law of private nuisance to the facts before it. The focus of the case is, therefore, on whether the Board appropriately carried out the balancing inherent in the law of private nuisance. As the Court of Appeal put it, "Whether there has been an unreasonable interference with the use and enjoyment of the plaintiff's land is a question of judgment based on all of the circumstances": para. 83. I agree with the Court of Appeal that the Board's decision on this point should be reviewed for reasonableness.

[17] Before turning to the primary issue in this case, however, I will address three broader questions relating to the law of private nuisance.

#### C. *First Question: What Are the Elements of Private Nuisance?*

[18] The Court of Appeal concluded that a nuisance consists of an interference with the claimant's use or enjoyment of land that is both substantial and unreasonable: paras. 79-80. In my view, this conclusion is correct.

[19] The elements of a claim in private nuisance have often been expressed in terms of a two-part test of this nature: to support a claim in private nuisance the interference with the owner's use or enjoyment of land must be both *substantial* and *unreasonable*. A substantial interference with property is one that is non-trivial. Where this threshold is met, the inquiry proceeds to the reasonableness analysis, which is concerned with whether the non-trivial interference was also unreasonable in all of the circumstances. This two-part approach found favour with this Court in its most recent discussion of private nuisance and was adopted by the Court of Appeal in this case, at para. 80: *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64, [2008] 3 S.C.R. 392, at para. 77; see also *St. Pierre v. Ontario (Minister of Transportation and Communications)*, 1987 CanLII 60 (SCC), [1987] 1 S.C.R. 906, at pp. 914-15, quoting with approval H. Street, *The Law of Torts* (6th ed. 1976),

at p. 219; *Susan Heyes Inc. v. Vancouver (City)*, 2011 BCCA 77, 329 D.L.R. (4th) 92, at para. 75, leave to appeal refused [2011] 3 S.C.R. xi; *City of Campbellton v. Gray's Velvet Ice Cream Ltd.* (1981), 1981 CanLII 2866 (NB CA), 127 D.L.R. (3d) 436 (N.B.C.A.), at p. 441; *Royal Anne Hotel Co. v. Village of Ashcroft* (1979), 1979 CanLII 2776 (BC CA), 95 D.L.R. (3d) 756 (B.C.C.A.), at p. 760; *Fleming's The Law of Torts* (10th ed. 2011), at s. 21.80; J. Murphy and C. Witting, *Street on Torts* (13th ed. 2012), at p. 443; L. N. Klar, *Tort Law* (5th ed. 2012), at p. 759.

[20] The two-part approach, it must be conceded, is open to criticism. It may sometimes introduce unnecessary complexity and duplication into the analysis. When it is applied, the gravity of the harm is, in a sense, considered twice: once in order to apply the substantial interference threshold and again in deciding whether the interference was unreasonable in all of the circumstances.

[21] On balance, however, my view is that we ought to retain the two-part approach with its threshold of a certain seriousness of the interference. The two-part approach is consistent with the authorities from this Court (as I noted above). It is also, in my view, analytically sound. Retaining a substantial interference threshold underlines the important point that not every interference, no matter how minor or transitory, is an actionable nuisance; some interferences must be accepted as part of the normal give and take of life. Finally, the threshold requirement of the two-part approach has a practical advantage: it provides a means of screening out weak claims before having to confront the more complex analysis of reasonableness.

[22] What does this threshold require? In *St. Lawrence Cement*, the Court noted that the requirement of substantial harm “means that compensation will not be awarded for trivial annoyances”: para. 77. In *St. Pierre*, while the Court was careful to say that the categories of nuisance are not closed, it also noted that only interferences that “substantially alte[r] the nature of the claimant’s property itself” or interfere “to a significant extent with the actual use being made of the property” are sufficient to ground a claim in nuisance: p. 915 (emphasis added). One can ascertain from these authorities that a substantial injury to the complainant’s property interest is one that amounts to more than a slight annoyance or trifling interference. As La Forest J. put it in *Tock v. St. John’s Metropolitan Area Board*, 1989 CanLII 15 (SCC), [1989] 2 S.C.R. 1181, actionable nuisances include “only those inconveniences that materially interfere with ordinary comfort as defined according to the standards held by those of plain and sober tastes”, and not claims based “on the prompting of excessive ‘delicacy and fastidiousness’”: p. 1191. Claims that are clearly of this latter nature do not engage the reasonableness analysis.

[23] In referring to these statements I do not mean to suggest that there are firm categories of types of interference which determine whether an interference is or is not actionable, a point I will discuss in more detail later. Nuisance may take a variety of forms and may include not only actual physical damage to land but also interference with the health, comfort or convenience of the owner or occupier: *Tock*, at pp. 1190-91. The point is not that there is a typology of actionable interferences; the point is rather that there is a threshold of seriousness that must be met before an interference is actionable.

[24] I therefore find that a private nuisance cannot be established where the interference with property interests is not, at least, substantial. To justify compensation, however, the interference must also be unreasonable. This second part of the private nuisance test is the focus of the next two issues to which I now turn.

#### D. *Second Question: How Is Reasonableness Assessed in the Context of Interference Caused by Projects That Further the Public Good?*

[25] The main question here is how reasonableness should be assessed when the activity causing the interference is carried out by a public authority for the greater public good. As in other private nuisance cases, the reasonableness of the interference must be assessed in light of all of the relevant circumstances. The focus of that balancing exercise, however, is on whether the interference is such that it would be unreasonable in all of the circumstances to require the claimant to suffer it without compensation.

[26] In the traditional law of private nuisance, the courts assess, in broad terms, whether the interference is unreasonable by balancing the gravity of the harm against the utility of the defendant’s conduct in all of the circumstances: see, e.g., A. M. Linden and B. Feldthusen, *Canadian Tort Law* (9th ed. 2011), at p. 580. The Divisional Court and the Court of Appeal identified several factors that have often been referred to in assessing whether a substantial interference is also unreasonable. In relation to the gravity of the harm, the courts have considered factors such as the severity of the interference, the character of the neighbourhood and the sensitivity of the plaintiff: see, e.g., *Tock*, at p. 1191. The frequency and duration of an interference may also be relevant in some cases: *Royal Anne Hotel*, at pp. 760-61. A number of other factors, which I will turn to shortly, are relevant to consideration of the utility of the defendant’s conduct. The point for now is that these factors are not a checklist; they are simply “[a]mong the criteria employed by the courts in delimiting the ambit of the tort of nuisance”: *Tock*, at p. 1191; J. P. S. McLaren, “Nuisance in Canada”, in A. M. Linden, ed., *Studies In Canadian Tort Law* (1968), 320, at pp. 346-47. Courts and tribunals are not bound to, or limited by, any specific list of factors. Rather, they should consider the substance of the balancing exercise in light of the factors relevant in the particular case.

[27] The way in which the utility of the defendant’s conduct should be taken into account in the reasonableness analysis is particularly important in this case and would benefit from some explanation.

[28] The first point is that there is a distinction between the utility of the conduct, which focuses on its purpose, such as construction of a highway, and the nature of the defendant’s conduct, which focuses on how that purpose is carried out. Generally, the focus in nuisance is on whether the *interference suffered by the claimant* is unreasonable, not on whether *the nature of the defendant’s conduct* is unreasonable. This point was made by the court in *Jespersen’s Brake & Muffler Ltd. v. Chilliwack (District)* (1994), 1994 CanLII 1662 (BC CA), 88 B.C.L.R. (2d) 230 (C.A.). In that case, the construction of an overpass resulted in a 40 percent drop in the market value of the claimant’s lands. The statutory authority argued that the claimant had to establish (and had failed to do so) that *the statutory authority* had used *its* land unreasonably. The Court of Appeal correctly rejected that contention. The focus of the reasonableness analysis in private nuisance is on the character and extent of the interference with the claimant’s land; the burden on the claimant is to show that the interference is substantial and unreasonable, not to show that the defendant’s use of its own land is unreasonable.

[29] The nature of the defendant's conduct is not, however, an irrelevant consideration. Where the conduct is either malicious or careless, that will be a significant factor in the reasonableness analysis: see, e.g., *Linden and Feldthusen*, at pp. 590-91; *Fleming*, at s. 21.110; *Murphy and Witting*, at p. 439. Moreover, where the defendant can establish that his or her conduct was reasonable, that can be a relevant consideration, particularly in cases where a claim is brought against a public authority. A finding of reasonable conduct will not, however, necessarily preclude a finding of liability. The editors of *Fleming's The Law of Torts* put this point well at s. 21.120:

. . . unreasonableness in nuisance relates primarily to the character and extent of the harm caused rather than that threatened. . . . [T]he "duty" not to expose one's neighbours to a nuisance is not necessarily discharged by exercising reasonable care or even all possible care. In that sense, therefore, liability is strict. At the same time, evidence that the defendant has taken all possible precaution to avoid harm is not immaterial, because it has a bearing on whether he subjected the plaintiff to an unreasonable interference, and is decisive in those cases where the offensive activity is carried on under statutory authority. . . . [I]n nuisance it is up to the defendant to exculpate himself, once a prima facie infringement has been established, for example, by proving that his own use was "natural" and not unreasonable. [Emphasis added.]

[30] The second point is that the utility of the defendant's conduct is especially significant in claims against public authorities. Even where a public authority is involved, however, the utility of its conduct is always considered in light of the other relevant factors in the reasonableness analysis; it is not, by itself, an answer to the reasonableness inquiry. Moreover, in the reasonableness analysis, the severity of the harm and the public utility of the impugned activity are not equally weighted considerations. If they were, an important public purpose would always override even very significant harm caused by carrying it out. As the editors of *Fleming's The Law of Torts* put it, the utility consideration "must not be pushed too far. . . . [A] defendant cannot simply justify his infliction of great harm upon the plaintiff by urging that a greater benefit to the public at large has accrued from his conduct": s. 21.110. The words of McIntyre J.A. in *Royal Anne Hotel* are apposite:

There is no reason why a disproportionate share of the cost of such a beneficial service should be visited upon one member of the community by leaving him uncompensated for damage caused by the existence of that which benefits the community at large. [p. 761]

[31] *The Queen v. Loiselle*, 1962 CanLII 72 (SCC), [1962] S.C.R. 624, demonstrates that even a very important public purpose does not simply outweigh the individual harm to the claimant. Mr. Loiselle operated a garage and service station on the main Montréal-Valleyfield highway. His business ended up on a dead-end highway as a result of the construction of the St. Lawrence Seaway. This Court upheld an award of compensation for injurious affection, noting that the "statutory authority given to construct the works in question was . . . expressly made subject to the obligation to pay compensation for damage to lands injuriously affected": p. 627. In other words, the landowner was entitled to compensation even though construction of the Seaway served an important public objective.

[32] Other Canadian appellate authority has also recognized this point.

[33] In *Newfoundland (Minister of Works, Services and Transportation) v. Airport Realty Ltd.*, 2001 NFCA 45, 205 Nfld. & P.E.I.R. 95, the Court of Appeal considered an award of \$300,000 for compensation for damage flowing from the reconstruction of the access road to the St. John's airport. The court correctly rejected the position that the utility of a public work can simply be balanced against the severity of the harm as if they were equal considerations: para. 39. If, as was argued before the Court of Appeal, the two factors were simply compared, one against the other, a high degree of public utility would always trump even very extensive interference. Such an approach, as I will explain, defeats the purpose of legislation that provides compensation for injurious affection.

[34] *Mandrake Management Consultants Ltd. v. Toronto Transit Commission* (1993), 1993 CanLII 9417 (ON CA), 62 O.A.C. 202, concerned a claim in nuisance on the basis that subway lines caused noise and vibrations affecting the plaintiffs' enjoyment of their property. In allowing the appeal from an award of damages, the Court of Appeal noted that "where an essential public service is involved the factor of the utility of the defendant's conduct must not be disregarded. Indeed, I think it must be given substantial weight": para. 46. The court noted, however, that "private rights cannot be trampled upon in the name of the public good": para. 46. It also underlined this point by quoting, at para. 19, the following passage with approval: "Liability for damages is imposed in those cases in which the harm or risk to one is greater than he ought to be required to bear under the circumstances, at least without compensation": *Schenck v. The Queen* (1981), 1981 CanLII 1797 (ON SC), 34 O.R. (2d) 595 (H.C.J.), per Robins J. (as he then was), at p. 603, citing *Restatement of the Law, Second: Torts 2d* (1979), vol. 4, at §822 (emphasis added). In other words, the question is not simply whether the broader public good outweighs the individual interference when the two are assigned equal weight. Rather, the question is whether the interference is greater than the individual should be expected to bear in the public interest without compensation.

[35] The court's statement in *Mandrake* that the utility of the defendant's conduct should be given "substantial weight" must be viewed in the context of this point. The court, in conducting its analysis, did not simply conclude that the public benefit outweighed the individual harm. Instead, it considered all of the circumstances, including: the essentially commercial nature of the area, in which people operating businesses are required to put up with a considerably greater intrusion on their sensibilities than do people living in residential areas; the fact that the presence of the subway had no negative effect on the profitability of the plaintiffs' business; the absence of material damage to the building; and the fact that the noise and vibrations of which the claimants complained were the inevitable result of the operation of the subway.

[36] *Mandrake*, therefore, does not support a simple trumping of the private interest by the public utility of the defendant's conduct, but rather a careful weighing of interests taking into account all of the circumstances. The question asked and answered by the court was not simply whether the public benefit outweighed the private interference, but whether that interference, in light of all of the circumstances, was more than the plaintiffs could reasonably be expected to bear without compensation.

[37] Similarly, the concluding comments in McIntyre J.'s judgment in *St. Pierre* must be read in context. The case concerned a claim for injurious affection arising out of highway construction. The Court unanimously upheld the dismissal of the claim, agreeing with the Court of Appeal that the claimants complained only of loss of amenities — primarily view and privacy — resulting from the construction. In the context of a claim of that nature, McIntyre J. noted:

Highways are necessary: they cause disruption. In the balancing process inherent in the law of nuisance, their utility for the public good far outweighs the disruption and injury which is visited upon some adjoining lands. [p. 916]

These comments must be understood in relation to the nature of the alleged injury in that case which, as noted, was a simple loss of amenities. It is clear that these comments do not stand for the broader proposition that great public good out-balances even very significant interference. McIntyre J. quoted with approval the Court's earlier decision in *Loiselle* which I referred to earlier. In that case, the significant public good resulting from the seaway construction did not outweigh the significant interference with access to Mr. Loiselle's property. *Loiselle* and *St. Pierre* would obviously be in conflict if *St. Pierre* were thought to stand for the broad proposition that great public good outweighs even significant interference. Yet McIntyre J. saw no such inconsistency. Moreover, such a broad reading of *St. Pierre* would undermine the statutory purpose of providing a right of compensation for injurious affection.

[38] Generally speaking, the acts of a public authority will be of significant utility. If simply put in the balance with the private interest, public utility will generally outweigh even very significant interferences with the claimant's land. That sort of simple balancing of public utility against private harm undercuts the purpose of providing compensation for injurious affection. That purpose is to ensure that individual members of the public do not have to bear a disproportionate share of the cost of procuring the public benefit. This purpose is fulfilled, however, if the focus of the reasonableness analysis is kept on whether it is reasonable for the individual to bear the interference without compensation, not on whether it was reasonable for the statutory authority to undertake the work. In short, the question is whether the damage flowing from the interference should be properly viewed as a cost of "running the system" and therefore borne by the public generally, or as the type of interference that should properly be accepted by an individual as part of the cost of living in organized society: *Tock*, at p. 1200.

[39] The point was well put by Robins J. in *Schenck*, a decision approved by La Forest J. in *Tock*. In allowing the plaintiffs' action for nuisance resulting from damage to their orchards from salt applied to a nearby highway, Robins J. said:

. . . their injury is a cost of highway maintenance and the harm suffered by them is greater than they should be required to bear in the circumstances, at least without compensation. Fairness between the citizen and the state demands that the burden imposed be borne by the public generally and not by the plaintiff fruit farmers alone. [Emphasis added; pp. 604-5.]

The distinction is thus between, on one hand, interferences that constitute the "give and take" expected of everyone and, on the other, interferences that impose a disproportionate burden on individuals. That in my view is at the heart of the balancing exercise involved in assessing the reasonableness of an interference in light of the utility of the public authority's conduct.

[40] Of course, not every substantial interference arising from a public work will be unreasonable. The reasonableness analysis should favour the public authority where the harm to property interests, considered in light of its severity, the nature of the neighbourhood, its duration, the sensitivity of the plaintiff and other relevant factors, is such that the harm cannot reasonably be viewed as more than the claimant's fair share of the costs associated with providing a public benefit. This outcome is particularly appropriate where the public authority has made all reasonable efforts to reduce the impact of its works on neighbouring properties.

[41] It is clear, for example, that everyone must put up with a certain amount of temporary disruption caused by essential construction. Although not a case involving a public authority, the judgment of Sir Wilfrid Greene M.R. in *Andreae v. Selfridge & Co.*, [1938] 1 Ch. 1, is instructive:

. . . when one is dealing with temporary operations, such as demolition and re-building, everybody has to put up with a certain amount of discomfort, because operations of that kind cannot be carried on at all without a certain amount of noise and a certain amount of dust. Therefore, the rule with regard to interference must be read subject to this qualification . . . that in respect of operations of this character, such as demolition and building, if they are reasonably carried on and all proper and reasonable steps are taken to ensure that no undue inconvenience is caused to the neighbours, whether from noise, dust, or other reasons, the neighbours must put up with it. [pp. 5-6]

[42] There are several important ideas in this quotation. One is that the duration of the interference is a relevant consideration. Admittedly, duration was not a relevant factor in this case because the injury was permanent. In cases where it is relevant however, it is helpful to consider that some sorts of temporary inconvenience are more obviously part of the normal "give and take" than are more prolonged interferences. While temporary interferences may certainly support a claim in nuisance in some circumstances, interferences that persist for a prolonged period of time will be more likely to attract a remedy: see, in the context of public nuisance, *Wildtree Hotels Ltd. v. Harrow London Borough Council*, [2001] 2 A.C. 1 (H.L.).

[43] Another important idea is that the traditional consideration relating to the character of the neighbourhood may be highly relevant in the overall balancing. This point is particularly relevant in cases where a claim is brought against a public authority. As Michael Senzilet has written,

With the urban environments of today, people live much closer together and much closer to public corridors than they did 100 years ago . . . . In today's urban fabric, buildings are closer together, closer to roads, building lots are smaller, and there are far more public projects that are both possible and required. Surely, the choice of living in the



urban core, in a suburb, or in the countryside exposes one to differences and one's choice must be made taking into account those differences.

("Compensation for Injurious Affection Where No Land Is Taken", unpublished LL.M. thesis, University of Ottawa (1987), at p. 73)

[44] A final point emerging from the *Andreae* case, which I alluded to above, relates to the manner in which the work is carried out. While nuisance focuses mainly on the harm and not on the blameworthiness of the defendant's conduct, the fact that a public work is carried out with "all reasonable regard and care" for the affected citizens is properly part of the reasonableness analysis: see, e.g., *Allen v. Gulf Oil Refining Ltd.*, [1981] A.C. 1001, *per* Lord Wilberforce, at p. 1011.

[45] To sum up on this point, my view is that in considering the reasonableness of an interference that arises from an activity that furthers the public good, the question is whether, in light of all of the circumstances, it is unreasonable to expect the claimant to bear the interference without compensation.

E. *Third Question: Does the Unreasonableness of an Interference Need to Be Considered When That Interference Is Physical or Material?*

[46] The appellant submits that reasonableness does not need to be considered when the interference constitutes "material" or "physical" damage to the land. Reasonableness only needs to be addressed, the submission goes, with respect to other types of interference such as loss of amenities. In this case, the appellant maintains that the damage to its land was "material" and that therefore no reasonableness analysis was necessary. I respectfully disagree and conclude that the Court of Appeal was correct to hold that the question of reasonableness should be considered in all cases.

[47] The distinction between material or physical harms on the one hand and interferences such as loss of amenities on the other has a long history and deep roots, going back at least to the House of Lords decision in *St. Helen's Smelting Co. v. Tipping* (1865), 11 H.L.C. 642, 11 E.R. 1483. In that case, the Lord Chancellor distinguished between nuisance causing "material injury" to property and nuisance "productive of sensible personal discomfort", finding that only the latter category required an assessment of whether an interference is reasonable taking into account all of the surrounding circumstances: p. 650. This approach has since been adopted in many Canadian decisions (see, e.g., *Walker v. McKinnon Industries Ltd.*, 1949 CanLII 105 (ON SC), [1949] 4 D.L.R. 739 (Ont. H.C.), at p. 763, injunction order varied by 1950 CanLII 285 (ON CA), [1950] 3 D.L.R. 159 (Ont. C.A.), *aff'd* 1951 CanLII 308 (UK JCPC), [1951] 3 D.L.R. 577 (P.C.)) including a few more recent cases, such as, for example, *Jespersen's and Airport Realty*. A good deal of the jurisprudence is helpfully reviewed in *Smith v. Inco Ltd.*, 2011 ONCA 628, 107 O.R. (3d) 321, at paras. 45-50. At the same time, there is appellate authority affirming the need to consider the reasonableness of the interference in every case: *Susan Heyes Inc.*

[48] My view is that the reasonableness inquiry should not be short-circuited on the basis of certain categories of interference that are considered self-evidently unreasonable. To the extent that cases such as *Jespersen's and Airport Realty* suggest that balancing can simply be dispensed with in the face of material or physical interference, I respectfully disagree. The sort of balancing inherent in the reasonableness analysis is at the heart of the tort of private nuisance. As La Forest J. put it in *Tock*, the law only intervenes "to shield persons from interferences to their enjoyment of property that were unreasonable in the light of all the circumstances": p. 1191. The legal analysis in a nuisance case is more likely to yield sound results if this essential balancing exercise is carried out explicitly and transparently rather than implicitly by applying a murky distinction.

[49] There are obvious difficulties in making the analysis turn on classifying interferences as constituting material or physical damage. It will not always, or even generally, be a simple matter to distinguish between damage that is "material or physical" and damage that is a simple "loss of amenity". The distinction proposed by the appellant is particularly difficult to apply in cases like this one, where the nuisance is an interference with access to land. The damage to the appellant here could be considered material in the sense that it caused significant financial loss, but it could perhaps also be considered in some sense to be a loss of amenity because there was no harm to the property itself. The property declined in value, but that is also the case in some loss of amenity situations.

[50] While I am not convinced of the usefulness of the distinction between material injury and loss of amenity, I acknowledge that where there is significant and permanent harm caused by an interference, the reasonableness analysis may be very brief. As the British Columbia Court of Appeal noted in *Royal Anne Hotel*,

Where . . . actual physical damage occurs it is not difficult to decide that the interference is in fact unreasonable. Greater difficulty will be found where the interference results in lesser or no physical injury but may give offence by reason of smells, noise, vibration or other intangible causes. [p. 760]

Thus, even though the reasonableness of the interference should be assessed in every case, the court will sometimes quite readily conclude that some types of interferences are unreasonable without having to engage in a lengthy balancing analysis. *Jespersen's*, for example, was a case in which the construction of the overpass reduced the market value of the land by 40 percent. It is not surprising that the Court of Appeal gave short shrift to the suggestion that it was reasonable to impose a burden of that magnitude on the claimant. Similarly, in *Airport Realty*, the damage flowing from the interference was assessed at \$300,000 thus making the assessment of unreasonableness straightforward: see also on this point *Schenck*.

[51] I therefore conclude that reasonableness is to be assessed in all cases where private nuisance is alleged. Once a claimant passes the threshold test of showing harm that is substantial in the sense that it is non-trivial, there ought to be an inquiry into whether the interference is unreasonable, regardless of the type of harm involved.

F. Fourth Question: Did the Court of Appeal Err in Finding That the Board's Application of the Law of Nuisance to the Facts Was Unreasonable?

[52] I respectfully disagree with the Court of Appeal's approach to the balancing exercise to determine whether the interference was unreasonable. As I see it, there were two errors in its approach.

[53] Having identified the factors noted earlier that are often referred to in carrying out the balancing exercise (i.e. the severity of the interference, the character of the neighbourhood, the utility of the defendant's conduct and the sensitivity of the plaintiff), the Court of Appeal treated them as a mandatory checklist for courts or tribunals considering this issue. It faulted the Board for failing to consider two of the factors that "it was obliged to take into account in assessing the reasonableness of the interference": para. 129. In my respectful view, the Court of Appeal erred in intervening on this ground.

[54] Provided that the Board reasonably carried out the analysis in substance, it was not required to specifically enumerate and refer by name to every factor mentioned in the case law. As La Forest J. made clear in *Tock*, the factors he enumerated are simply examples of the sorts of criteria that the courts have articulated as being potentially of assistance in weighing the gravity of the harm with the utility of the defendant's conduct. They do not make up either an exhaustive or an essential list of matters that must be expressly considered in every case. Failure to expressly mention one or more of these factors is not, on its own, a reviewable error.

[55] The Board's task was to determine whether, having regard to all of the circumstances, it was unreasonable to require the appellant to suffer the interference without compensation. The Board considered the evidence and the leading cases. Although it did not refer to them by name, the Board took into account the relevant factors in this case. In particular, it considered the extent of the changes to Highway 17, the fact that those changes were considered necessary for public safety, the appellant's knowledge of — and involvement in — the plans to make changes to the highway, and the extent to which the appellant's concerns about the new highway were taken into account by the respondent in its decision making. The Board concluded that the interference resulting from the construction of the highway was serious and would constitute nuisance but for the fact that the work was constructed pursuant to statutory authority: pp. 110-15. There was no reviewable error in this approach.

[56] Similarly in my view, the Board did not fail to take account of the utility of the respondent's activity or fail to engage in the required balancing as the Court of Appeal concluded it had. As we have seen, the Board adverted to the importance of the highway construction. It did not, however, allow that concern to swamp consideration of whether it was reasonable to require the appellant to bear without compensation the burden inflicted on it by the construction. The Board properly understood that the purpose of the statutory compensation scheme for injurious affection was to ensure that individuals do not have to bear a disproportionate burden of damage flowing from interference with the use and enjoyment of land caused by the construction of a public work. It was reasonable for the Board to conclude that in all of the circumstances, the appellant should not be expected to endure permanent interference with the use of its land that caused a significant diminution of its market value in order to serve the greater public good.

#### IV. Disposition

[57] I would allow the appeal, set aside the order of the Court of Appeal and restore the order of the Ontario Municipal Board. I would not disturb the orders for costs made by the Board or by the Divisional Court. (We were advised that the costs before the Board have been fixed and paid by the respondent.) I would award the appellant costs of the appeal in the Court of Appeal in the agreed upon amount of \$20,000 inclusive of disbursements and I would not disturb the Court of Appeal's disposition of the costs of the cross-appeal before that court. In this matter arising under the *Expropriations Act*, I would exercise discretion and award the appellant its costs in this Court, including the application for leave to appeal, on a solicitor and client basis.

*Appeal allowed with costs.*

*Solicitors for the appellant: Rueter Scargall Bennett, Toronto.*

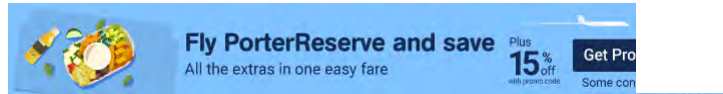
*Solicitor for the respondent: Attorney General of Ontario, Toronto.*

*Solicitor for the intervener the Attorney General of British Columbia: Attorney General of British Columbia, Vancouver.*

*Solicitor for the intervener the City of Toronto: City of Toronto, Toronto.*

*Solicitors for the intervener Metrolinx: Stikeman Elliott, Toronto.*

**TAB 14**

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- 4  Hit-and-run driver who killed pedestrian receives conditional sentence

TRENDING 🔥
- 5



Local News

# Windsor city council commits to provincial call to build 13,000 new local homes

Trevor Wilhelm

Published Feb 27, 2023 · Last updated Feb 28, 2023 · 3 minute read

7 Comments



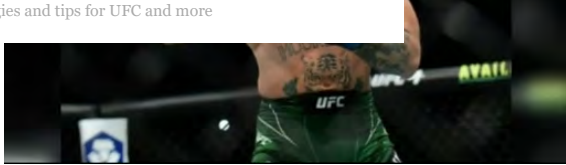
Windsor City Hall is shown on January 3, 2023. PHOTO BY DAN JANISSE /Windsor Star

Despite questioning whether it can be done, Windsor city council committed Monday to meeting a lofty goal set by the province to build 13,000 new local homes in the next decade.

STORY CONTINUES BELOW



Betting on MMA: Strategies and tips for UFC and more



"You could call it aspirational but I think it's possible," said Ward 10 Coun. Jim Morrison. "This is really doing our share.

"It may not happen but I don't see the risk side here. We need to just work with everybody to make it possibly happen."

With the More Homes Built Faster Act (Bill 23) and More Homes for Everyone Act (Bill 109), the Doug Ford government has pledged to tackle Ontario's housing crisis by committing to build 1.5 million new homes.

The province's total goal for Essex County is 30,400 homes. Windsor's target is 13,000 new residential units.

Challenges for municipalities will include streamlining the planning and building approval processes and ensuring infrastructure such as water, sewer, roads and power are in place for private sector builders.

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Council also heard Monday that to have any chance of hitting the provincial timeline, the city must add at least six new full-time employees in the planning department to help process applications. But that likely won't be addressed until budget deliberations.

"Bill 23 introduces amendments to nine different Acts which greatly affect Windsor and municipalities across the Province," city staff wrote in a report to council for Monday's meeting. "Administration concurs with the need to address housing supply strains, however, the new legislation is projected to have adverse financial and community impacts to the city."

The most significant impacts of Bill 23 will be a reduction in revenue, particularly related to development charges, according to the report.

STORY CONTINUES BELOW

The province's plan includes a phased-in temporary reduction of development charges. Starting in 2026, there will be a 20 per cent reduction in development charges in Windsor. The charges will then increase by five per cent annually for five years.

"Any discounts and/or exemptions resulting from Bill 23 provisions and regulations will reduce fees paid by developers," city staff wrote. "This revenue shortfall will need to be accounted for or taken on by the municipal tax levy if funds are insufficient."

Mayor Drew Dilkens acknowledged Monday that 13,000 new homes is a big ask, but added that "setting the path" will help meet the challenge.

"This is going to be tough and it's going to be tough on the departments to move things through," he said.

STORY CONTINUES BELOW

"I absolutely support trying to meet this target and I think we'll be successful."

Ward 7 Coun. Angelo Marignani was among the minority who did not support the pledge.

"Simply because we won't be able to do it," he said. "So to say that we're going to try to do something that administration tells us today we cannot do, I think sometimes when you create rules or laws and you don't follow them, it takes away from the integrity of the government or agency that puts those rules and laws together. As a council I want everyone to realize that when we say something we do it."

**RECOMMENDED FROM EDITORIAL**



More staff needed to deal with new provincial housing regulations: report

Ward 9 Coun. Kieran McKenzie also voted against making the commitment because he is "highly skeptical" it can be done.

"I was hesitant to tell the province, given those targets and without the supports that would be required from the province in order for us to have the tools to deliver on it, to say yes we're going to do this," said McKenzie. "I think we should hold out, ask the province to come to the table with some concrete measures that can help us to achieve those goals. Then I would be interested in revisiting making the pledge."

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#### Essex County meeting cancelled after unruly protest

Essex County councillors are considering how to proceed with public input after hundreds of boisterous protesters forced cancellation of a meeting about the region's official plan Wednesday.

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A hit-and-run driver who left an elderly pedestrian dying on a downtown street has received a \$200 fine and a driving prohibition, but will avoid going to jail.

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Planning for the new Windsor hospital will move to the next stage later this month after local officials submit their block drawings and layout plans to the Ministry of Health.

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**TAB 15**

HOUSING MARKET  
INFORMATION

# Rental Market Report

January 2023 Edition



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Canada



## THE RENTAL MARKET REPORT

provides in-depth analysis for major centres across Canada. This report is released annually and uses data from CMHC's Rental Market Survey and Condominium Apartment Survey. This analysis provides insights on trends and conditions in Canada's primary and select secondary rental markets. This includes reviews of rents and vacancy rates relative to supply and demand and highlights rental affordability challenges across markets. You can use the menu on page 3 to navigate to the latest Rental Market Report in the centre of your choice.



Data tables for all markets  
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“We are studying what drives house prices so we can influence policies in order to improve housing affordability while avoiding approaches that would worsen housing affordability in the medium to longer term. Communicating the results of our research and analysis helps position CMHC as a thought leader, which is a role Canadians and housing stakeholders expect of us.”



Bob Dugan,  
Chief Economist

“Housing markets are local. Broader challenges such as supply are often common, but the drivers and magnitude of these challenges may differ significantly across the country. My goal is to help understand and inform on market dynamics, how they support hinder housing affordability goals and to provide thought leadership on housing economics across housing industry participants.”



Aled ab Iorwerth,  
Deputy Chief  
Economist

## Our Chief and Deputy Chief Economists

Our Chief Economist and Deputy Chief Economists lead a cross-country team of housing economists, analysts and researchers who strive to improve understanding of trends in the economy, housing markets, and how they impact affordability.

They can offer insights into house price trends, supply challenges and other factors that impact housing markets in Canada and can speak on Canada Mortgage and Housing Corporation’s (CMHC) latest housing research and market reports.



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# Canada Overview

## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.9%**

Average Two-Bedroom Rent

**\$1,258**

UP by 5.6%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**1.6%**

Average Two-Bedroom Rent

**\$1,930**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“National rental market conditions tightened in 2022 due to rental demand surging in many markets.”

**Gustavo Durango**  
Senior Economist

**MARKET INSIGHTS**

## HIGHLIGHTS

Growth in demand outpaced strong growth in supply, pushing the vacancy rate for purpose-built rental apartments down from 3.1% to 1.9%. This was the vacancy rate's lowest level since 2001. Rent growth, for its part, reached a new high.

Rental demand surged across the country. This was a reflection of higher net migration and the return of students to on-campus learning. Another factor was higher mortgage rates, which drove up already-elevated costs of homeownership.

Despite higher overall supply, the share of rental units that are affordable for the lowest-income renters is, in most markets, in the low single digits or too low to report. This is especially true in Ontario and British Columbia (B.C.).

New data: Average rent growth for 2-bedroom units that turned over to a new tenant was well above average rent growth for units without turnover (18.2% vs. 2.8%). This increased affordability challenges.

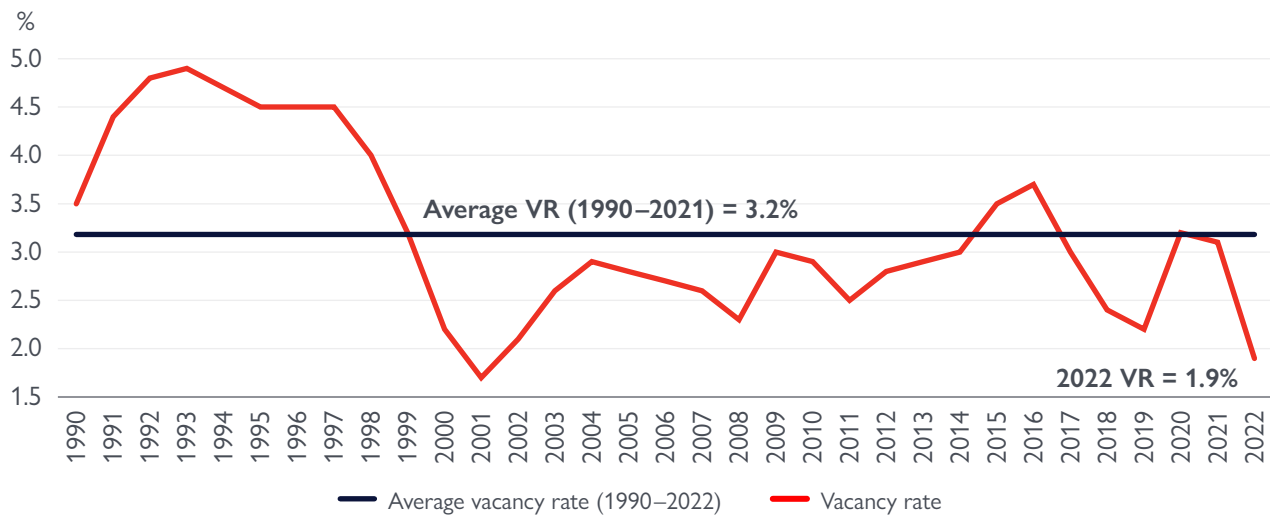
### Rental demand surged in 2022, leaving the vacancy rate at a near-historic low

Rental supply increased sharply between October 2021 and October 2022. This increase was measured by growth in the rental market universe, which went up by about 55,000 purpose-built rental apartments (+2.6%). This was the strongest rate of increase since 2013, reflecting elevated supply growth in some large markets. A notable example was the record-high increase in Vancouver.

That said, rental demand was stronger. The number of occupied units increased by about 79,000 units (+3.8%). This increase drove the national vacancy rate down to 1.9%, ending a 2-year streak of stability at historically average levels (figure 1).

The decline in the national vacancy rate reflected widespread tightening across Canada's rental markets. Only 5 of the 37 census metropolitan areas (CMAs) surveyed reported significantly higher vacancy rates in 2022 than in 2021. Declining rates in Canada's 3 largest rental markets of Montréal, Vancouver and Toronto reflected the national result. Toronto reported a particularly sharp decline (Canada table 1.0).

**Figure 1 In 2022, Canada's purpose-built rental apartment vacancy rate fell to its lowest level since 2001**

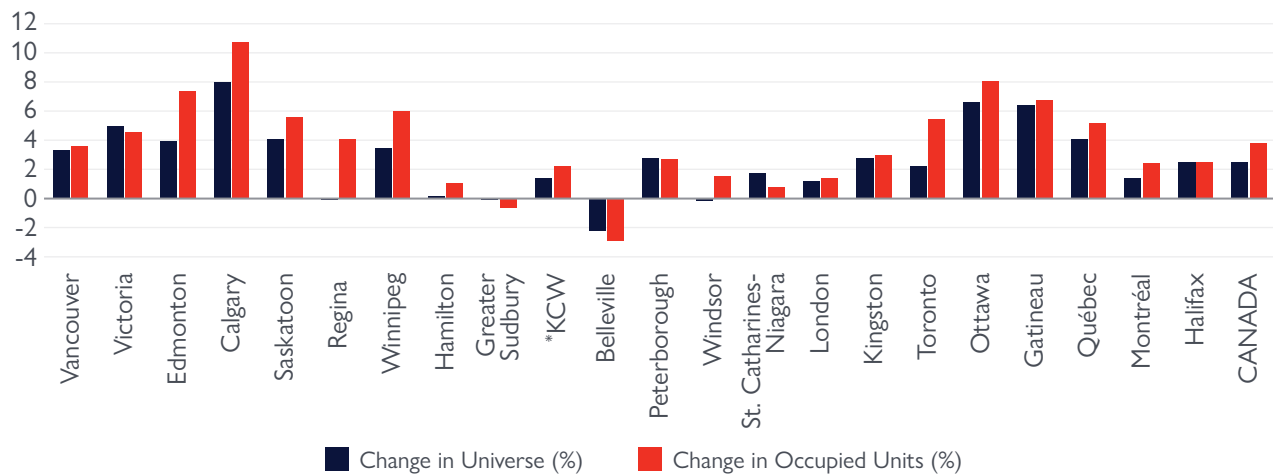


Source: CMHC  
 Canada total includes all centres of 10,000+ population.

The divergence between vacancy rates among Canada's 3 largest markets reflects differences in their gaps between demand growth and supply growth. As figure 2 shows, Toronto posted the largest gap between the growth of

demand (measured as the growth in occupied rental units) and the growth of supply (the increase in Toronto's rental universe). This gap helped drive the large vacancy rate decline in Toronto.

**Figure 2 Strong growth in supply was outpaced by stronger growth in demand in most centres, for purpose-built rental apartments in 2022**



Source: CMHC  
 Canada total includes all centres of 10,000+ population.  
 \*Kitchener-Cambridge-Waterloo.



## Higher net migration and costs of homeownership are among the drivers of higher rental demand

Strong growth in rental demand across the country reflected:

- significantly higher net migration, as flows continued to benefit from relaxed COVID-related travel restrictions. (New immigrants have a high tendency to rent);
- stable employment conditions for those aged 15–24, supporting demand from young households, which also have a higher tendency to rent; and
- a higher overall propensity to rent (caused by mortgage rate increases and relatively high prices, which increased the costs of transitioning to homeownership).

These drivers were widespread geographically. However, every rental market is different, and the impacts of these drivers will vary among them. In the Prairies, for example, rental demand has also benefitted from:

- higher interprovincial migration; and
- stronger employment stemming from higher commodity prices.

Ontario, B.C. and Québec saw the highest flows of new immigrants. This flow placed additional demand pressures on their local markets. The return of students to on-campus learning was also particularly important in centres with large higher-learning sectors. These and other nuances impacting local markets are explained in greater detail in the market reports.

Higher mortgage rates and elevated price levels have made homeownership more expensive in 2022. These increased costs supported rental demand by making it harder and less attractive for renters to transition to homeownership.

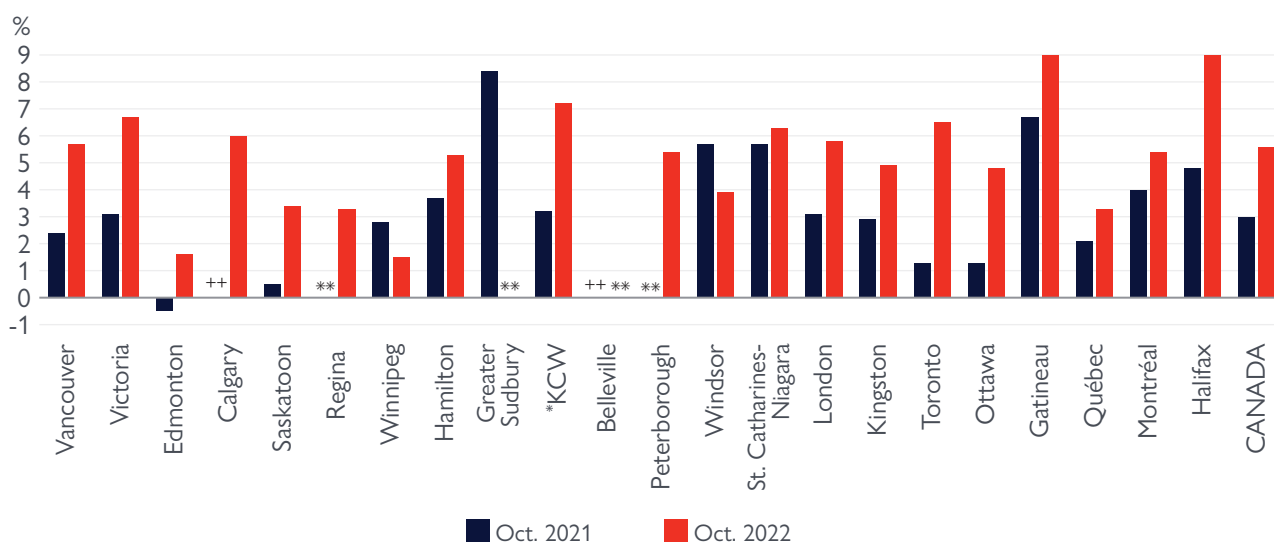
The decline in turnover rates observed since the previous survey is consistent with increased difficulty in transitioning to homeownership. The national turnover rate fell from 15.5% in 2021 to 13.6% in 2022 (Canada table 1.0). A lower turnover rate indicates a reduced willingness of households to vacate a rental unit. This contributes to lower overall vacancy rates and tighter rental markets.

## Rent growth reached a new high due to tighter rental markets

Growth in the average rent for 2-bedroom purpose-built apartments common to 2 consecutive surveys is known as “same-sample rent growth.” For apartments common to the October 2021 and October 2022 surveys, same-sample rent growth accelerated sharply. It rose to 5.6% from 3% over the previous 12-month period. This is a new annual high, well above the 1990-to-2022 average of 2.8%.

Higher rent-growth was widespread geographically, with particularly large jumps observed in Vancouver and Toronto (figure 3). This reflects higher flows of immigrants to these centres, among other factors discussed in the market reports. Result: the average rents for 2-bedroom purpose-built apartments in Vancouver (\$2,002) and Toronto (\$1,779) continue to be the highest in the country. They’re well above the national average of \$1,258 (Canada table 1.0).

**Figure 3 Rent growth surged across the country for 2-bedroom purpose-built apartments, including Vancouver and Toronto**



Source: CMHC

Canada total includes all centres of 10,000+ population.

\*Kitchener-Cambridge-Waterloo.

\*\* — Data Suppressed;

++ — Change in rent is not statistically significant. This means that the change in rent is not statistically different than zero.

## New renters and low-income renters face even tighter market conditions

Average rent growth for purpose-built, 2-bedroom units that turned over to a new tenant was 18.3%, well above the 2.9% rent growth for units without turnover (Canada table 6.0). This reflects the fact that, once a tenant vacates a unit, landlords are generally free to increase asking rents to current market levels. Landlords can also take the opportunity to renovate between tenants. In doing so, they raise unit quality and can then ask for higher rents from new tenants.

Among the 3 largest markets, Toronto reported the widest gap between rent growth for units that turned over and rent growth for units without turnover. Vancouver followed, and Montréal had the narrowest gap of the 3:

- Toronto (29.1% rent growth for turnover units vs. 2.3% for non-turnover units)
- Vancouver (23.9% vs. 3.9%)
- Montréal (14.5% vs. 3.5%)

Lower-income renters also tend to face greater affordability challenges than do higher-income renters. The reason: very low stocks of rental units that are affordable for people in lower income ranges. An affordable dwelling is one where the renter household is spending no more than 30% of its gross income on rent. Using that benchmark, we calculate the share of the rental universe that would be affordable at different income levels. Figure 4 shows the results of this calculation for renters whose incomes are in the bottom 20% of all renters in a given rental market.

For the bottom 20% of income earners in most rental markets, the share of rental units that are affordable is much less than 20%. In many centres, this affordable share is too small to meet statistical reporting standards. Markets in Québec are a major exception to this trend, followed (distantly) by markets in the Prairies.

Overall affordability conditions were also stressed by inflation. The 12-month change in the all-items Consumer Price Index stood at 6.9% in October 2022. This growth outpaced growth in the average hourly wage (5.6%) over the same period.<sup>1</sup> The resulting pressure on real household wages would likely have increased the housing affordability challenges faced by renters.

<sup>1</sup> Source: Statistics Canada. Table 18-10-0004-01 (Consumer Price Index) and Table 14-10-0320-02 (Average Usual Hours and Wages).

**Table 1 Affordable units for low-income renters are extremely rare outside of Québec**

Selected CMAs	Share of units affordable to renters with the lowest 20% of incomes
Québec	25%
Montréal	23%
Edmonton	13%
Gatineau	8%
Regina	8%
Saskatoon	7%
Calgary	5%
Winnipeg	4%
London	3%
Halifax	3%
Victoria	1%
Vancouver	1%
Belleville	**
Toronto	**
Kingston	**
Peterborough	**
Kitchener-Cambridge-Waterloo	**
Hamilton	**
Sudbury	**
Ottawa	**
St Catharines	**
Windsor	**

Source: CMHC

From table 3.1.8 of each CMA's section of the report.

\*\*Data suppressed because the universe is too small and/or to preserve data reliability. See the Appendix for more information.

## Rental condominium apartment markets remained tight despite higher supply

Rented condominium units play a significant role in the supply of rental housing. That's why we also survey condominium apartments offered for rent on the secondary rental market in 17 centres.

In 2022, rental condominiums accounted for 19.3% of the total stock of rental units across these centres. (The total stock of rental units is the sum of the purpose-built rental apartment universe and the rental condominium apartment universe.) This share was up from 18.6% in 2021, reflecting growth in the condominium rental universe of 7.2% in 2022 (Canada Table 4.2).

In some of Canada's largest centres, the share of the rental stock accounted for by condominiums remained well above the national average in 2022. Vancouver was the leader (with 42.5% of its rental stock made up of condominiums), followed by Calgary (37.5%) and Toronto (34%). Centres in Québec generally reported smaller shares, including Montréal at 6.7%.

The average vacancy rate for rental condominiums remained low, at 1.6%. In a strict statistical sense, this is essentially unchanged from 2021. The average rent for a 2-bedroom rental condominium increased significantly from \$1,771 to \$1,930. Markets remained tight despite growth in supply. The tightness of both the rental condominium and purpose-built rental markets therefore had a common driver: the outpacing of strong supply growth by even stronger demand growth.

These results reinforce the urgent need to accelerate housing supply and address supply gaps to improve housing affordability for Canadians. We encourage you to refer to our *Housing Shortages in Canada: Solving the Affordability Crisis*<sup>2</sup> report. There, you can find estimates of the size of these gaps and detailed analysis of their causes and consequences.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).

<sup>2</sup> <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-research/research-reports/accelerate-supply/housing-shortages-canada-solving-affordability-crisis>

# Vancouver



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**0.9%**

Average Two-Bedroom Rent

**\$2,002**

UP by 5.7%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**2.2%**

Average Two-Bedroom Rent

**\$2,504**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)

[See Canada Overview.](#)



“Strong demand for limited rental units means low vacancy rates, rising rents and growing inequality between long-term leaseholders and newcomers.”

**Eric Bond**  
Senior Specialist  
MARKET INSIGHTS

## HIGHLIGHTS

The purpose-built rental apartment vacancy rate decreased from 1.2% in 2021 to 0.9% in 2022. Higher homeownership costs and migration to the region led rental demand to increase faster than supply.

Asking rents for vacant units are now, on average, 43% higher than those paid for occupied units. This represents a strong disincentive to moving for existing tenants, resulting in lower turnover.

The tightening conditions caused rent growth to accelerate to 6.3% overall. New renters paid, on average, 24% more than the previous tenant for 2-bedroom units rented in 2022.

Important imbalances exist in the Vancouver rental market. Our data show that lower-income households face significant challenges finding units that they can afford.

The purpose-built rental universe increased by a record 3,805 units (+3.3%) following elevated construction of new units in recent years.

The number of condominium apartments offered as long-term rentals increased by 7,850 units (+9.8%). The increase in supply contributed to the rental condominium segment having a higher vacancy rate (2.2%) than the purpose-built rental segment (0.9%).

### Vacancy rates fall below 1% due to higher demand

The rental market tightened in the Vancouver census metropolitan area (CMA) in 2022. Following a surge in international migration and homeownership costs, the overall vacancy rate for purpose-built apartments fell to 0.9% (table 1.1.1).

As part of this broad increase in demand, vacancy rates decreased across market segments and regions. The only exceptions were select submarkets where significant new supply was added, such as:

- District of North Vancouver (3%)
- Kerrisdale neighbourhood in the City of Vancouver (2.5%)

Many of the new units in these areas have high rents. The higher vacancy rates suggest there's likely price sensitivity among renters.

The tightening rental market in the Vancouver CMA is in line with other large centres in Canada. In the Toronto CMA, vacancy rates also fell due to increased migration and homeownership costs.

### Increase in migration and homeownership costs drives rental demand

Migration to the Vancouver CMA from both international and domestic origins contributed to growth in rental demand. Arrivals of international immigrants to British Columbia doubled in the first half of 2022. Most of these immigrants settled in Metro Vancouver. The reopening of international borders also contributed to an increase in arrivals of non-permanent residents. This group includes international students, many of whom rent.

Increases in mortgage interest rates limited the ability of existing renter households to move to homeownership. The borrowing capacity of a worker aged 25 to 54 earning the average wage in the Vancouver CMA fell by nearly a quarter, or about \$100,000, in 2022. Entry-level home prices haven't declined as fast as buying power, meaning many prospective homebuyers continue to rent.

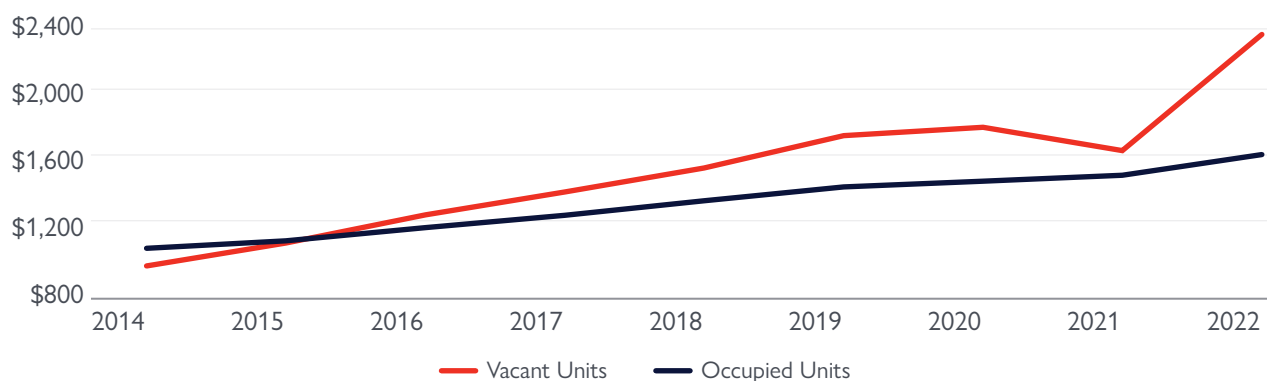
## Spread between market rents for vacant units and those paid for occupied units widens

The average asking rent for vacant units was 43% higher than the overall average rent for occupied units in the Vancouver CMA (table 1.1.9). This was significantly higher than the 10% gap observed in 2021, as the average asking rent for vacant units soared in 2022 (figure 1). While some new units with high rents are currently vacant, an influx of such units wasn't the main contributor to higher asking rents.

For existing tenants paying rents below market value, higher market rents are a significant disincentive to moving. After several years at an already low level, the turnover rate fell further to 10.7% in 2022.

Fewer units coming to market creates a more challenging environment for new renters. The market can't accommodate as many moves as before, leading to higher rents for those units that do come to market.

**Figure 1** Average rents of vacant and occupied apartments, all bedroom types, Vancouver CMA (\$)



Source: CMHC

## Rent growth accelerates with turnover of units to new tenants

The change in rent for the same apartment between two consecutive surveys, the same-sample rent change, is an important rental market indicator. Average same-sample rents surged 6.3% in 2022, well ahead of the 2.1% increase in 2021. Mirroring the increase in rental demand, the increase in rents was broad-based across apartment types (number of bedrooms) and geographic areas.

New leases are formed under current market conditions. Due to rent control, existing leases reflect market conditions in the past. This results in a gap between the overall average rent paid and current market rents. Our new data on the rent increase at turnover is one way to observe this gap.

Two-bedroom units that turned over were re-leased at a rent that was 23.9% higher, on average. In contrast, rents increased 3.9%, on average, for 2-bedroom units that didn't change tenant between 2021 and 2022 (Canada table 6.0).

Under tenant-based rent guidelines imposed in B.C., the allowable rent increase for existing tenants was 0% in 2021 and 1.5% in 2022. The rent increase for units that didn't turn over can vary from the allowable amount. This is because of supplemental increases that are allowed for capital improvements to the structure. When a unit turns over to a new tenant, the landlord is free to set a new rent amount at the market level.

## Record increase in the supply of purpose-built rental units

Despite the observed decline in the vacancy rate, the universe of purpose-built rental apartments increased by 3,805 units (+3.3%). This represents the highest annual increase among available records since 1990. Four submarkets combined to account for 87% of the increase:

- City of Vancouver: 1,359 units (+2.3% universe growth rate)
- Tri-Cities: 843 units (+17.9%)
- City of North Vancouver: 666 units (+10.8%)
- District of North Vancouver: 446 units (+26.2%)

The increase results from the elevated number of new rental units started over the past few years now coming to market. Rental starts surged 43% year-over-year over the first 3 quarters of 2022, meaning completions of new rental supply will be significant in the years ahead. However, increases in financing costs will likely slow additional rental starts in 2023.

## Newly completed units have rents similar to current asking rents for vacant units

Units in new structures completed in the past 3 years had higher vacancy rates than units in structures of all ages (table 3.1.7). Interestingly, average rents for new 2-bedroom units (\$2,823) were nearly identical to the asking rent (\$2,865) for vacant 2-bedroom units of all ages. Rental demand is such that owners of existing units can, in some cases, seek rents that are equal to those for new units.

## Availability of affordable purpose-built rental stock is a challenge for many

The tightening conditions reinforced existing imbalances in the Vancouver rental market. Our data show that lower-income households face significant challenges in finding units that they can afford (table 3.1.8):

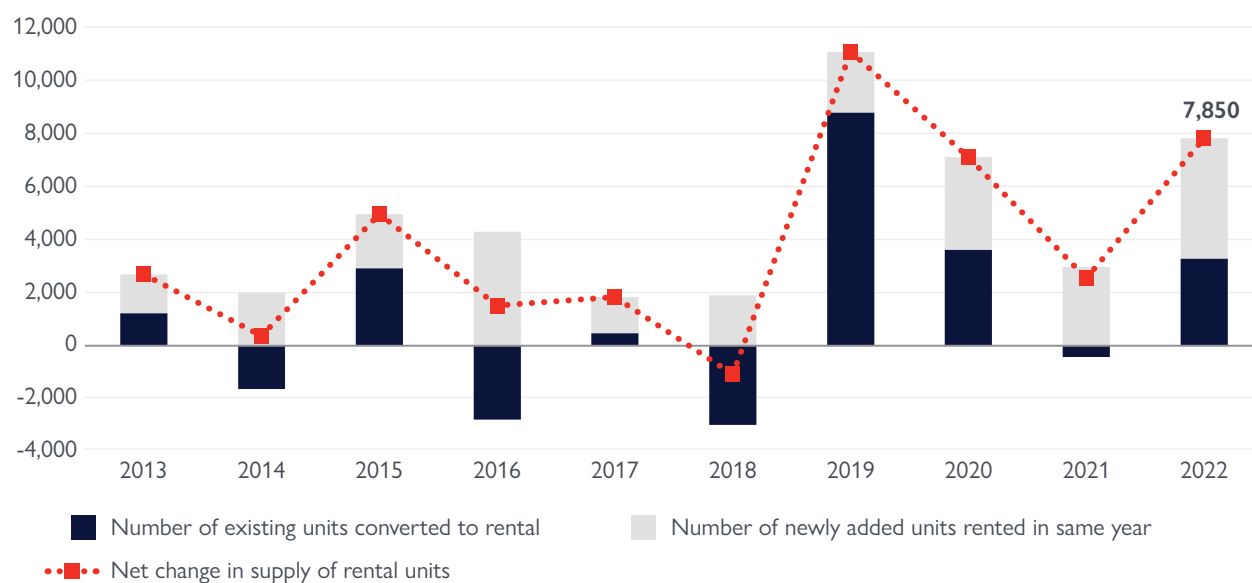
- Less than 1/3 of market purpose-built rental units are affordable to households earning less than \$55,000 per year.
- Only 1 in 200 units are affordable to renter households with the lowest 20% of incomes.
- Most of the lowest-priced units are small and would not be suitable for families.

## Growth in the number of rental condominium apartments leads to higher vacancies

The condominium apartment segment is an important source of rental supply for the region. The number of condominiums offered as long-term rentals increased by 7,850 units (+9.8%) in 2022. This growth included both newly constructed and existing units entering the rental market (figure 2). Overall, the proportion of condominiums being rented long-term rose to 30.5%.

With the increased supply of rental units, the condominium apartment vacancy rate rose to 2.2%. This contrasts with the purpose-built rental sector, where the apartment vacancy rate fell to 0.9%. Condominium rents are similar to those for new purpose-built rental units, which also have higher vacancies (2.7%) than the overall market. Renters seem to be willing to pay about the same for these 2 types of units, contributing to their similar market outcomes.

**Figure 2** Components of change in supply of rental condominium apartments, Vancouver CMA

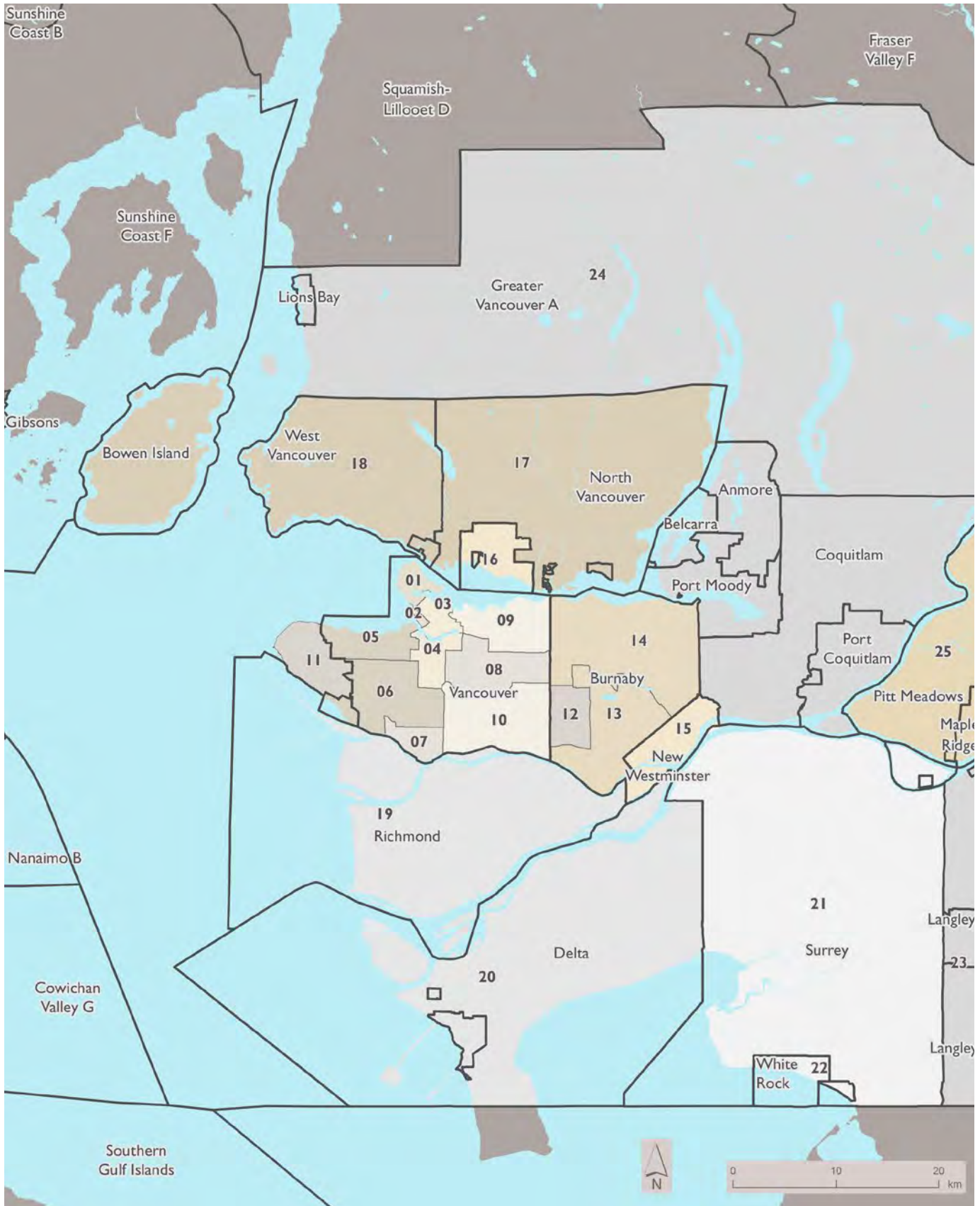


Source: CMHC



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).





## RMS Zone Descriptions — Vancouver CMA

<b>Zone 1</b>	<b>West End, Stanley Park</b> is the area between Stanley Park and Denman Street and extends to Coal Harbour to the north and English Bay to the south.
<b>Zone 2</b>	<b>English Bay</b> runs along Sunset Beach and English Bay to the south, connects to Davie Street to the North and Burrard Street to the East.
<b>Zone 3</b>	<b>Downtown</b> is the remainder of the West End not covered in Zone 1 and 2. Does not include the Downtown Eastside.
<b>Zones 1-3</b>	<b>West End/Downtown</b>
<b>Zone 4</b>	<b>South Granville/Oak</b> is west of Mount Pleasant and extends south to 33rd Avenue and west to Granville Street. Also includes the Fairview area and contains a section between Broadway to the north and 16th Avenue to the south, Burrard Street to the west and Granville Street to the east.
<b>Zone 5</b>	<b>Kitsilano/Point Grey</b> is the area west of South Granville/Oak that extends along 16th Avenue to the University Endowment Land.
<b>Zone 6</b>	<b>Westside/Kerrisdale</b> is the area south of Kitsilano/Point Grey and South Granville/Oak, and includes the areas: Kerrisdale, Mackenzie Heights, Dunbar, Shaugnessy and Oakridge.
<b>Zone 7</b>	<b>Marpole</b> is an area in South Vancouver that borders south of 57th Avenue between Cambie Street to the east and MacDonald Street to the west, and extends south down to the Fraser River.
<b>Zone 8</b>	<b>Mount Pleasant/Renfrew Heights</b> is the area that extends from the Mount Pleasant area to the west to Renfrew Heights to the east, and includes the neighbourhoods of Fraser and Knight. The area boundary to the north is Great Northern Way and Broadway, and roughly 33rd Avenue to the South.
<b>Zone 9</b>	<b>East Hastings</b> is the northeast area of Vancouver City, and includes the Downtown Eastside.
<b>Zone 10</b>	<b>Southeast Vancouver</b> includes the areas: Killarney, Fraserview, Collingwood and Champlain Heights.
<b>Zones 1-10</b>	<b>Vancouver City</b>
<b>Zone 11</b>	<b>University Endowment Lands</b> includes both the municipality and University of British Columbia. Note: the Rental Survey does not include student housing.
<b>Zone 12</b>	<b>Central Park/Metrotown</b> is the area between Boundary Road to the west and Royal Oak Avenue to the east, Moscrop Street and Gilpin Street to the north and Marine Drive to the south.
<b>Zone 13</b>	<b>Southeast Burnaby</b> extends to the border of New Westminster and includes the areas: Edmonds, Middlegate, Buckingham Heights, Deer Lake and Burnaby Lake.
<b>Zone 14</b>	<b>North Burnaby</b> is the northern half of Burnaby and includes the areas: Willingdon Heights, Brentwood Park, Capitol Hill, Sperling, Simon Fraser and Lougheed.
<b>Zones 12-14</b>	<b>Burnaby City</b>
<b>Zone 15</b>	<b>New Westminster</b> is the city boundaries.
<b>Zone 16</b>	<b>North Vancouver City</b> is the city boundaries.
<b>Zone 17</b>	<b>North Vancouver DM</b> is the district boundaries.
<b>Zone 18</b>	<b>West Vancouver</b> is the district boundaries.
<b>Zone 19</b>	<b>Richmond</b> is the city boundaries.
<b>Zone 20</b>	<b>Delta</b> is the corporation boundaries.
<b>Zone 21</b>	<b>Surrey</b> is the city boundaries.

<b>Zone 22</b>	<b>White Rock</b> is the city boundaries.
<b>Zone 23</b>	<b>Langley City</b> and <b>Langley DM</b> includes both the city and township boundaries.
<b>Zone 24</b>	<b>Tri-Cities</b> consists of Coquitlam, Port Coquitlam and Port Moody.
<b>Zone 25</b>	<b>Pitt Meadows/Maple Ridge</b> is the district boundaries for both municipalities.
<b>Zones 1-25</b>	<b>Vancouver CMA</b>

## Condominium Sub Area Descriptions — Vancouver CMA

<b>Sub Area 1</b>	<b>North Shore</b> includes RMS Zone 16 (North Vancouver City), Zone 17 (North Vancouver DM), and Zone 18 (West Vancouver).
<b>Sub Area 2</b>	<b>Burrard Peninsula</b> includes RMS Zone 1 (West End, Stanley Park), Zone 2 (English Bay), and Zone 3 (Downtown).
<b>Sub Area 3</b>	<b>Vancouver Westside</b> includes RMS Zone 4 (South Granville/Oak), Zone 5 (Kitsilano/Point Grey), Zone 6 (Westside/Kerrisdale), Zone 7 (Marpole), and Zone 11 (University Endowment Lands).
<b>Sub Area 4</b>	<b>Vancouver Eastside</b> includes RMS Zone 8 (Mount Pleasant/Renfrew Heights), Zone 9 (East Hastings) and Zone 10 (Southeast Vancouver).
<b>Sub Areas 3-4</b>	<b>Vancouver East/Westside</b> includes RMS Zone 4 (South Granville/Oak), Zone 5 (Kitsilano/Point Grey), Zone 6 (Westside/Kerrisdale), Zone 7 (Marpole), Zone 8 (Mount Pleasant/Renfrew Heights), Zone 9 (East Hastings), Zone 10 (Southeast Vancouver), and Zone 11 (University Endowment Lands).
<b>Sub Areas 2-3-4</b>	<b>City of Vancouver</b>
<b>Sub Area 5</b>	<b>Suburban Vancouver</b> includes RMS Zone 12 (Central Park/Metrotown), Zone 13 (Southeast Burnaby), Zone 14 (North Burnaby), Zone 15 (New Westminster), Zone 19 (Richmond), and Zone 24 (Tri-Cities).
<b>Sub Area 6</b>	<b>Fraser Valley</b> includes RMS Zone 20 (Delta), Zone 21 (Surrey), Zone 22 (White Rock), Zone 23 (Langley City and Langley D.M.), and Zone 25 (Pitt Meadows/Maple Ridge).
<b>Sub Areas 1-6</b>	<b>Vancouver CMA</b>

# Victoria



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.5%**

Average Two-Bedroom Rent

**\$1,699**

UP by 6.7%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**0.2%**

Average Two-Bedroom Rent

**\$2,321**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)

[See Canada Overview.](#)



“Record-high supply growth helped alleviate rental market tightness, while rising demand accelerated rent increases.”

**Pershing Sun**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

The vacancy rate rose slightly thanks to expansion of the rental apartment stock, although the rental townhouse stock continued to shrink.

Rent growth of purpose-built rental apartments peaked at 7.7%, driven by high turnover, especially for newer units.

Strong rent growth exacerbated the shortages of affordable units, particularly for low-income households in need of larger units.

Record-high immigration and a stable job market brought rental demand back to the city center.

### Rental market conditions loosened slightly

In 2022, the rental market in the Victoria census metropolitan area (CMA) loosened slightly in both the purpose-built rental and condominium rental segments. However, at 1.5%, the vacancy rate of purpose-built rental units remained one of the lowest in Canada, albeit a slight improvement from 1% in 2021. The condominium rental vacancy rate increased from 0% to 0.2%. This was attributable to expansions of the stock in both segments, which slightly relieved the tight rental market conditions.

Many parts of the CMA saw various degrees of higher vacancies. Contrary to 2021, the vacancy rate in the City of Victoria (1.2%), was lower than in the outskirts (1.6%). As workplaces began to adopt hybrid work schedules, demand returned to the urban area.

The Westshore area saw the largest jump in the purpose-built rental apartment vacancy rate, from 0.4% in 2021 to 1.5% in 2022. With most of the CMA's rental construction concentrated in the area, the average rent of purpose-built rental apartments in Westshore remained the highest in the CMA. This appeared to have tamed demand. Renters likely traded newer amenities for affordability, as the cost of living rose significantly in 2022.

### Rent growth accelerated

Record-breaking rent growth occurred in the Victoria CMA in 2022. The average rent for purpose-built rental apartments increased by 7.7% in 2022, the fastest growth since 1991. This was driven by strong rent increases in units that were turned over to new tenants.<sup>1</sup> As an example, a turnover 2-bedroom apartment was rented at a 33% higher rent, on average, than an occupied unit in the same building. Structures built after 2005, which are generally more expensive, had turnover rates twice as high as those for older apartments. As a result, high turnover among newer units led to significant rent increases for these units, which ultimately contributed to the overall rent growth.

As a result, renters were less likely to move, as evidenced by the lower turnover rate overall, unless moving out of the CMA. In fact, areas north of the CMA, such as Duncan and Parksville, saw lower vacancy rates in 2022. These more affordable rental markets may have absorbed some demand from Greater Victoria.

### Uneven growth in rental supply between apartments and townhouses

A much-needed increase in apartment supply occurred in the Victoria CMA, with 1,411 units added to the purpose-built rental apartment stock, and 229 units added to the condominium apartment stock. Both sectors grew by more than twice what they did in 2021.

<sup>1</sup> Rent increases for existing tenants in B.C. are capped at 1.5% for 2022 by the provincial legislature.

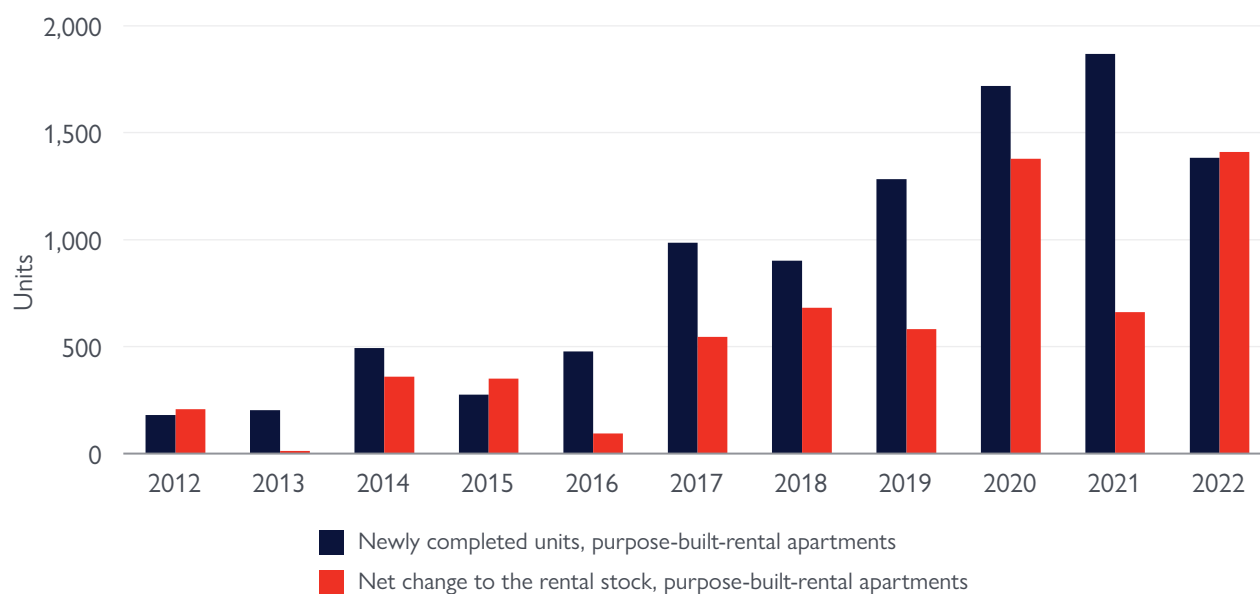
Unlike in 2021, there were significantly fewer purpose-built rental apartments removed from the stock as a result of demolitions, conversions or renovations. Many units taken down for renovation returned to the market in 2022. This, along with newly completed rental constructions, helped the growth in rental stock seen in 2020 resume (figure 1). Priced at a higher rent level than before, these newly added units also contributed to the rapid rent growth.

Conversely, the Victoria CMA lost 83 (12%) purpose-built rental townhouses in 2022. Most of the losses were in Saanich/Central Saanich, which provides about half of the CMA's rental townhouses. This resulted in the vacancy rate of 3-bedroom townhouses dropping from 6.2% to 3.5% in the area, one of the very few rental segments that tightened.

## High immigration and stable job growth drove demand

BC's population grew at a record pace in 2022. As borders reopened, immigration recovered as the main driver of population growth in B.C. In Q2 2022, B.C.'s population grew by 45,515,<sup>2</sup> the highest quarterly increase since the 1970s. Newcomers will likely continue to drive rental demand, since the federal government's immigration targets are set progressively higher each year until 2025.

**Figure 1** Despite slow-down in rental construction, rental stock expanded thanks to fewer renovations, demolitions and conversions



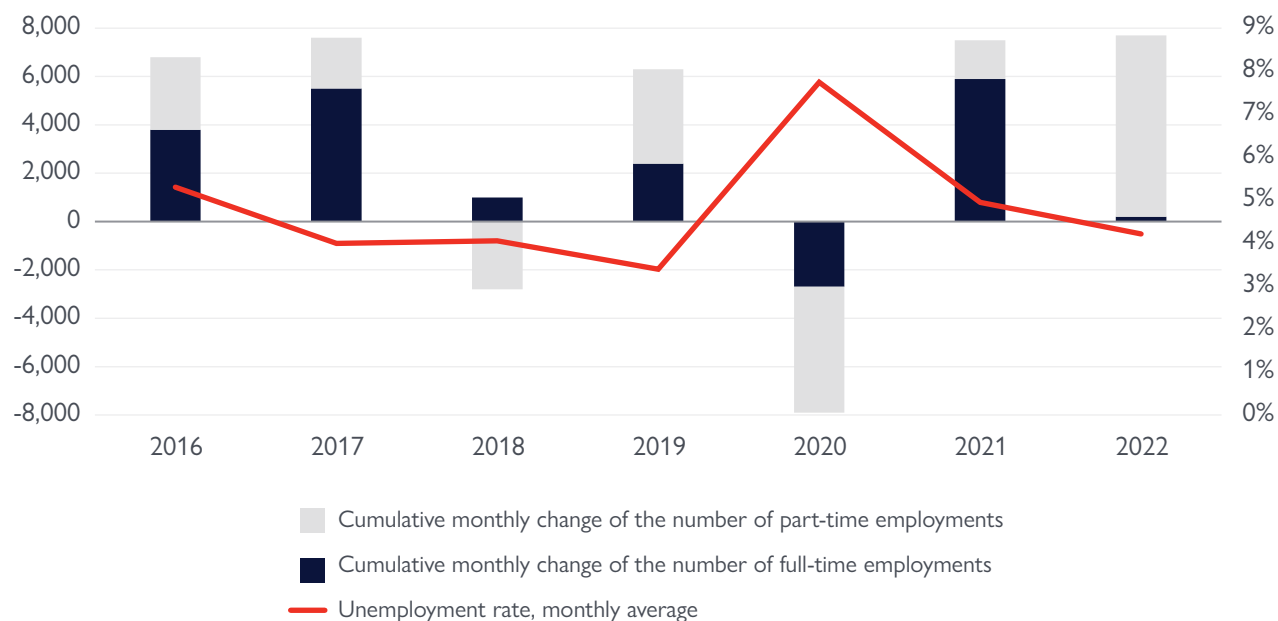
Source: CMHC

<sup>2</sup> Statistics Canada. Table 17-10-0009-01

Victoria's job market improved in 2022, with 6,200 jobs added between January and October. Unlike in 2021, most of the new jobs were part-time positions (figure 2). Part-time workers disproportionately rent, which likely contributed to greater rental demand. The job vacancy rate (percentage of unfilled positions) reached a record high in Q2 in Greater Victoria,

exceeding lower mainland and B.C.'s overall rate.<sup>3</sup> If the labour shortage continues, wages may rise (Victoria's average wage offered has been declining since Q2 2021). Higher wages may boost rental demand. However, rental affordability will likely remain a challenge, especially as rent growth outpaces income growth for many in the CMA.

**Figure 2 Part-time employment gains drove the job market in 2022**



Source: Statistics Canada

Note: The 2022 data includes the period between January 2022 and November 2022.

## Higher demand for affordable rentals

Vacancy rates of units that are considered affordable to many households remained below 1%:

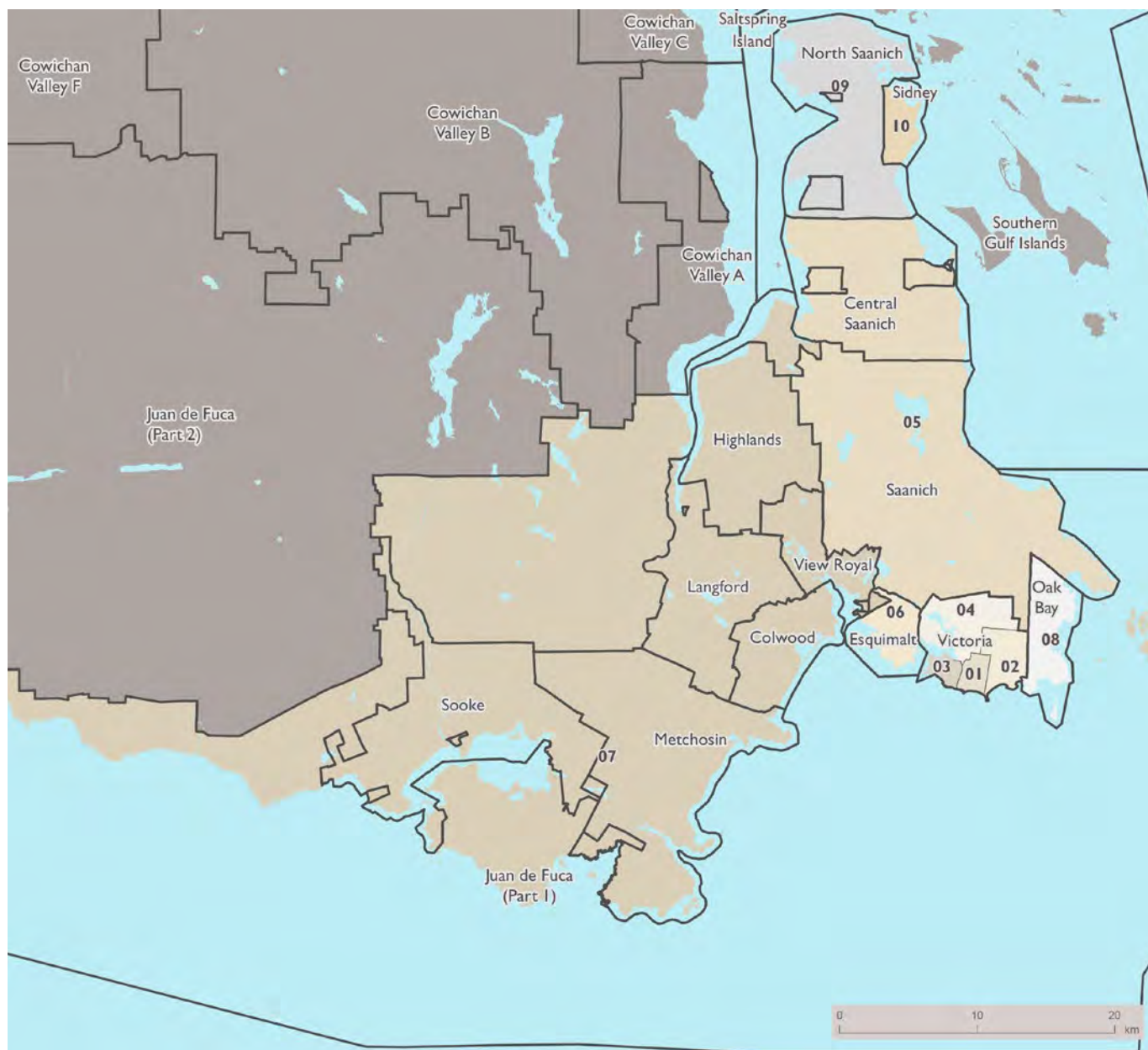
- For households earning less than \$49,000 per year, affordable units had a vacancy rate of 0.4%.
- 3-bedroom units affordable to those earning less than \$75,000 per year was 0.8%.
- Only a third of the purpose-built rental units were affordable for households earning less than \$49,000 per year.

In a market with record-high rent increases, these results highlighted the challenge for low-income households, especially larger households that require more than 1 bedroom. The supply of affordable and suitable rental options is still not meeting demand in the Victoria CMA.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).

<sup>3</sup> Statistics Canada. Table 14-10-0325-01



## RMS Zone Descriptions — Victoria CMA

<b>Zone 1</b>	<b>Cook St. Area</b> - includes Fairfield and Rockland neighbourhoods - bounded on west by Douglas St., on north by Fort St. and on east by Moss St.
<b>Zone 2</b>	<b>Fort St. Area</b> - includes Fernwood neighbourhood - bounded on west by Cook St., on north by Bay St. and on east by City of Victoria boundary.
<b>Zone 3</b>	<b>James Bay Area</b> - bounded on east by Douglas St.
<b>Zone 4</b>	<b>Remainder of City</b> - includes downtown core, Victoria West, Hillside and Jubilee neighbourhoods - bounded on east by Cook St. and on south by Bay St.
<b>Zones 1-4</b>	<b>City of Victoria</b>
<b>Zone 5</b>	<b>Saanich/Central Saanich</b>
<b>Zone 6</b>	<b>Esquimalt</b>



Zone 7	Langford/View Royal/Colwood/Sooke
Zone 8	Oak Bay
Zone 9	North Saanich
Zone 10	Sidney
Zones 5-10	Remainder of Metro Victoria
Zones 1-10	Victoria CMA

## Condominium Sub Area Descriptions — Victoria CMA

Sub Area 1	<b>City of Victoria</b> includes RMS Zone 1 (Cook St. Area); Zone 2 (Fort St. Area); Zone 3 (James Bay Area) and Zone 4 (Remainder of City).
Sub Area 2	<b>Remainder of Metro Victoria</b> includes RMS Zone 5 (Saanich/Central Saanich); Zone 6 (Esquimalt); Zone 7 (Langford/View Royal/Colwood/Sooke); Zone 8 (Oak Bay); Zone 9 (North Saanich) and Zone 10 (Sidney).
Sub Areas 1-2	<b>Victoria CMA</b>

# Edmonton



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**4.3%**

Average Two-Bedroom Rent

**\$1,304**

UP by 1.6%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**4.1%**

Average Two-Bedroom Rent

**\$1,426**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“A strong economic rebound and record migration flows contributed to rental demand outpacing new additions to supply in 2022”

**Taylor Parady**  
Senior Specialist  
MARKET INSIGHTS

## HIGHLIGHTS

With improved labour market conditions, record net international migration and net interprovincial migration at a 10-year high, rental demand outpaced increases in supply.

The vacancy rate for purpose-built rental apartments was 4.3% in October 2022, down from 7.3% in October 2021.

Edmonton has continued to see strong growth in the purpose-built rental universe. The universe is growing at a pace higher than any previous decade, based on data going back to 1990.

Same-sample apartment rents increased modestly in 2022. Lower vacancies, particularly in some sub-areas of the CMA, placed upward pressure on rent levels.

The cost of ownership for first-time homebuyers increased due to rising mortgage rates. This increase likely contributed to additional rental demand.

### Economic rebound and record migration flows driving rental demand

A strong post-pandemic recovery and high commodity prices continue to drive a sharp economic rebound in Alberta. This rebound, in turn, has benefitted the Edmonton CMA. Total employment in the Edmonton CMA improved in October 2022 compared to 1 year earlier, increasing 3%. Total employment was 5% above pre-pandemic levels as of October. Full-time employment was up 4% relative to 1 year earlier and was 5% above pre-pandemic levels.

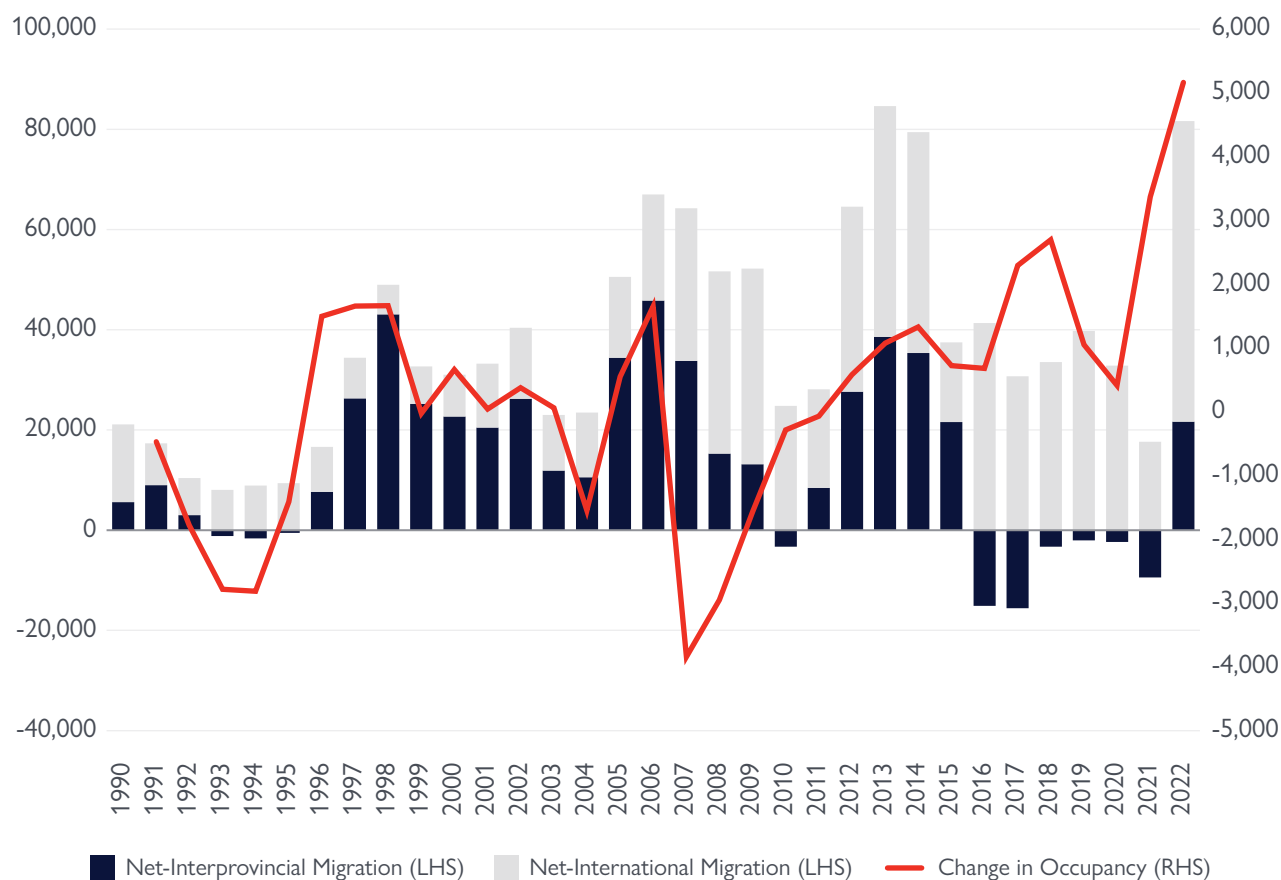
The broader labour market improvement over the past year was also accompanied by gains in employment among key cohorts that drive rental demand. Full-time employment among people aged 15 to 24 was up 18% over the past year. Most of the gains in employment as the pandemic faded were in the service-producing sector; however, these gains have stalled over the past year. Employment in the goods-producing sector made gains in the second half of 2022, up 20% relative to 1 year ago and nearing pre-pandemic

levels. Also, the job vacancy rate in the Edmonton CMA increased to 4.6% as of the second quarter of 2022. This is a rate not seen since the beginning of 2015.

Rental demand was also supported by provincial in-migration. In-migration was at its highest recorded level as of the second quarter of 2022, the latest data point available. This was due, in part, to quarterly net international migration setting a record in the second quarter: just over 25,000 net newcomers to the province. Almost half of international migrants in the second quarter were non-permanent residents. This signaled that some of the demand from in-migration could be from students.

Additionally, net interprovincial migration into Alberta returned to levels not seen since 2012/13, with just under 10,000 newcomers in the quarter. Annual data from July of one year to June the next year shows that net migration to Alberta in 2021/22 was similar to the level seen in 2013/14 (figure 1).

**Figure 1 Alberta net-migration by type and Edmonton annual growth in rental occupancy (historical)**



Source: CMHC; Statistics Canada

## Vacancy rate declined because of stronger growth in rental demand

The vacancy rate for purpose-built rental apartments in the Edmonton CMA declined to 4.3%, compared with 7.3% one year earlier (Table 1.1.1). The number of occupied units grew by 5,163 over the past year, the largest single-year increase in occupancy on record. Growth in occupancy outpaced the increase in the apartment rental universe of 3,020 units. This was also one of the largest increases in supply on record.

Given strong demand, vacancy rates across all apartment types (number of bedrooms) declined significantly. Both 2-bedroom and 3+ bedroom units saw the largest magnitude declines, despite significant new additions to supply of these unit types. Vacancy rates also declined in every sub-area of the Edmonton CMA. The size of the decline was largest in some core zones like Downtown and West Central. These were the same areas where vacancy rates were some of the highest 1 year earlier. This can be attributed to a few factors, such as:

- stronger population growth;
- the return of in-person work in core areas; and
- a recovery in demand from students, as nearby University and Hudson's Bay Reserve zones also saw vacancy rates decline.

## Narrowing gap between vacant-unit and occupied-unit rents reflects rental market tightening

Same-sample apartment rents increased by 1.5% relative to the previous year. The previous year, rents declined slightly, by 0.2%, given higher vacancies at the time. (Table 1.1.5.) Moreover, same-sample rents increased modestly across all apartment types in the purpose-built market. This represents a notable change in market conditions relative to 2021. The use of incentives to drive occupancy has become less prevalent, but is still a common tool used by landlords. This is because vacancy rates are still nowhere near previous cyclical lows. Among those landlords choosing to offer incentives, the following offers are still quite popular:

- 1 or 2 months of free rent
- Reduced pricing for cable and Internet services
- Move-in bonuses<sup>1</sup>

The average asking rent for vacant units in the Edmonton CMA was similar to the overall average rent for occupied units. One year earlier, the average asking rent for vacant units was 3.8% lower than the overall average rent for occupied units. Notably, the year-over-year change in rent for units that turned over (changed tenants) in 2022 versus those that didn't turn over (did not change tenants) was also negligible (table 6.0). This is another indicator that rental market conditions have stabilized over the past year. Greater incentive to move was highlighted by the fact that the turnover rate in the past 2 years increased from 25% in 2020 to 30% in 2022.

Higher inflation over the past year has been impacting household budgets. As a result, the incentive to seek out a lower-cost rental unit would have been higher. Vacancy rates for units with rents less than \$700 per month or between \$700 and \$849 saw some of the largest declines in 2022 (table 1.4). Rents in these ranges would be considered affordable to people in the lowest income quintile (earning less than \$36,000 per year). If vacancy rates decline further, competition for affordable units could be high (table 3.1.8).

## New purpose-built supply pulling down rent premium for condominium rental apartments

Market conditions in the rental condominium segment saw little change in 2022 (table 4.1.1). The vacancy rate for condominium rental apartments, at 4.1%, was statistically unchanged relative to the previous year. It remained lower than the vacancy rate on the purpose-built rental market.

The number of condominium rental apartments in the market increased at a slower rate than apartments in the purpose-built rental market. This was likely due to a few factors, including:

- New apartment condo construction slowed significantly since the onset of the pandemic.
- The inventory of completed and unsold condominium apartments has declined significantly. This suggests that investors may have been able to sell their units to owner-occupiers.
- The purpose-built rental apartment universe expanded significantly, and new construction remains strong in this segment despite higher vacancies.

Still, the average rent for a condominium apartment was \$1,272 in 2022. This represents an overall average premium of \$78 relative to the purpose-built rental market (table 4.1.3). Notably, the condominium apartment premium was \$132 one year earlier. This decrease of the premium reflects the scale of new additions added to the purpose-built market in the last 2 years.

## Gap between cost of ownership and renting grows as mortgage rates rise

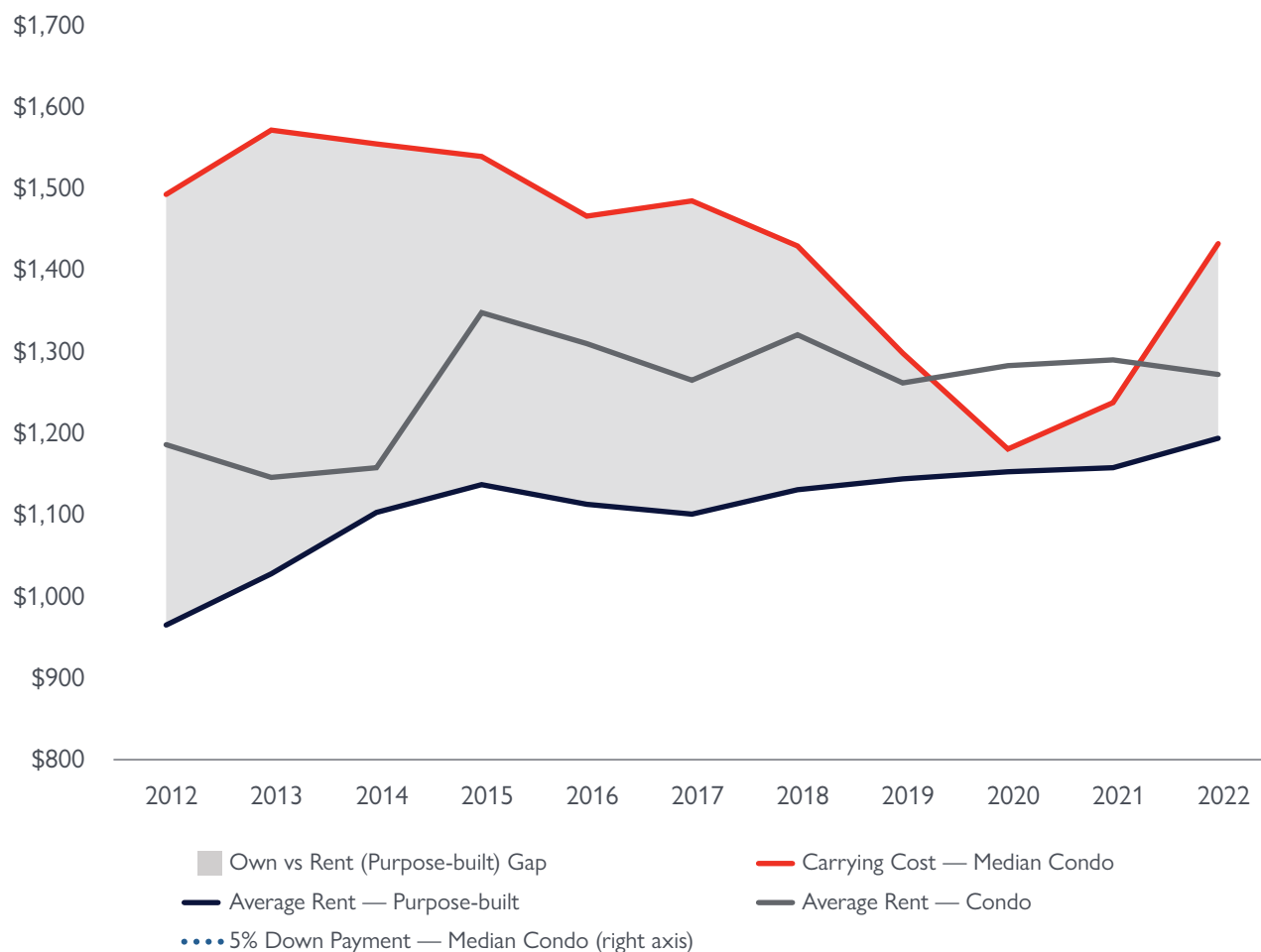
After declining in each year for the previous 5 years, rising mortgage rates in the ownership market have led to a higher monthly cost of owning versus being in the rental market. As a result, existing tenants may be choosing to remain in their rental units longer before moving to ownership. This may be adding to rental demand.

Let's look at an entry-level ownership option: in this case the median condominium apartment in Edmonton. In doing so, we see that the monthly cost associated with moving to ownership jumped 16% relative to 1 year earlier, reaching \$1,433 per month (figure 2). This increase was due only to rising mortgage rates, given that the median condominium price in Edmonton declined slightly relative to last year. Other factors, like the size of the down payment needed, property taxes, strata fees and CMHC mortgage loan insurance premiums did not change much.

As a result, relative to the average rental condominium apartment, the premium for entry-level ownership went from being negative in 2021, to a positive premium of \$161.

<sup>1</sup> Landlords use incentives like these to attract potential tenants without significantly lowering a unit's rent.

**Figure 2 Monthly rent and carrying cost of ownership, Edmonton CMA**

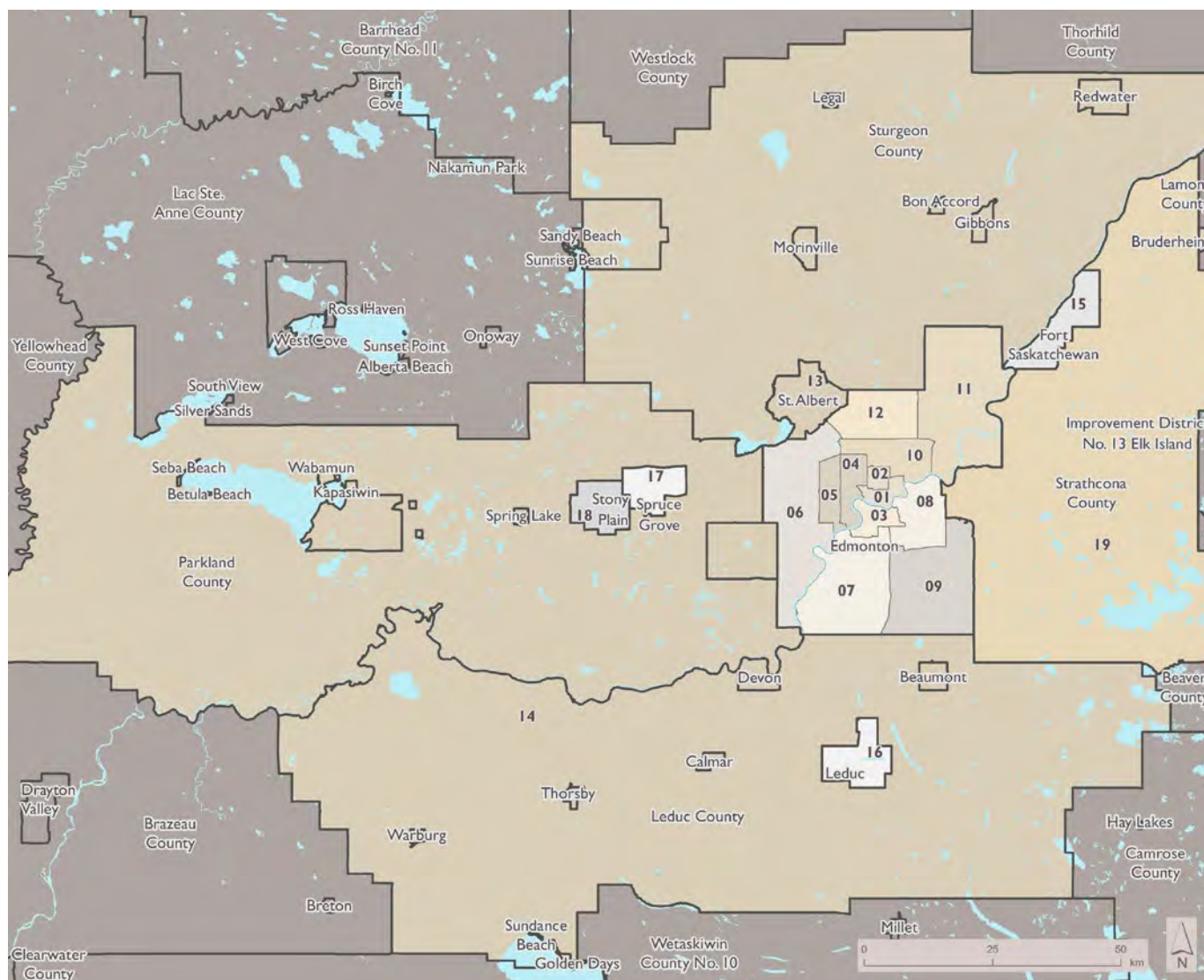


Source: CMHC, Canadian Real Estate Association (CREA), Tangerine, CMHC Calculations

Note: Calculations for the carrying cost of condo ownership assume a 25-yr amortization, discounted 5-year mortgage rate and takes into consideration monthly property taxes, strata fees, CMHC MLI premiums.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Edmonton CMA

<b>Zone 1</b>	<b>Downtown</b> - North: 112 Ave NW, 104 Ave NW, 107 Ave NW; East: North Saskatchewan River; West: Connaught Dr NW; South: North Saskatchewan River.
<b>Zone 2</b>	<b>Hudson Bay Reserve</b> - North: 118 Ave NW; East: 101 St NW, 97 St NW; West: 120 St NW; South: 105 Ave NW.
<b>Zone 3</b>	<b>University</b> - North: North Saskatchewan River; East: 91 St NW, 95a St NW, 97 St NW; West: North Saskatchewan River; South: 61 Ave NW, 72 Ave NW
<b>Zone 4</b>	<b>West Central</b> - North: Yellowhead Trail NW, East: 121 St NW, Connaught Dr NW; West: 149 St NW; South: North Saskatchewan River.
<b>Zones 1-4</b>	<b>Edmonton Core</b>
<b>Zone 5</b>	<b>Jasper Place</b> - North: Yellowhead Trail NW; East: 149 St NW; West: 170 St NW; South: Whitemud Dr NW, North Saskatchewan River.
<b>Zone 6</b>	<b>West Jasper Place</b> - North: 137 Ave NW, Big Lake; East: 149 St NW, 170 St NW; West: 231 St NW, Winterburn Rd; South: North Saskatchewan River.
<b>Zones 5-6</b>	<b>West</b>

<b>Zone 7</b>	<b>South West</b> - North: 72 Ave NW, 60 Ave NW; East: Gateway Blvd NW; West: North Saskatchewan River; South: 41 Ave SW.
<b>Zone 8</b>	<b>East Central</b> - North: North Saskatchewan River; East: 34 St NW; West: Gateway Blvd NW, 91 St NW, 95a St NW, 97 St NW; South: Whiemud Dr NW, 51 Ave NW.
<b>Zone 9</b>	<b>Millwoods</b> - North: Sherwood Park Fwy, Whiemud Dr NW, 51 Ave NW; East: Meridian St NW; West: Gateway Blvd NW; South: 41 Ave SW.
<b>Zone 7-9</b>	<b>South</b>
<b>Zone 10</b>	<b>North Central</b> - North: 137 Ave NW; East: 50 St NW; West: 149 St NW, 121 St NW; South: 112 Ave NW, North Saskatchewan River.
<b>Zone 11</b>	<b>North East</b> - North: 259 Ave NW; East: 33 St NE, North Saskatchewan River; West: 66 St NW, 50 St NW; South: North Saskatchewan River
<b>Zone 12</b>	<b>Castledown</b> - North: Township Road 542; East: 66 St NW; West: Vaness Rd, Arbor Cres, Mark Messier Trail; South: 137 Ave NW.
<b>Zones 10-12</b>	<b>North</b>
<b>Zones 1-12</b>	<b>City of Edmonton</b>
<b>Zone 13</b>	<b>St. Albert</b> - North: Township Road 544; East: Range Road 253, Bellrose Dr, Poundmaker Rd, Vaness Rd; West: Range Road 260, Range Road 260A; South: Big Lake, 137 Ave NW.
<b>Zone 14</b>	<b>Outlying Areas</b>
<b>Zone 15</b>	<b>Fort Saskatchewan</b> - North: Township Road 554; East: Range Road 220, Range Road 223, Range Road 224, West: North Saskatchewan River; South: Range Road 225.
<b>Zone 16</b>	<b>Leduc</b> - North: Airport Rd; East: Range Road 225; West: Range Road 254; South: Township Road 492.
<b>Zone 17</b>	<b>Spruce Grove</b> - North: Hwy 16; East: Range Road 271; West: Range Road 275; South: Hwy 628.
<b>Zone 18</b>	<b>Stony Plain</b> - North: Between Township Road 532 and Hwy 16a; East: Range Road 275; West: Allan Beach Rd; South: Between Hwy 628 and Township Road 522.
<b>Zone 19</b>	<b>Strathcona County</b> - North: North Saskatchewan River; East: Range Road 205, 204, 203, 210, 202; West: Range Road 220, North Saskatchewan River, 34 St NE, Meridian St NW; South: Township Rd 510.
<b>Zone 14-19</b>	<b>All Outlying Areas</b>
<b>Zones 1-19</b>	<b>Edmonton CMA</b>

## Condominium Sub Area Descriptions — Edmonton CMA

<b>Sub Area 1</b>	<b>Central</b> includes RMS Zone 1 (Downtown); Zone 2 (Hudson Bay Reserve); Zone 3 (University); Zone 4 (West Central); Zone 5 (Jasper Place); and Zone 10 (North Central).
<b>Sub Area 2</b>	<b>Suburban</b> includes RMS Zone 6 (West Jasper Place); Zone 7 (South West); Zone 8 (East Central); Zone 9 (Millwoods); Zone 11 (North East); and Zone 12 (Castledowns).
<b>Sub Area 3</b>	<b>Other Metro</b> includes RMS Zone 13 (St. Albert); Zone 14 (Outlying Areas); Zone 15 (Fort Saskatchewan); Zone 16 (Leduc); Zone 17 (Spruce Grove); Zone 18 (Stony Plain); and Zone 19 (Strathcona County).
<b>Sub Areas 1-3</b>	<b>Edmonton CMA</b>



# Calgary



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**2.7%**

Average Two-Bedroom Rent

**\$1,466**

UP by 6%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**1.8%**

Average Two-Bedroom Rent

**\$1,648**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“With Calgary’s economy growing beyond pre-pandemic levels, the rental market tightened to conditions not seen since Alberta’s last economic boom.”

**Michael Mak**  
Senior Analyst, Economics  
**MARKET INSIGHTS**

## HIGHLIGHTS

Overall vacancy rate dropped to 2.7%, the lowest since 2014. Record migration into Alberta largely supported rental demand, while increases in supply were not enough to balance it out.

Stronger demand pushed up rents throughout the city as positive economic conditions encouraged migration.

Despite rental supply growing at an even quicker pace than last year, the market tightened. New buildings were completed near the city core and the eastern quadrants. Optimistic expectations for rental demand in Calgary helped spur growth in supply.

Affordability is a concern, since not enough homes are considered affordable for lowest-income households.

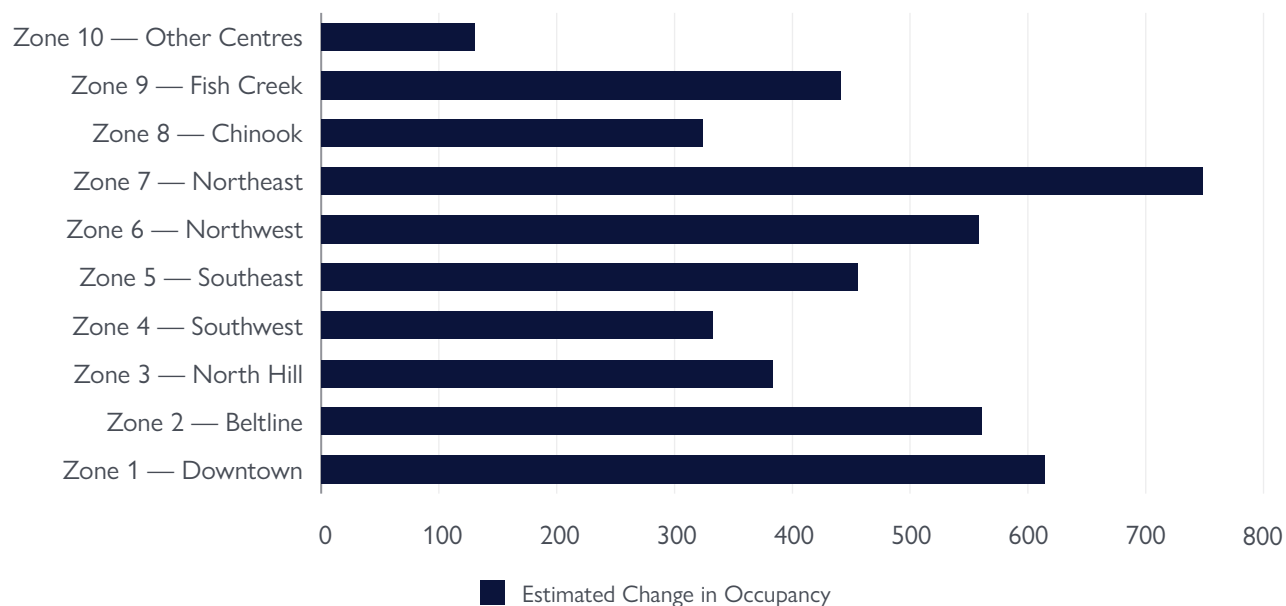
### Vacancies drop sharply as rental market tightens due to strong turnaround

The rental market in Calgary tightened to a higher degree compared to 2021 as demand for rental housing continued to strengthen. Vacancies in the Calgary census metropolitan area (CMA) fell sharply across the region. The overall vacancy rate for purpose-built rental apartments fell from 5.1% to 2.7%. In the inner city, where close to 45% of the CMA's rental universe is found:

- the Downtown zone recorded a decreased vacancy rate of 3.9%;
- North Hill's vacancy rate fell to 2% from 7%; and
- the Beltline's vacancy rate saw a slight increase to 5.1%. This was the only rental zone to see an increase.

The Beltline is the zone with the most purpose-built rental units. However, its vacancy rate increase is mostly due to new units and buildings being in their leasing phase at the same time the Rental Market Survey was conducted. Market intelligence suggests these new units will be leased relatively quickly, lowering the vacancy rate. The trend of rental demand moving toward the suburbs due to the pandemic saw a definitive reversal this year. Notably, vacancy rates for large buildings with 100 to 199 units fell from 11% in 2021 to 0.4% in the Downtown core. For comparison, across the CMA, the vacancy rate for such buildings was 1.3%.

Demand for these buildings was slow to recover in 2021, because renters preferred smaller, cheaper buildings located further out in the city. However, with in-person office work becoming more encouraged by employers and demand tightening the rental market, there are fewer and fewer options available to renters.

**Figure 1 Inner city resurges in occupancy, but Northeast leads in growth**

Source: CMHC

The vacancy rate for townhomes in the Calgary CMA was already low in 2021 at 2.9%, but has fallen further to 1%. These homes provide space for growing families, an underserved part of the population in the purpose-built rental market.

## Record migration and a strong labour market drive rental demand

Migration into Alberta turned around sharply in 2022 and was a major driver of rental demand. This turnaround stemmed from both higher interprovincial and international migration. During the pandemic, as economic opportunities dried up, more Canadians moved out than moved into Alberta.

This trend shifted in early 2021 and continued to strengthen throughout 2022, with employment reaching a record high since 2019. The unemployment rate in the CMA fell below 6% in 2022, back to a range last seen almost a decade ago. Professional, scientific, and technical services were some of the major drivers of employment growth, a sign that Calgary's growing tech sector supported rental demand.

Migration inflows from other provinces returned to levels seen in 2012–2014, the last time Alberta saw an economic boom. Employment opportunities, differences in affordability, and the cost of housing were motivating factors that drove migration.

Alberta also saw record-high immigration growth in 2022. The growth in Q2 2022 surpassed the previous high. This was driven by the loosening of pandemic restrictions, the return of in-person education, and increased demand for labour.

After a modest bounce back in 2021, employment for the 15-to-24-year-old cohort has recovered to 2019 levels thanks to stronger economic conditions. Households in this age bracket tend to be renters and contribute to rental demand in the CMA.

## Increased demand and new developments push rents higher

Stronger demand pushed same-sample rents higher by 6%, the highest recorded increase since 2014. Compared to a negligible change in 2021, this increase shows how demand has shifted throughout Calgary in 2022. In periods where vacancies are low, same-sample rents are more likely to post higher year-over-year increases (figure 2).

Rents grew across all areas in the CMA, which was in line with expectations. With demand returning to the inner city, same-sample rents were:

- up 8.3% in Downtown; and
- up 6.2% in the Beltline.

Further away from the inner city, rents grew the highest in:

- Northeast, at 8.8%; and
- Fish Creek, at 9.5%.

These areas are more affordable compared to the pricier inner city, which may explain the higher growth percentages.

Newer units with more amenities can command a premium over existing rental stock. In fact, structures that were completed between July 2019 and June 2022 are rented for 34% over the average rate in the CMA.

Renters looking for new apartments faced a much higher rent. Our new data on the rent increase at turnover sheds light on this situation. The survey results suggest that 2-bedroom

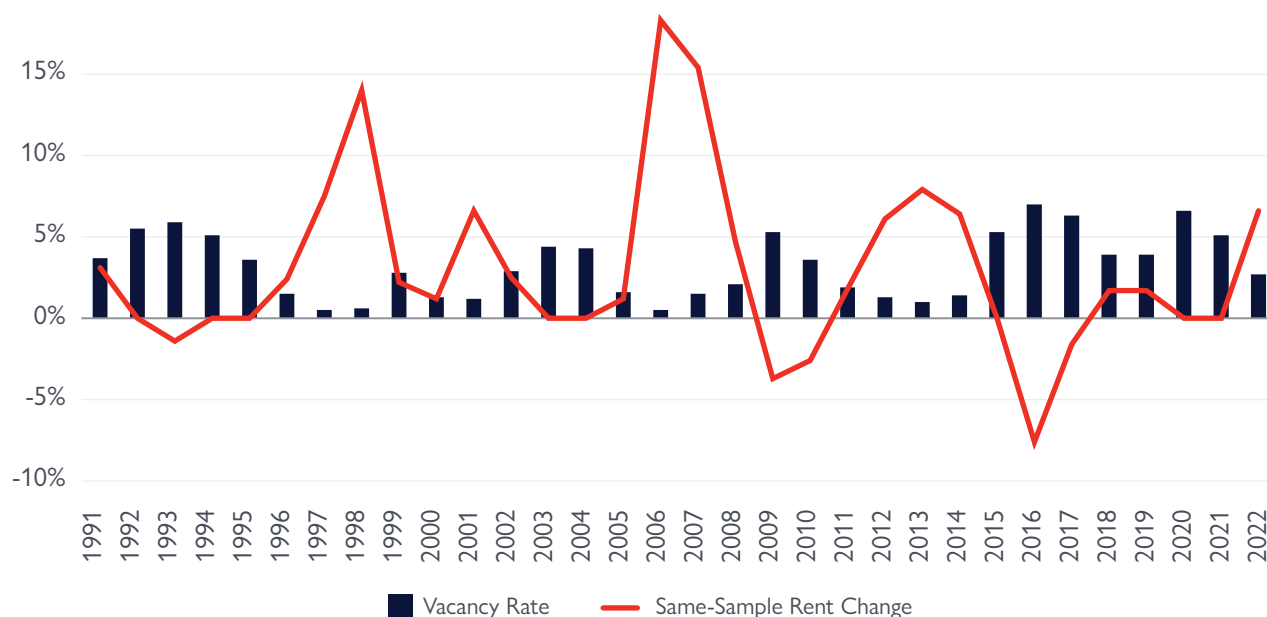
apartments that had tenant turnover in the last year saw a higher rent increase on average than those that did not have tenant turnover.

## Purpose-built rental supply continues to grow to keep up with demand

Operators and developers remain optimistic for future rental demand. The purpose-built rental apartments saw an above-average net growth of 3,562 units, or 8%, a clear sign of this optimism. This growth outpaces the 6% growth seen in 2021. About 1,500 of new units are in the Downtown core and Beltline. These units are all in the largest rental buildings completed in the city this year, containing over 200 units each.

The Northeast and Southeast zones saw the greatest percentage increases, at 19.4% and 13.5% growth, respectively. For the Southeast, this is a continuation of a multi-year trend, as development continues to expand through greenfield development. Most new structures here close to or less than 100 units. The Northeast saw more units added to the universe in generally larger buildings that contained 100 to 199 units. Sustained growth in the rental supply will help alleviate affordability pressures currently seen in the market.

**Figure 2** Same sample rent increases tend to be greater when vacancy rate below 3%



Source: CMHC

## Rental condominium market tightens at similar rates to the purpose-built rental market

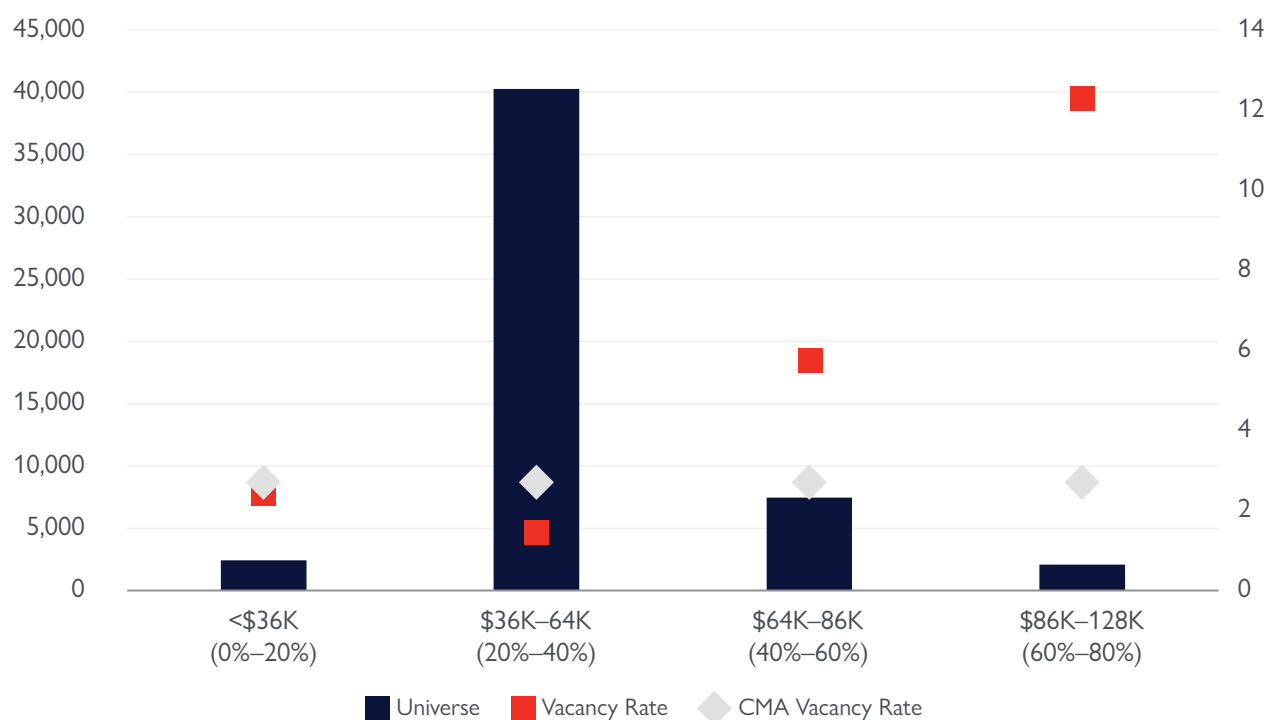
The rental condominium market makes up a significant portion of rental supply in Calgary and saw similar tighter conditions in 2022. Vacancy rates fell to 1.8% from 4.2%, and average rents rose by \$100, reaching \$1,546. Investors are more likely to buy and rent out newer units, creating a premium compared to the purpose-built rental market. While supply in this segment continued to increase, the growth (2%) is slower compared to the growth in purpose-built rentals.

## Affordability gap wider for lowest-income households

With rising rents and lower vacancies across the city, affordability becomes an increasing concern. When comparing household income with monthly rent, only about 5% of the purpose-built rental universe is considered affordable for households earning less than \$36,000 per year. The majority of the units are bachelor or 1-bedroom units, which are unsuitable for families.

An additional 76% of the purpose-built rental universe is considered affordable for households earning less than \$64,000 per year. However, this segment of the universe also has the lowest vacancy rate, at 1.5%. This implies strong demand for affordable units in Calgary, which may lead to increased difficulty for people who need affordable market housing.

**Figure 3 Demand is high for more affordable units**

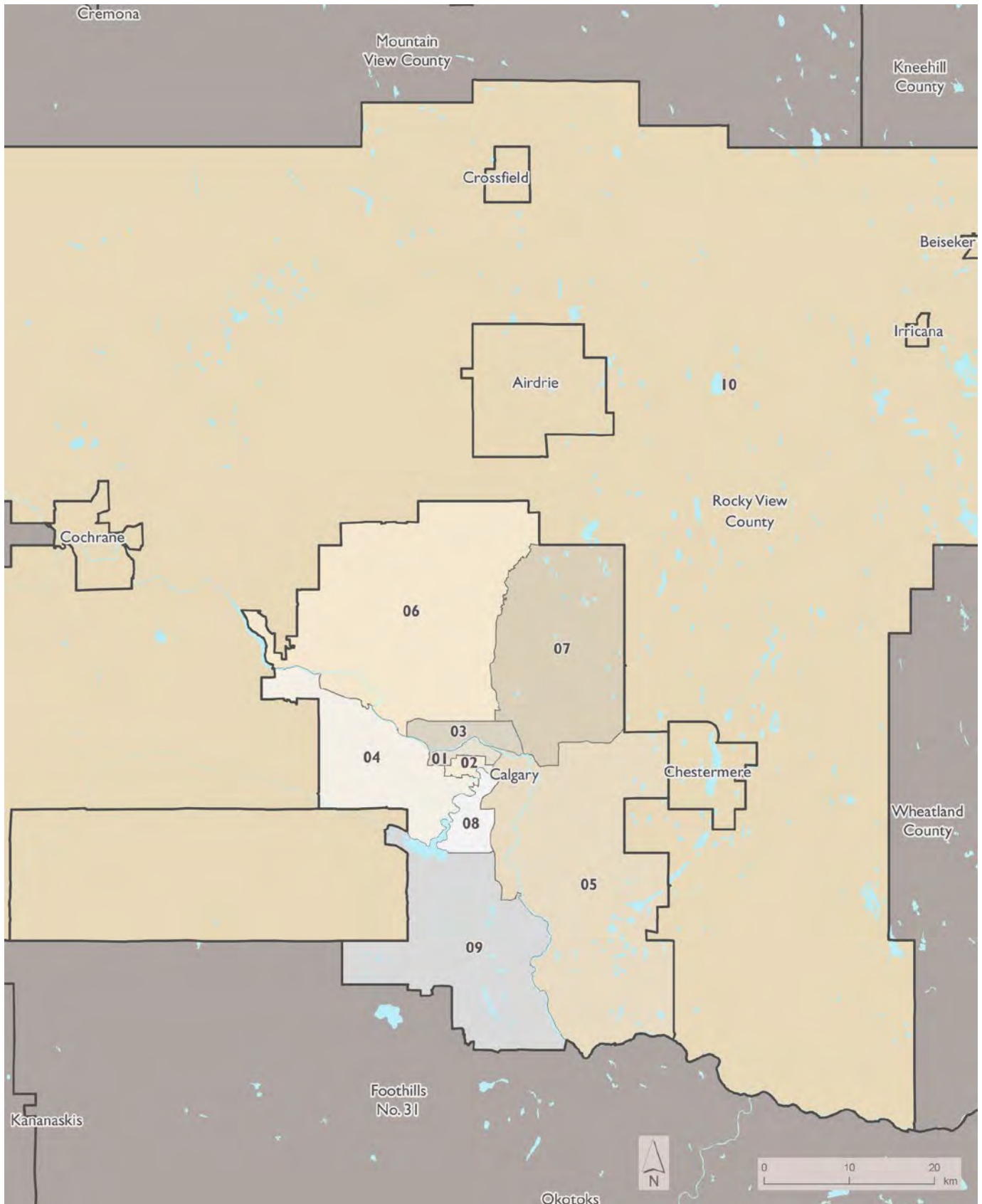


Source: CMHC

Note: No units are considered unaffordable for the top 20% of earning households.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Calgary CMA

<b>Zone 1</b>	<b>Downtown</b> - North: the Bow River; West: 24 Street SW; East: the Elbow River; South: 17 Avenue SW (from 24A Street SW to 14 Street SW), 12 Avenue SW (from 14 Street SW to 11 Street SW), 10 Avenue SW (from 11 Street SW to 2nd Street SE), and 17 Avenue SE (from 2nd Street SE to the Elbow River).
<b>Zone 2</b>	<b>Beltline/Lower Mount Royal</b> - North: 17 Avenue SW (from 17 Street SW to 14 Street SW), 12 Avenue SW (from 14 Street SW to 11 Street SW), 10 Avenue SW (from 11 Street SW to 2nd Street SE), and 17th Avenue SE (from 2nd Street SE to the Elbow River); West: 17 Street SW; East: 2nd Street SE (from 10 Avenue SW to 17 Avenue SE), otherwise Elbow River; South: 26 Avenue SW (from 17 Street SW to 14 Street SW), Frontenac Avenue (from 14 Street SW to 8 Street SW), Hillcrest Avenue (from 8 Street SW to 4 Street SW), otherwise Elbow River.
<b>Zone 3</b>	<b>North Hill</b> - North: 16 Avenue NW; West: 37 Street NW; East: Deerfoot Trail; South: Bow River.
<b>Zone 4</b>	<b>Southwest</b> - North: Bow River; West: West City Limits; East: 24 Street SW (from Bow River to 17 Avenue SW), 17 Street SW (from 17 Avenue SW to 26 Avenue SW), otherwise Elbow River; South: Tsuu T'ina Nation 145 (from West City Limits to Sarcee Trail SW), Glenmore Trail (from Sarcee Trail SW), otherwise Glenmore Reservoir.
<b>Zone 5</b>	<b>Southeast</b> - North: Bow River (from Elbow River to Barlow Trail SE), 17 Avenue SE (from Barlow Trail SE to 36 Street SE), Memorial Drive SE (from 36 Street SE to Eastern City Limits); West: Elbow River (from Bow River to 25 Avenue SW), Blackfoot Trail (from 26 Avenue SW to Anderson Road SE), otherwise Bow River; East: Eastern City Limits; South: Southern City Limits.
<b>Zone 6</b>	<b>Northwest</b> - North: Northern City Limits; West: Western City Limits; East: Nose Creek; South: Bow River (from Western City Limits to 37 Street NW), otherwise 16th Avenue NW.
<b>Zone 7</b>	<b>Northeast</b> - North: Northern City Limits; West: Nose Creek; East: Eastern City Limits; South: Bow River (from Nose Creek to Barlow Trail SE), 17 Avenue SE (from Barlow Trail SE to 36 Street SE), Memorial Drive SE (from 36 Street SE to Eastern City Limits).
<b>Zone 8</b>	<b>Chinook</b> - North: Elbow River; West: Elbow River; East: Blackfoot Trail; South: Heritage Drive SW.
<b>Zone 9</b>	<b>Fish Creek</b> - North: Glenmore Reservoir (from Western City Limits to 14 Street SW), otherwise Heritage Drive SW and SE; West: Western City Limits; East: Blackfoot Trail (from Heritage Drive SE Avenue SW to Anderson Road SE), otherwise Bow River; South: Southern City Limits.
<b>Zones 1-9</b>	<b>Calgary City</b>
<b>Zone 10</b>	<b>Other Centres</b>
<b>Zones 1-10</b>	<b>Calgary CMA</b>

## Condominium Sub Area Descriptions — Calgary CMA

<b>Sub Area 1</b>	<b>Core</b> includes RMS Zone 1 (Downtown); Zone 2 (Beltline/Lower Mount Royal); and Zone 3 (North Hill).
<b>Sub Area 2</b>	<b>West</b> includes RMS Zone 4 (Southwest); Zone 6 (Northwest); Zone 8 (Chinook); and Zone 9 (Fish Creek).
<b>Sub Area 3</b>	<b>East</b> includes RMS Zone 5 (Southeast); Zone 7 (Northeast); and Zone 10 (Other Centres).
<b>Sub Areas 1-3</b>	<b>Calgary CMA</b>

# Saskatoon



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**3.4%**

Average Two-Bedroom Rent

**\$1,243**

UP by 3.4%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**3.7%**

Average Two-Bedroom Rent

**\$1,346**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Saskatoon sees lowest vacancy rate and strongest rent growth since 2014.”

**Pete Nelson**  
Senior Analyst, Economics  
**MARKET INSIGHTS**



## HIGHLIGHTS

Saskatoon saw its lowest vacancy rate and largest growth in same-sample average rent since 2014.

Reasons for economic enthusiasm are driving demand: the labour market is showing signs of strength, net migration has turned positive, and commodity prices are booming.

For households in the lowest income group, only 7% of properties were affordable to rent. These units were mostly 1-bedroom or smaller—unsuitable for families.

### Rental market conditions are the tightest since 2014

Saskatoon is seeing its tightest rental market since 2014. The vacancy rate for purpose-built rental units continued a years-long decline, falling to 3.4%. Rents grew by 3.6% after being flat last year. This is primarily the result of a few key factors.

First, employment conditions in Saskatoon have broadly improved over the last year. Jobs more likely to employ renters have seen employment levels increase significantly. The unemployment rate for workers aged 15 to 24—the age group most likely to rent—is down by over 20%.

Second, while Saskatchewan continued to lose population to interprovincial migration, a huge influx of immigrants led to record-high net migration gains. Saskatchewan has a long history of slow population growth, so this is noteworthy. A growing population will put downward pressure on vacancy rates and upward pressure on rents.

Finally, prices for nearly all of Saskatchewan's major exports have soared. Potash—which Saskatchewan provides nearly a third of globally—saw prices triple between January 2021 and June 2022. Russia and Belarus, the world's 2 other potash powers, face sanctions and shipping blockades. Historically,

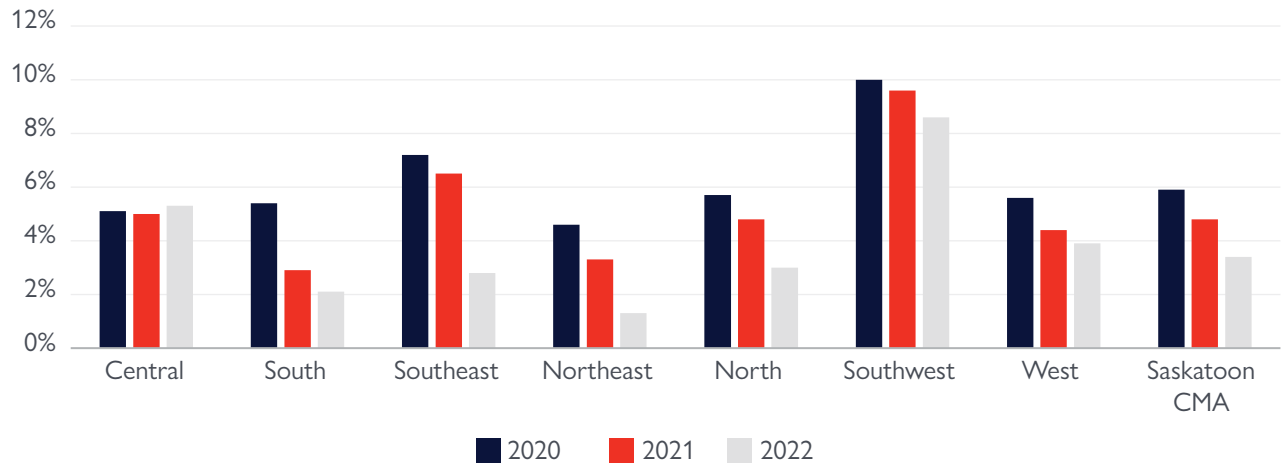
during periods of strong commodity prices, Saskatchewan has seen increased net migration and Saskatoon has seen improved employment conditions. These factors both drive rental market demand, helping to explain why these periods have typically been accompanied by high rent growth and low vacancy rates.

The impact this time will not be fully felt immediately. It takes time to expand production. Constraints on transportation limit the volume of commodities that can be moved to ports for shipping abroad. But if this sector continues to heat up, and employment and net migration continue trending up, rental market conditions could tighten further.

### Rental universe expanded at its fastest pace in 3 decades, but still doesn't meet demand

In 2022, Saskatoon's rental universe grew more quickly than at any point in the last 3 decades. There were 801 units added—nearly 40% higher than the amount added last year. More than half of these units were added in the coveted northeast. The northeast also had Saskatoon's lowest vacancy rate at 1.3%, and the highest average rent (\$1,250).

**Figure 1** Lowest vacancy rate in northeast Saskatoon area

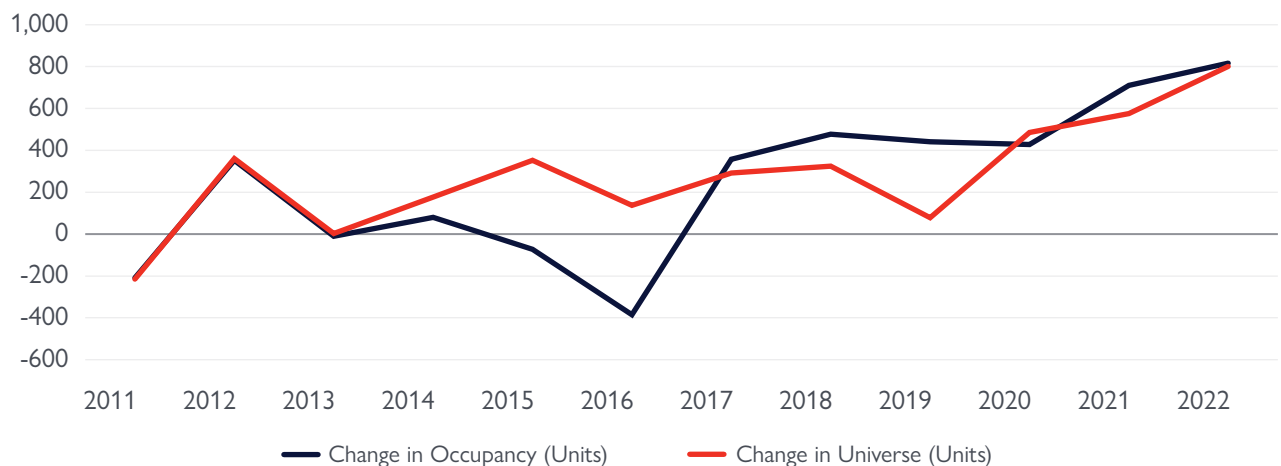


Source: CMHC

Rental market demand continues to outstrip new supply, with the increase in occupied units exceeding the increase in new rental units. As can be seen in our [national section](#), the increasing cost of ownership is decreasing the incentive for renters to transition to homeownership. This means more demand will remain in the rental market. Excess demand was reflected by the fact that turnover units—those where an old tenant moved out and a new tenant moved in—saw rents jump by \$150 on average.

While the gap between demand and supply shrunk from last year, it may yet widen. Demand-side factors, like net migration and employment, are showing strength just as higher rates discourage builders from providing new supply. Because increased supply is needed to restore rental market affordability, this is an area to watch.

**Figure 2** Rental occupancy continued to outpace increases in supply in 2022



Source: CMHC

For renters in the lowest income quintile, affordability is a major issue. Households in the lowest income quintile could only afford 7% of properties in the rental universe. And affordability is only one consideration when assessing housing conditions: these properties are mostly bachelor or 1-bedroom, unsuitable for larger families.

## Increasing cost of homeownership may be driving potential homebuyers to the rental condominium market

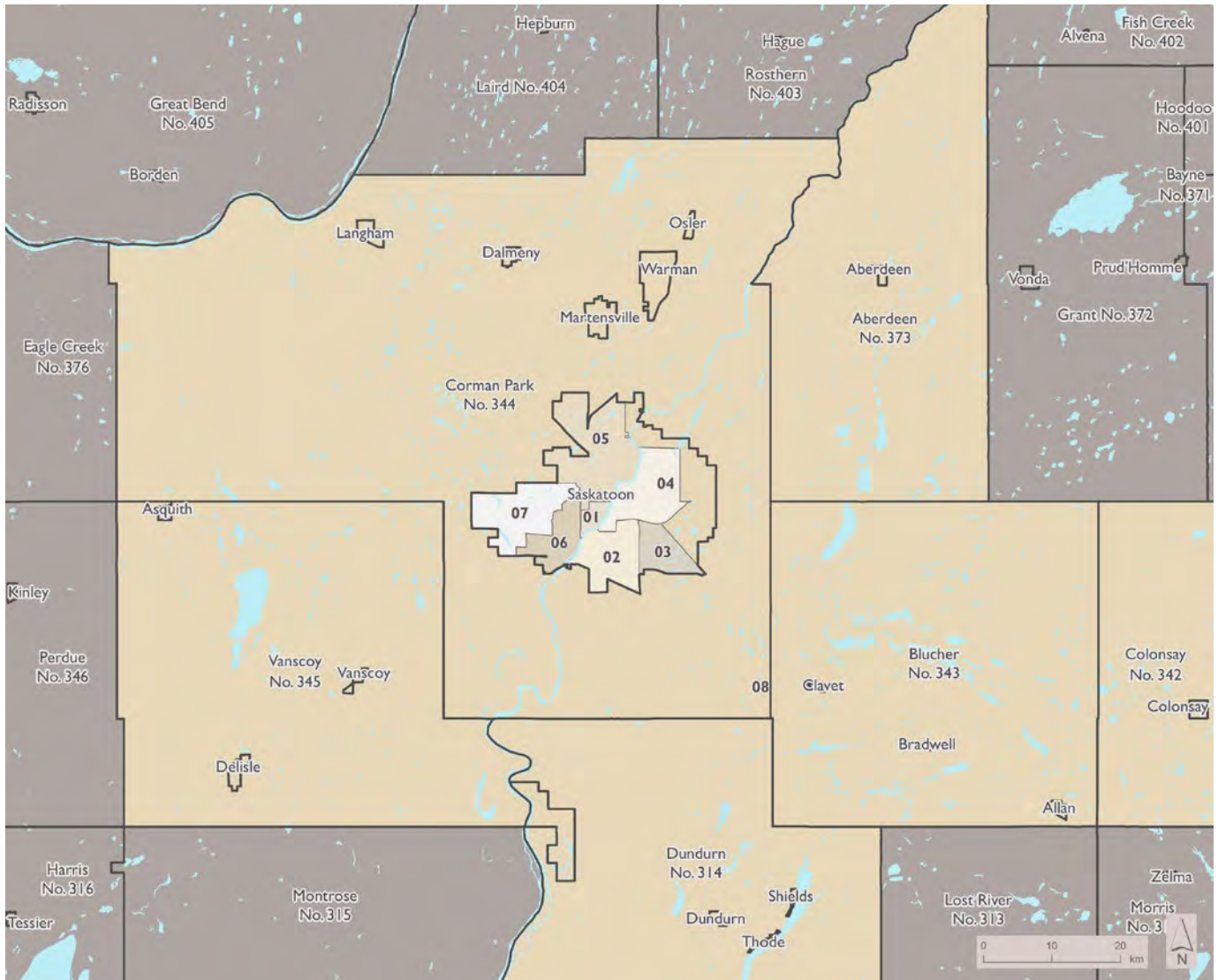
The number of rental condominium units in the universe remained the same compared to last year, and vacancy rates were up slightly. However, the average rent for 2-bedroom

condominium units jumped. These units commanded a price of \$1,346 this year, up from \$1,208 last year, and \$100 more than a comparable purpose-built rental.

This could reflect potential homebuyers being encouraged to rent by rising mortgage rates and choosing condominium units as temporary substitutes for homeownership over purpose-built rentals.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Saskatoon CMA

<b>Zone 1</b>	<b>Central</b> - North: 33rd St E; East: South Saskatchewan River; West: Idylwyld Dr, Avenue H N; South: South Saskatchewan River.
<b>Zone 2</b>	<b>South</b> - North: College Dr, 12th St E; East: Circle Dr E; West: South Saskatchewan River; South: Cartwright St.
<b>Zone 3</b>	<b>Southeast</b> - North: College Dr; East: Railroad; West: Circle Dr E; South: Hwy 16.
<b>Zone 4</b>	<b>Northeast</b> - North: North of Agra Rd; East: Range Rd 3045; West: South Saskatchewan River; South: College Dr & Hwy 5.
<b>Zone 5</b>	<b>North</b> - North: Hwy 11; East: South Saskatchewan River; West: Hwy 16, Range Rd 3061; South: 29 St W, 33rd St E.
<b>Zone 6</b>	<b>Southwest</b> - North: Railroad; East: Avenue H; West: Range Rd 3062; South: South Saskatchewan River.
<b>Zone 7</b>	<b>West</b> - North: North of Henick Cres; East: Railroad; West: Hwy 7; South: Railroad.
<b>Zones 1-7</b>	<b>Saskatoon City</b>
<b>Zone 8</b>	<b>Outlying Areas</b>
<b>Zones 1-8</b>	<b>Saskatoon CMA</b>

# Regina

## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**3.2%**

Average Two-Bedroom Rent

**\$1,186**

UP by 3.3%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**2.7%**

Average Two-Bedroom Rent

**\$1,467**

UP by 14.7%

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Vacancy rates were at their lowest level since 2014 as demand growth outpaced new supply.”

**Anita Linares**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

Regina's overall vacancy rate fell to 3.2%, a decrease driven by increased in-person activities. The lowest rates were observed in Downtown, University, and Lakeview/Albert Park areas.

Average rent increased by 3.6% for all unit types and zones as a result of falling vacancy rates.

Overall vacancy rates in the condominium market decreased to 2.7% as modest growth in supply did little to meet growing rental demand.

Tighter rental market conditions worsened affordability for those in the lower income quintiles.

### Demand outpaced supply, resulting in the lowest vacancy rates since 2014

Vacancy rates across all areas of Regina fell to an average of 3.2%, well below the 5-year average of 7% (table 1.1.1). As a result, the current vacancy rate in Regina is approaching the national average (1.9%).

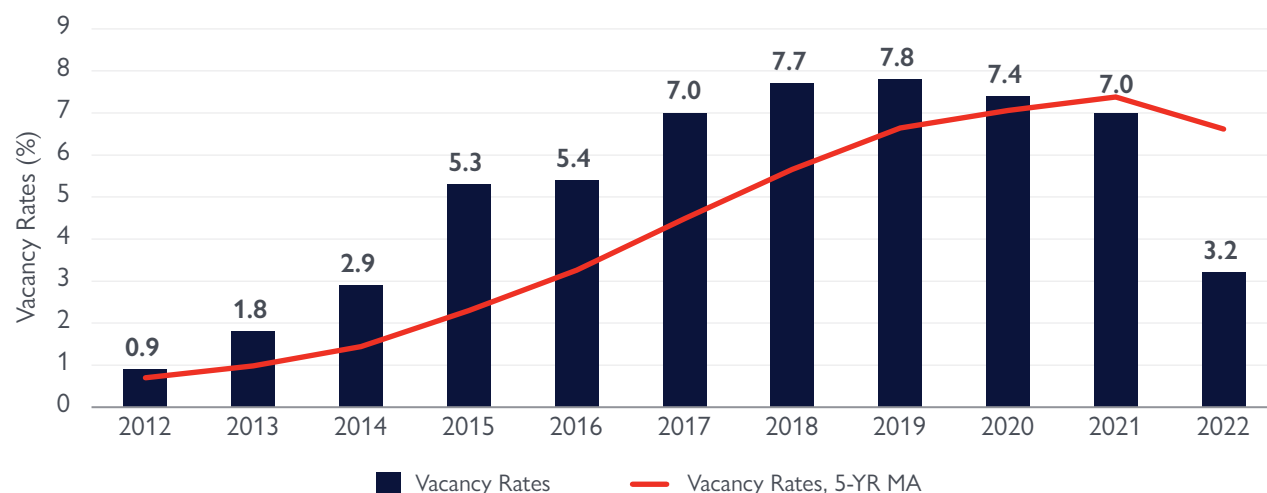
In 2022, Regina saw the highest levels of migration into the province of Saskatchewan. This migration sustained the demand for rentals. Combined with the economy's return to pre-pandemic levels and residents' return to in-person activities, these factors contributed to an increase in the occupancy rate of rental apartments. Vacancy rates were

particularly low in the Downtown and University areas, at around 1%. Bachelor units near the University also posted vacancy rates below 1%, while the rate for 2-bedroom units in the Downtown area was 3% (table 1.1.1)

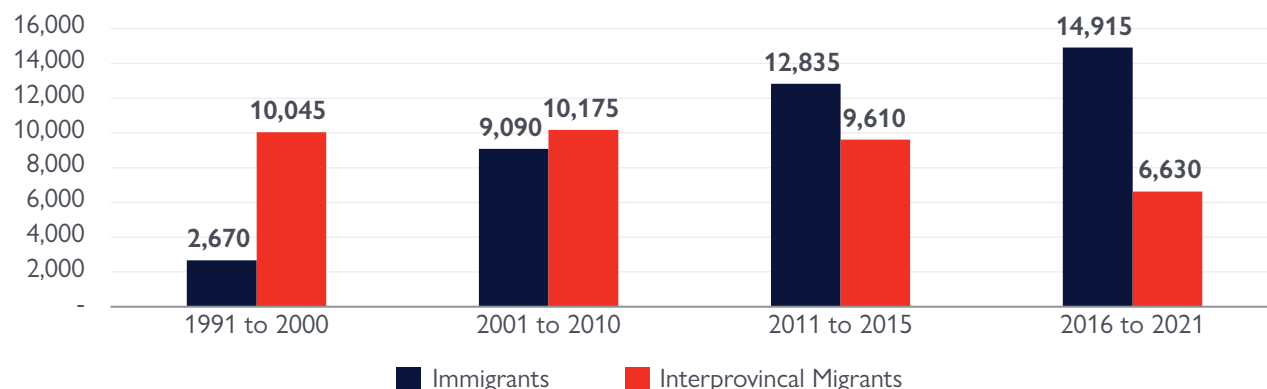
Vacancy rates in newer and larger rental buildings are lower compared to the average for the census metropolitan area (CMA). This trend could be indicative of a shift in renter preferences toward these types of rentals.

The supply universe shrank, even though there were 191 additions. Due to the demolition or renovation of older rental stock, the growth in supply was not enough to meet demand in Q4 2022.

**Figure 1** Vacancy rate declines as demand outpaces new supply



Source: CMHC

**Figure 2 International migrants support higher demand for rentals**

Source: Statistics Canada

### Lower vacancy rates led to rent growth despite decreased renter mobility

An elevated turnover rate and demand for newer units continued to drive up the rent premium for newer units, pushing the overall average rent higher. Regina saw average same-sample rents increase by 4% across all unit types (number of bedrooms) due in part to lowering vacancy rates (table 1.1.5). East Regina experienced the highest same-sample rent increase for 1- and 2-bedroom apartments, at 8% and 5%, respectively.

Changes in turnover rates remained high and comparable to what was observed last year (table 1.1.6). The turnover rate for a 1-bedroom unit near the University was notably lower, dropping by 5 percentage points. This trend meant that rent increases due to turnover were minimal near the University when compared to the rest of Regina. In contrast, the turnover rate for newer structures increased by 6 percentage points in 2022.

Tenants experienced rent increases whether they moved or stayed in their current rental unit:

- For those who moved, same-sample rent increased by 4% (table 6.0).
- For those who didn't move, rent increased by 1.8%, on average.

### Modest increase in the condominium universe did little to satisfy demand

The vacancy rate for rental condominiums decreased to 2.7% (table 4.1), even though the supply of these units grew by 1%. This is similar to what we observed on the purpose-built rental market. Despite Regina permitting the construction of laneway homes across the city in 2022, higher building costs and supply-chain issues continue to hamper investment and limit rental supply growth. Combined with higher demand, these changes in the condominium universe have resulted in a tightening of this rental segment.

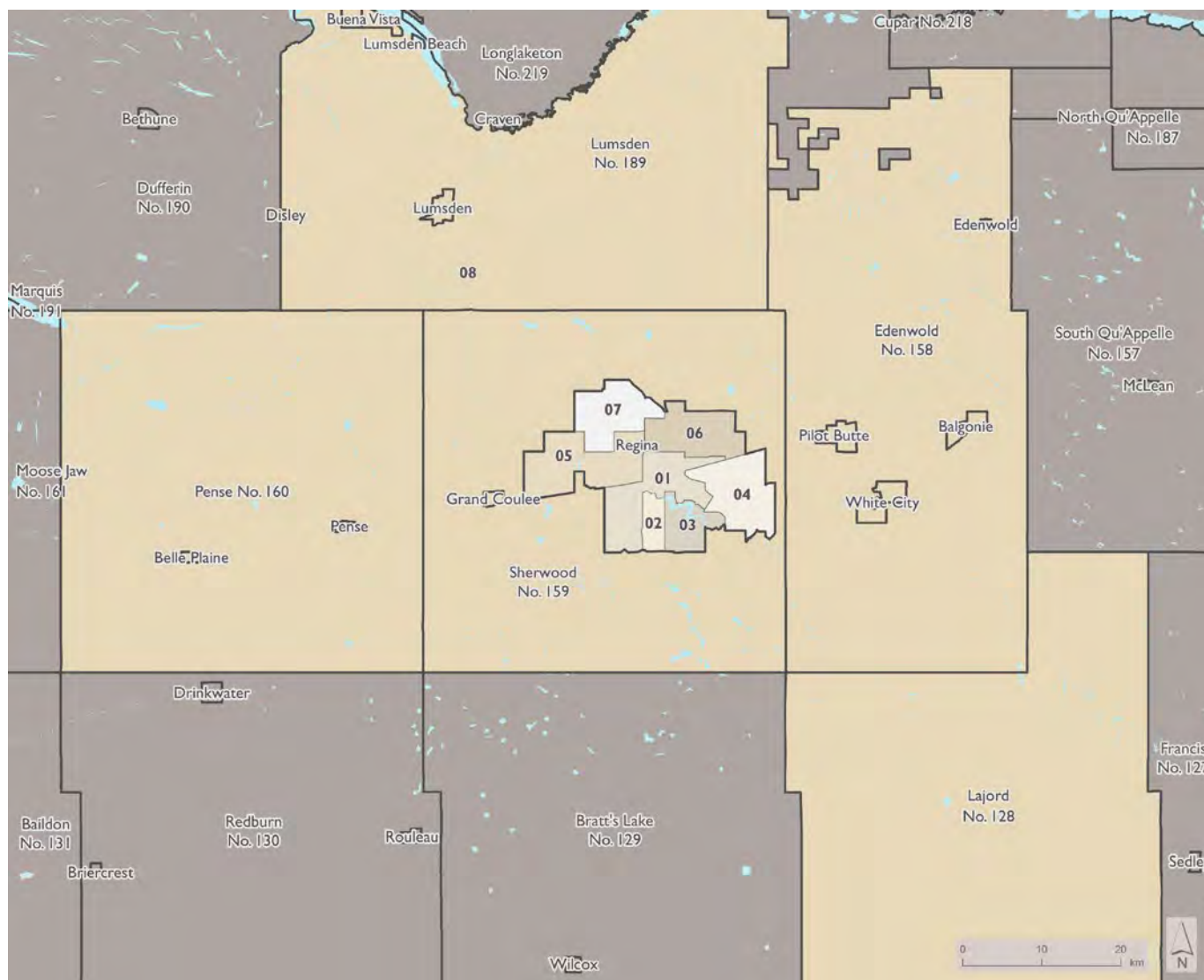
Two-bedroom condominiums were renting for \$1,467, which is \$281 higher than similar units in the purpose-built rental market (table 4.1). Some of the reasons for this premium are the amenities and location of the condominium units.

### Market conditions led to worsening affordability for many

The rising cost of living, higher rents, and lower vacancy rates are leading to worsening affordability for tenants. Households in the lowest income quintile (those who make less than \$32,000 per year) were able to afford only 8% of the rental market universe. The units available to those families were largely 1-bedroom units (table 3.1.8). This highlights the lack of suitable rentals for low-income households with larger families.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Regina CMA

<b>Zone 1</b>	<b>Central</b> - North: Ross Ave E, McKinley Ave; East: Hwy 1, Park St; West: Courtney St; South: Hwy 1.
<b>Zone 2</b>	<b>South</b> : Lakeview/Albert Park - North: Wascana Creek; East: Albert St; West: Lewvan Dr; South: Hwy 1.
<b>Zone 3</b>	<b>South</b> : Wascana-University - North: College Ave, 19th Ave; East: Fleet St; West: Albert St; South: 5th Base Line.
<b>Zone 4</b>	<b>East</b> -North: Cormorant Dr; East: Prince of Wales Dr; West: Winnipeg St, Park St, Hwy 1; South: Wascana Lake.
<b>Zone 5</b>	<b>West</b> - North: 9th Ave N; East: Pasqua St, Lewvan Dr; West: Pinkie Rd; South: Surveyed Rd.
<b>Zone 6</b>	<b>Northeast</b> - North: South of Inland Dr; East: Prince of Wales Dr; West: Pasqua St; South: Ross Ave E.
<b>Zone 7</b>	<b>Northwest</b> - North: Armour Rd; East: Albert St N; West: Pinkie Rd; South: between Read Ave and Fulton Dr., 9th Ave. N.
<b>Zones 1-7</b>	<b>Regina City</b>
<b>Zone 8</b>	<b>Outlying Areas</b>
<b>Zones 1-8</b>	<b>Regina CMA</b>



# Winnipeg



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**2.7%**

Average Two-Bedroom Rent

**\$1,350**

UP by 1.5%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**1.9%**

Average Two-Bedroom Rent

**\$1,301**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Rental demand grew more than supply, causing vacancy rates for purpose-built rentals to fall back to historical averages.”

**Adebola Omosola**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

The overall vacancy rate for purpose-built rental apartments declined from 5.1% to 2.7% due to stronger growth in rental demand relative to supply. This decline follows 2 years of increases in the vacancy rate.

Average same-sample apartment rent growth was 1.7%, the lowest pace since 1999. This growth was mainly due to the implementation of the 0% rent increase guideline.

Affordability challenges persist for households in the lowest income quintile. They can afford to rent from only 4% of the rental universe.

### Economic and market conditions boosted growth in rental demand

In Winnipeg, stronger demand for rental units was enhanced by:

- improvements in economic and labour-market conditions;
- population growth from international immigration and temporary residency; and
- higher borrowing costs, which limited the access of households to homeownership.

In 2022, the economy of Manitoba continued its post-pandemic growth as higher commodity prices and record levels of exports bolstered economic activity. Total employment continued to grow, resulting in one of the lowest unemployment rates in Canada. The increase in employment was most significant in the core cohort aged 25 to 44, which recorded total employment growth above the 10-year average.

In addition, growth in international migration over the past year led to population growth in Winnipeg, boosting rental demand. This is because most newcomers and immigrants choose the rental market when they arrive.

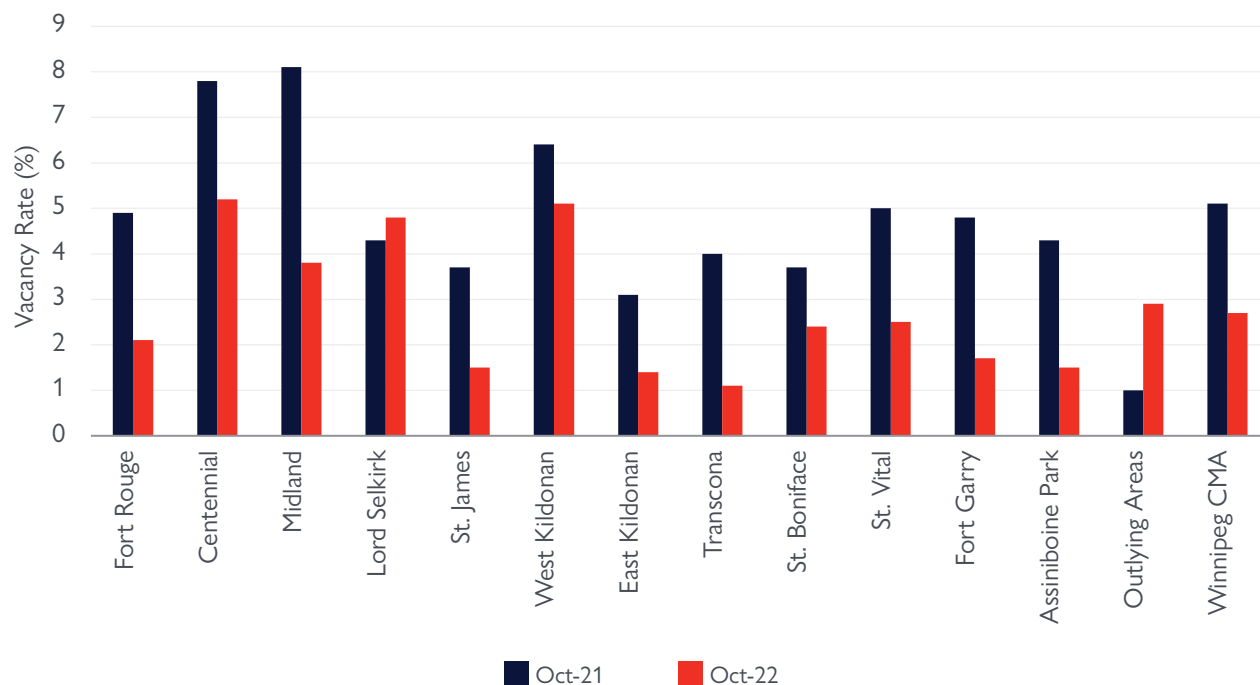
Also, higher mortgage rates and other homeownership carrying costs imply that rentals have become an attractive or the only alternative for many households. Some of these households are potential first-time homebuyers.

### Vacancy rate declines as rental demand outpaces supply in Winnipeg

The overall vacancy rate for purpose-built rental structures in the Winnipeg CMA declined to 2.7% (table 1.1.1) in October 2022. This represents a reversal from the growth trend recorded in the previous 2 years due to higher demand for rentals. The decline in vacancies was consistent across all unit types (number of bedrooms) and most survey zones within the census metropolitan area (CMA) (figure 1).

The core area had the greatest decline in vacancy, evident mainly in the Fort Rouge, Centennial and Midlands survey zones. The return of in-person learning for university students and the recovery of activities in the downtown area were contributing factors. Similarly, the suburban areas had lower rental apartment vacancies, with the most significant declines in the Transcona, Fort Garry and Assiniboine Park survey zones.

Vacancies across all unit types declined. However, the decline was stronger for bachelor and 1-bedroom units, indicating a preference for smaller units as living costs continued to rise.

**Figure 1 Purpose-built apartment vacancy rates decline across most CMA zones**

Source: CMHC

## Lower-than-average growth in apartment rent as the rental universe grew

The purpose-built rental apartment universe increased by 2,283 units (+3.5%) in 2022. This was mainly due to newly completed 1- and 2-bedroom rental apartment units in the suburban areas of West Kildonan, St. Boniface and Fort Garry (table 1.1.3). The supply of rental units is expected to continue to expand in Winnipeg, since 85% of apartments under construction in 2022 are intended for the rental market.

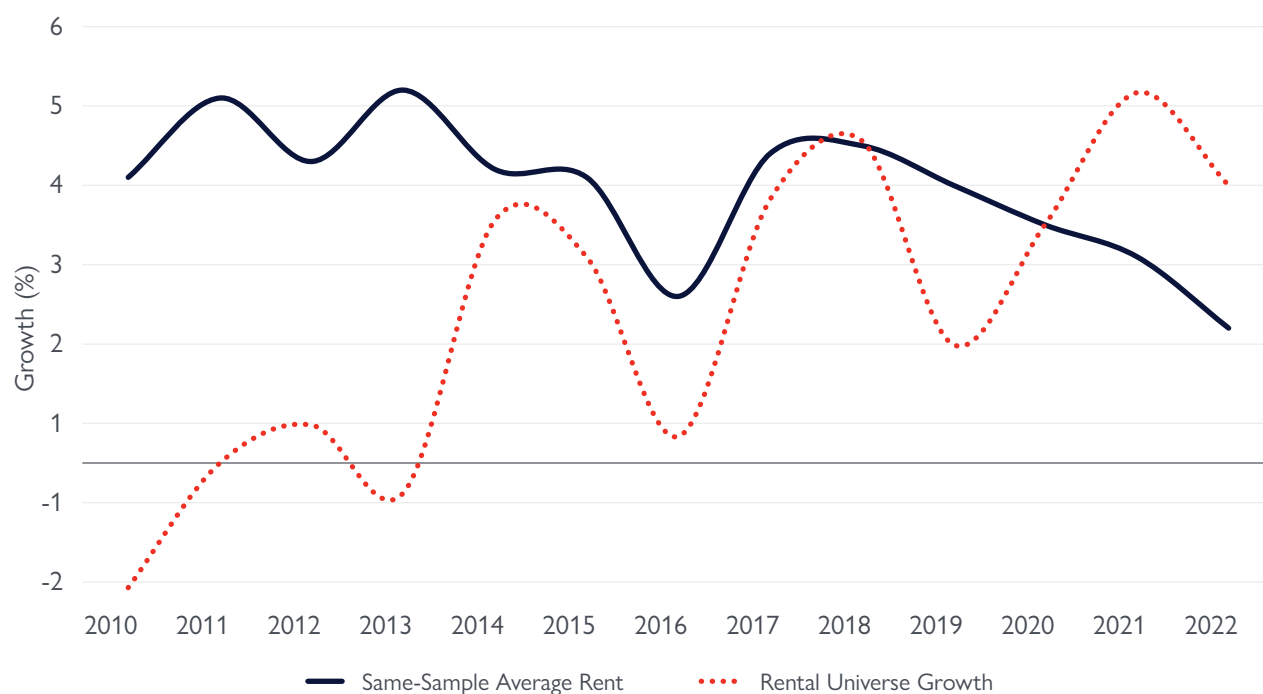
As a result of higher supply levels, the growth in same-sample average rents was modest at 1.7% in 2022 (table 1.1.5). This was the lowest growth rate in over 2 decades. It was due to the 0% rent increase guideline implemented by the

Government of Manitoba in January 2022. This guideline limits rent increases and applies to most rented residential apartments in the province, though there are some exemptions and special considerations.

Additionally, the significant number of units added to the market (figure 2) relative to demand could also explain the low growth in same-sample average rents.

As in previous years, bachelor units had the highest increase in same-sample rents, at 2.6%. This results from continued demand for this unit type due to their lower rents.

**Figure 2** Growth in same-sample average rent trends downward in response to regulation and rental universe growth



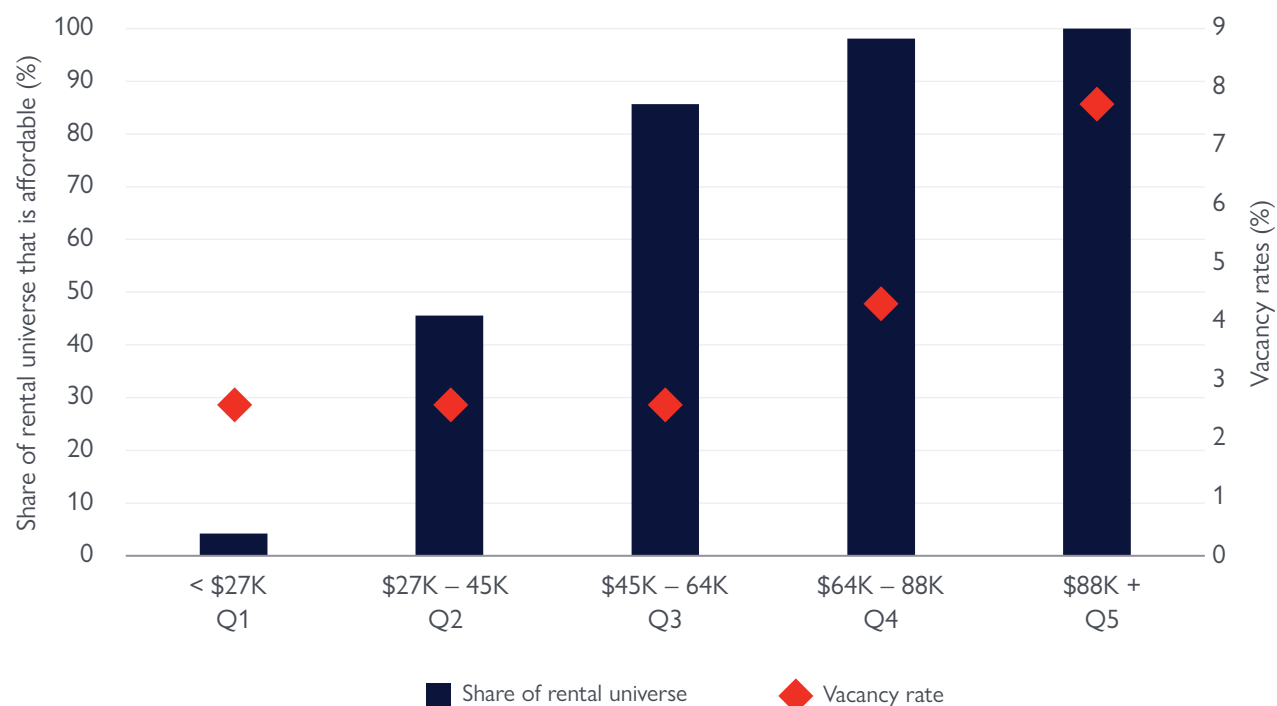
Source: CMHC

The average asking rent for a vacant apartment was 5.2% higher than the amount paid for occupied units (table 1.1.9). This gap was higher relative to 2021 when it was about 1%. The difference in rents varied across units based on the number of bedrooms. The widest gap was identified in 3+ bedroom units in the Fort Rouge core area of the CMA.

Overall, the suburban area of West Kildonan had the highest gap between the asking rent for vacant and occupied units. This is an area where many newly completed rental apartments are located.

### Rental market affordability challenges persist for low-income households

Renter households in the Winnipeg CMA face different housing affordability challenges depending on their income level. Households in the first income quintile make less than \$27,000 per year. Figure 3 shows that these households can only afford to rent from about 4% of the rental universe (table 3.1.8). Given that most affordable units are bachelor and 1-bedroom units, overcrowding can also be an issue for households in this quintile with larger families.

**Figure 3** Households in lowest income quintile have limited rental options

Sources: CMHC, Statistics Canada

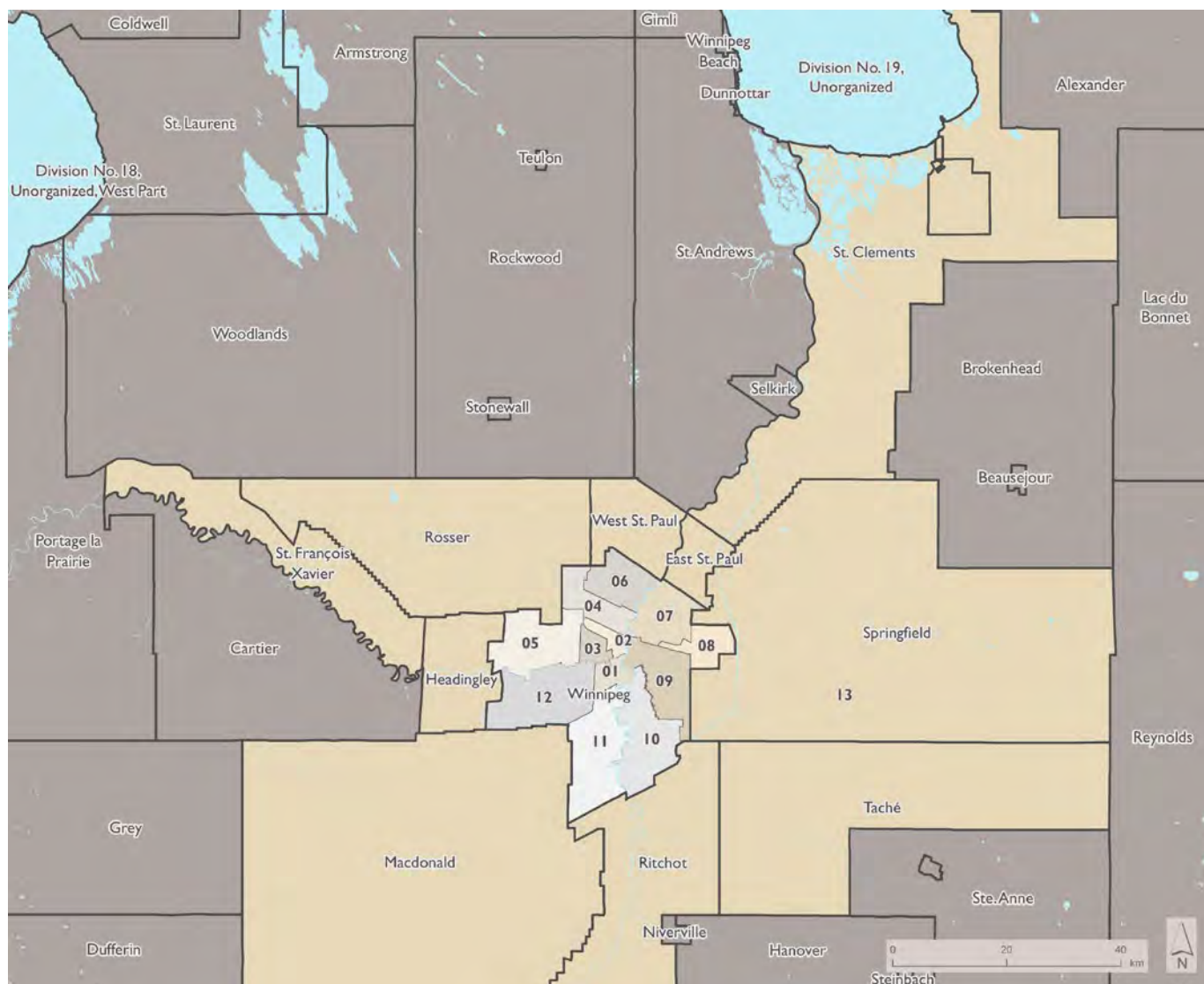
## Condominium apartments in long-term rental segment declined in most zones of the CMA

The vacancy rate for rental condominium apartments in the Winnipeg CMA was relatively stable at 1.9% (table 4.1.1). Although the condominium apartment universe grew, the number of units targeted at the rental market declined in most zones. The opposite was true in the core, where 5.2% more condominium apartments were committed to the rental market (table 4.3.1). This could indicate more robust demand for rentals within that area as educational and commercial activities recovered.

The average rent for a 2-bedroom rental condominium apartment in Winnipeg was \$1,301 (table 4.1.2), slightly below the average rent in 2021. This is \$49 lower than the rent for a purpose-built rental apartment of similar size, indicating a further narrowing of the gap between both market segments. This can be explained by the significant number of purpose-built rentals supplied to the market compared to fewer rental condominium apartments.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Winnipeg CMA

<b>Zone 1</b>	<b>Fort Rouge</b> - North: Assiniboine River; East: Red River; South: Jubilee Avenue, Parker Avenue; West: Waverley St.
<b>Zone 2</b>	<b>Centennial</b> - North: C.P. Rail Winnipeg Yards; East: Red River; South: Assiniboine River to Osborne Street, north on Osborne to Portage Avenue, Portage to Sherbrook St., Sherbrook to Notre Dame Ave.; West: Keewatin St.
<b>Zone 3</b>	<b>Midland</b> - North: Notre Dame Avenue; East: Sherbrook Street to Portage Ave., Portage to Osborne St., to Assiniboine River; South: Assiniboine River; West: St. James Street.
<b>Zone 4</b>	<b>Lord Selkirk</b> - North : City limits to Ritchie St., south to Ritchie/Templeton intersection, West in a straight line to CPR Arbog, South along Keewatin Street to the north limit of the Inkster Industrial Park, the north limit of Inkster Industrial Park to Carruthers Avenue, Carruthers Avenue to McGregor, North along McGregor to Smithfield, Smithfield to the Red River; East: Red River; South: CPR Molson/Carberry; West: Brookside Blvd (city limits).
<b>Zones 1-4</b>	<b>Core Area</b>
<b>Zone 5</b>	<b>St. James</b> - North: City limits to CPR Carberry/CNR Oak Point; East: CNR Oak Point, St. James Street; South: Assiniboine River; West: City limits.
<b>Zone 6</b>	<b>West Kildonan</b> - North: City limits; East: Red River; South: (north limit of Zone 4); West: City limits.

<b>Zone 7</b>	<b>East Kildonan</b> - North: City limits; East: City limits to Gunn Road, Plessis Rd to Ravelston Ave; South: Ravelston Ave. to Owen St., Owen Street to Regent Avenue, Regent to Panet Road to Mission St.; West: Red River.
<b>Zone 8</b>	<b>Transcona</b> - North: City limits; East: City limits; South: City limits; West: Plessis Rd. to CNR Reddit to Panet Rd, Panet to Regent, Regent to Owen, Owen to Ravelston, Ravelston to Plessis, Plessis to the City limit.
<b>Zone 9</b>	<b>St. Boniface</b> - North: Missions St/CNR Reddit; East: Plessis Road; South: City limits; West: Seine River to Carriere Ave., Carriere to Red River, Red River.
<b>Zone 10</b>	<b>St. Vital</b> - North: Carriere Ave; East: Seine River; South: City limits; West: Red River.
<b>Zone 11</b>	<b>Fort Garry</b> - North: McGillivray Blvd to Waverley St., Waverley to Wilkes Avenue, Wilkes to Parker Avenue, Parker Avenue to Jubilee Avenue; East: Red River; South: City limits; West: City limits. Zone
<b>Zone 12</b>	<b>Assiniboine Park</b> - North: Assiniboine River; East: Waverley Ave.; South: McGillivray/City limits; West: City limits.
<b>Zones 5-12</b>	<b>Suburban Areas</b>
<b>Zone 13</b>	<b>Outlying Areas</b>
<b>Zones 1-13</b>	<b>Winnipeg CMA</b>

# Hamilton



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.9%**

Average Two-Bedroom Rent

**\$1,438**

UP by 5.3%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**0.1%**

Average Two-Bedroom Rent

**\$2,083**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“The vacancy rate for purpose-built rental apartments reached a low unseen since 2002, as rental supply failed to keep pace with growing demand.”

**Anthony Passarelli**  
Senior Analyst, Economics  
**MARKET INSIGHTS**



## HIGHLIGHTS

The vacancy rate for purpose-built rental apartments was the lowest since 2002, at 1.9%.

The number of occupied units increased due to more student renters, higher full-time employment and fewer renters transitioning to homeownership.

Average rent growth for 2-bedroom apartments was stronger this year at 5.3%, due to fewer vacancies and a higher Ontario rent increase guideline.

Only 12% of vacant units were considered affordable to renters at the 40th income percentile of \$46,000.

The vacancy rate for rental condominium apartments remained below 0.5% for the fourth consecutive year, despite a significant increase in supply.

### Rental supply failed to keep pace with growing demand

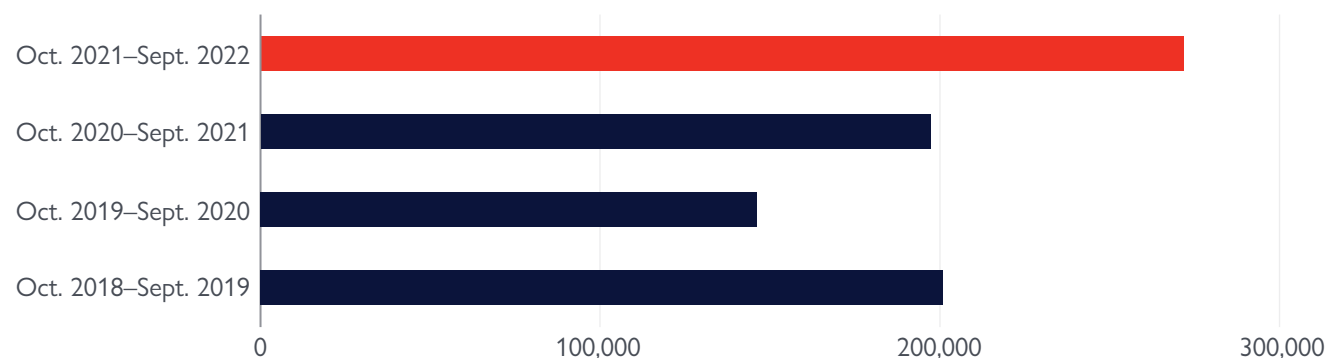
The purpose-built rental apartment universe increased by just 65 units. Apartments removed due to conversion or demolition nearly matched the small number of units added. This modest increase in supply was far less than the 470 additional occupied units, resulting in fewer vacancies.

Supply increased in only 2 of 9 zones. The suburban region Zone 9 saw supply increase for the second consecutive year. Developers continue to add rental housing to this region in response to demand from local empty nesters wishing to downsize.

### Greater number of student renters compared to 2021

McMaster University's fall 2022 semester marked the full return to regular in-person learning. Therefore, more student renters contributed to the decrease in vacancy rates, particularly in Zone 5, the site of the university's main campus. This included more international students. Indeed, Immigration Refugees and Citizenship Canada (IRCC) data show that Ontario had significantly more temporary residents with study permits compared to our 2021 survey period (figure 1).

**Figure 1** Number of temporary residents in Ontario on a study permit (12-month period)



Source: Immigration Refugees and Citizenship Canada

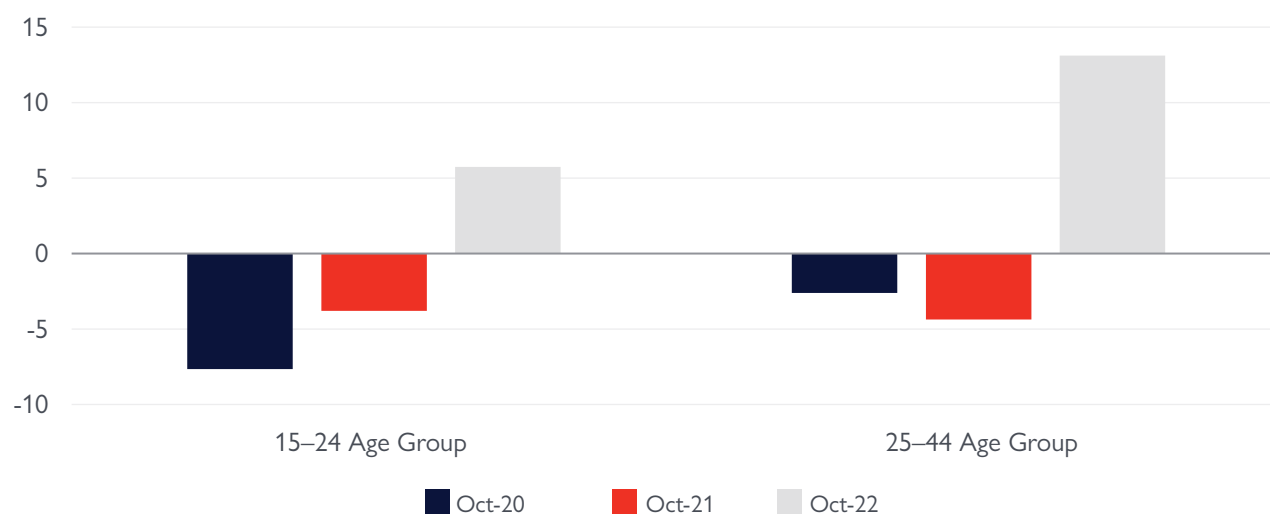
## Higher full-time employment led to greater rental demand

Higher full-time employment for people aged 15 to 24 and 25 to 44 (figure 2) contributed to more occupied rentals. The 2021 Census revealed that nearly half of rental households in the region consisted of people from these age groups. Full-time employment for the 25-to-44 age group well surpassed

pre-pandemic levels. Employment gains also occurred in service industries where workers tend to rent, such as retail, information, culture and recreation.

There were also more temporary residents with work permits in Ontario compared to our 2021 survey period. These additional temporary residents also likely stimulated rental demand in Hamilton.

**Figure 2** Year-over-year change in Hamilton CMA full-time employment (%)



Source: Immigration Refugees and Citizenship Canada

## Weaker outflow of renters into homeownership

More rental apartments were occupied because, in all likelihood, fewer renters transitioned to homeownership. This was a primary reason for low turnover rates this year. The income needed to qualify for a mortgage on the median-priced home in the region grew more than actual incomes did. This was a result of sharply rising mortgage rates. Renters had fewer affordable homeownership options, despite house prices trending lower.

## Strong rent growth driven by large increases on vacated units

When comparing apartment structures surveyed in both 2021 and 2022, the average 2-bedroom rent increased by 5.3%. Strong rent growth was driven by stiff competition for units that were vacated. Rents increased by about 26% for 2-bedroom units that were turned over to a new tenant.

For existing tenants, the Ontario rent increase guideline increased from 0% in 2021 to 1.2% this year. This also contributed to the overall rent growth.

The above analysis highlights the stark contrast between rent paid by new versus existing tenants. On average, existing tenants of 2-bedroom units paid \$1,326 per month. New tenants, meanwhile, paid \$1,679 per month for the vacant units in the same building.

## Future tenants will continue to face stiff competition for units that become available

Future tenants will likely have to pay higher rents than new tenants did this past year. The average asking rent of a vacant 2-bedroom unit in October 2022 was higher than the actual rent paid for a unit that was turned over to a new tenant during the previous 12 months. This suggests that rental property owners expect that rents will continue to increase.

## Few vacant units were affordable to middle-income renters

Rents have persistently grown faster than incomes in the Hamilton census metropolitan area (CMA). This has left even middle-income rental households with few affordable options. Only 12% of vacant units were estimated to be affordable to renters at the 40th income percentile of \$46,000. Most vacant units were only affordable to renters with a yearly income of \$65,000 or greater.

## Condominium apartment vacancy rate remains below 0.5%

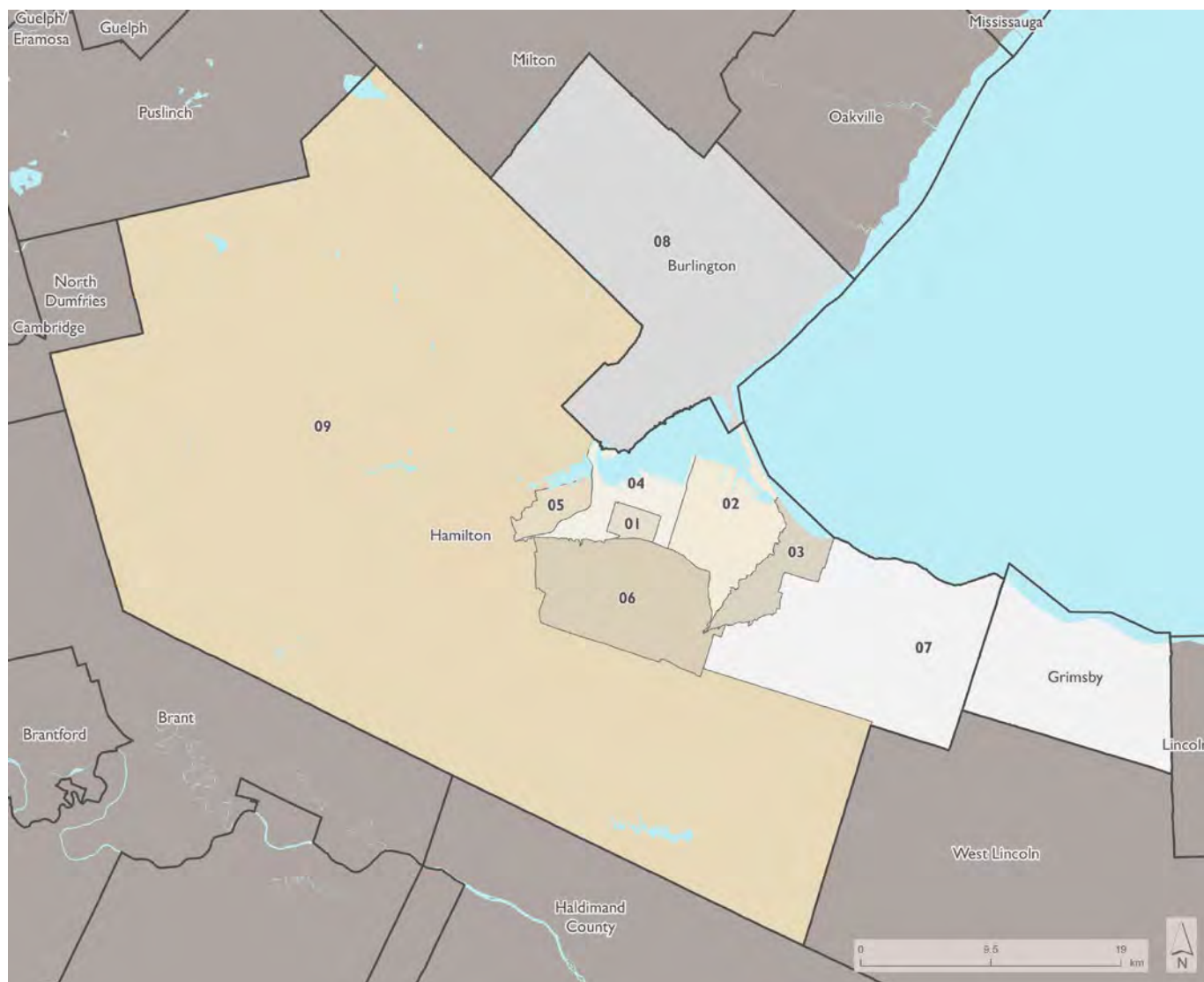
Despite a significant increase in supply, the vacancy rate for condominium rental apartments remained below 0.5% for the fourth consecutive year. The additional rental condominium

supply consisted of newly completed units, units changed from owner-vacant to renter-occupied status and conversions of purpose-built rentals.

The persistent low vacancy rate suggests that an underserved market exists for pricier rental accommodation in Hamilton. A considerable number of renters chose to pay \$500–\$600 more to rent a condominium instead of a purpose-built rental apartment. This significant rent difference is due to several factors, including the higher quality of condominiums, the amenities they offer and their central location.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Hamilton CMA

<b>Zone 1</b>	<b>Downtown Core</b> (census tracts 0034, 0035, 0036, 0037, 0038, 0039, 0048, 0049 and 0050).
<b>Zone 2</b>	<b>Central East</b> (census tracts 0025, 0027, 0028, 0029, 0030, 0031, 0032, 0052, 0053, 0054, 0055, 0056, 0057, 0058, 0059, 0060, 0068, 0069, 0070, 0071 and 0073).
<b>Zone 3</b>	<b>East End</b> (census tracts 0026.01, 0026.02, 0026.03, 0026.04, 0026.05, 0026.06, 0072.01, 0072.02, 0072.03 and 0072.04).
<b>Zone 4</b>	<b>Central</b> (census tracts 0017, 0033, 0040, 0041, 0042, 0047, 0051, 0061, 0062, 0063, 0064, 0065, 0066 and 0067).
<b>Zone 5</b>	<b>West End</b> (census tracts 0043, 0044, 0045 and 0046).
<b>Zone 6</b>	<b>Mountain</b> (census tracts 0001.01, 0001.02, 0001.04, 0001.05, 0001.06, 0001.07, 0001.08, 0001.09, 0002.01, 0002.03, 0002.04, 0002.05, 0002.06, 0003.01, 0003.02, 0003.03, 0003.04, 0004.01, 0004.02, 0005.01, 0005.02, 0005.03, 0006, 0007, 0008, 0009, 0010, 0011, 0012, 0013, 0014, 0015, 0016, 0018, 0019, 0020, 0021, 0022, 0023 and 0024).
<b>Zone 1-6</b>	<b>Former City of Hamilton</b>

<b>Zone 7</b>	<b>Grimsby and Stoney Creek</b> (census tracts 0080.01, 0080.03, 0080.05, 0080.06, 0080.07, 0081, 0082, 0083, 0084.01, 0084.02, 0084.03, 0084.04, 0084.05, 0085.01, 0085.02, 0085.03, 0086, 0300, 0301, 0302, 0303.01 and 0303.02).
<b>Zone 8</b>	<b>Burlington</b> (census tracts 0200, 0201, 0202, 0203, 0204, 0205.01, 0205.02, 0206, 0207.01, 0207.02, 0207.03, 0207.04, 0208, 0209, 0210, 0211, 0212, 0213, 0214, 0215, 0216, 0217.01, 0217.02, 0218, 0219, 0220, 0221, 0222.01, 0222.02, 0222.03, 0223.01, 0223.02, 0223.05, 0223.06, 0223.07, 0223.09, 0223.10, 0223.12, 0223.13, 0223.14, 0223.15, 0223.16, 0224.01 and 0224.02).
<b>Zone 9</b>	<b>Ancaster, Dundas, Flamborough, Glanbrook</b> (census tracts 0100.01, 0100.02, 0101.01, 0101.02, 0120.02, 0120.03, 0120.04, 0121, 0122.01, 0122.02, 0123, 0124, 0130.02, 0130.03, 0131, 0132, 0133.01, 0133.02, 0140.02, 0140.03, 0140.04, 0141, 0142.01, 0142.02, 0143, 0144.01 and 0144.02).
<b>Zones 1-9</b>	<b>Hamilton CMA</b>

# Greater Sudbury



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**2.3%**

Average Two-Bedroom Rent

**\$1,254**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Overall vacancy rates remained low. Limited rental unit supply was met by 2 different demand pressures: reduced demand in the Lockerby area due to lower student enrolment and increased demand elsewhere due to higher immigration.”

**Tad Mangwengwende**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

The overall vacancy rate of 2.3% remained at its 10-year low.

Average rents remained stable, since increased demand from population growth was tempered by reduced demand from lower student enrolment.

Affordability remains a significant challenge for the lowest-income households.

### The overall vacancy rate remained low

The overall vacancy rate in the Greater Sudbury census metropolitan area (CMA) was 2.3% in October 2022. This meant vacancies remained near their 10-year low. The change from 2021 was within our survey's margin of error and not statistically significant.

Vacancy rates were also stable across most parts of the CMA. Lockerby was the exception. The total vacancy rate in the area rose from 0.3% to 1%. Vacancies in this zone were up for both 1-bedroom and 2-bedroom units.

### Decline in student renters increased vacancies in some parts of the CMA

Zone 1 – Lockerby, the site of Laurentian University, drew fewer students in 2022. This was due to lower student enrolment and the departure of academic staff following the termination of academic programmes.

### Population growth increased rental demand outside of Lockerby

As shown in figure 1, the population of the Sudbury CMA has been growing. This was reflected in the 2021 Census numbers, which showed that total population was up 3% since 2016. It was up a further 0.3% in 2022. This growth increased rental unit demand.

Population growth was driven by immigration. The CMA is one of the participants of the Rural and Northern Canada Immigration Pilot (RNCIP). This pilot project is working to attract immigrants to address labour shortages and support continued economic growth. Newcomers tend to opt for the rental market to meet their housing needs so, as their number increases, the demand for rental units increases.

### Increased demand for larger units

Market intelligence indicated that the demand for 3-bedroom units has been increasing in Sudbury as the profile of immigrants changes. Newcomers drawn in from programmes such as the RNCIP have been more likely to arrive with families. These families require larger spaces for their housing needs.

In contrast, student immigrants, who have traditionally formed a large proportion of recent newcomers, have been more likely to arrive alone. Their arrival alone meant that their housing needs could be met by smaller units.

### Higher homeownership costs kept more people in the rental market

Higher interest rates increased the cost of homeownership. Through the first 10 months of 2022, MLS home sales were 16% lower than they were over the same period last year. Renters who would have transitioned to homeownership remained in the rental market, reducing the number of units that would have been made available.

In New Sudbury, the turnover rate declined from 13.6% in October 2021 to 8.4% in October 2022. This was a reflection of more renters choosing to stay in the rental market.

### Average rents remained flat

Same-sample average rents for 2-bedroom units remained flat. Changes between 2021 and 2022 were not statistically significant.

The difference between the rents of occupied and unoccupied units was also not statistically significant. In markets with very low vacancy rates, unoccupied units can command significantly higher rents. In the Windsor CMA, for example, vacant-unit rents were 20% higher than the average market rent. This situation poses a challenge for new tenants in the market who must face higher-than-average housing costs. In the Sudbury CMA, the rents for occupied and unoccupied units were similar. Therefore, there was no additional rent affordability burden for renters seeking new rental housing.

### Low-income households face an affordability challenge

The average 2-bedroom rent is not affordable for the 2 lowest income quintiles. Additionally, it's only affordable for some of the households in the third quintile. This means that the lowest-income households face great difficulty in finding housing that they can afford when entering the rental market or looking to change their housing.

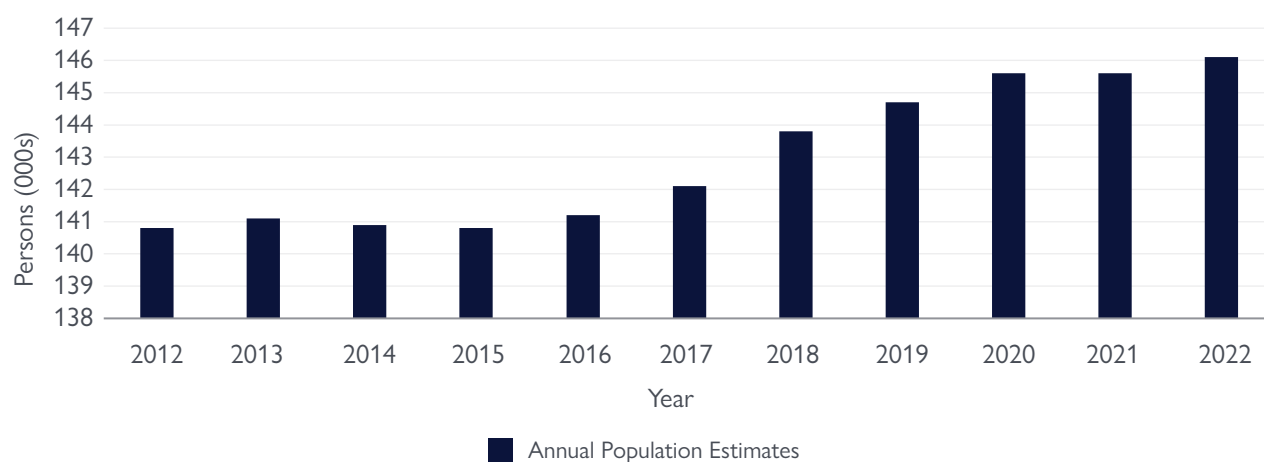
There are vacant units that fall within the affordability range of the lowest-income households. However, higher-income households can also pursue these units. As a result, housing that's accessible to low-income households faces the stiffest competition between potential renters.

### Stronger economic growth objectives will require more housing supply

One of the primary themes in Sudbury's 2021 Economic Recovery Plan was the attraction and retention of skilled labour. The successful accomplishment of this goal will necessarily increase housing demand in this already constrained rental market.

Capital projects such as the construction of the Exploration Shaft Hoist House at Vale will also require more labour. The Sudbury area is also a major producer of nickel. Growth in the global demand of this metal as an input in batteries and green vehicles will likely further increase labour demands in the area.

**Figure 1** Stronger population growth in tight market underscores need for more housing supply (persons, 000s)

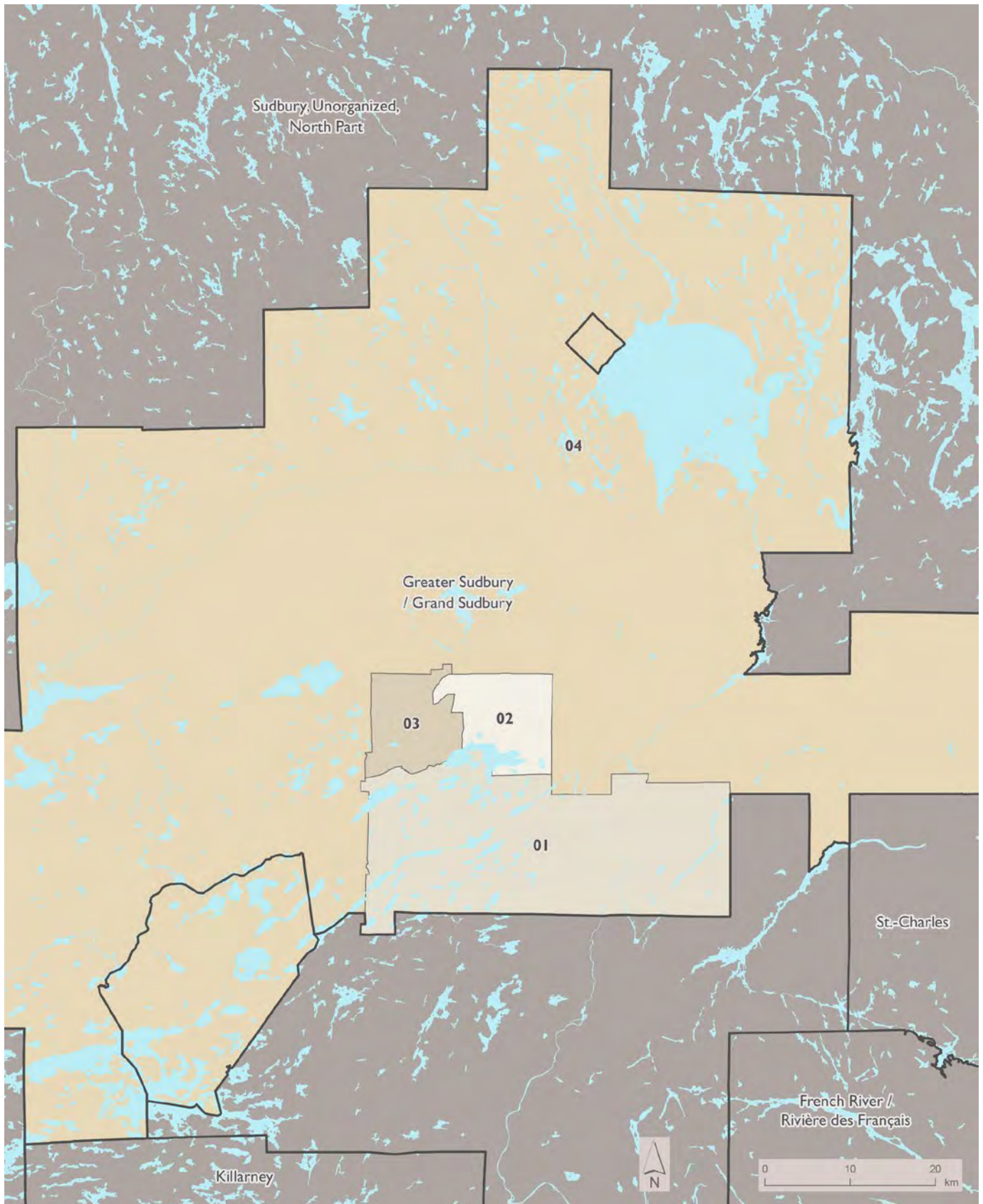


Source: Statistics Canada



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](http://cmhc.ca/rental-market-report-data).





## RMS Zone Descriptions — Greater Sudbury CMA

<b>Zone 1</b>	<b>Lockerby:</b> Includes the entire area south of Ramsey Lake.
<b>Zone 2</b>	<b>New Sudbury:</b> Includes New Sudbury and Minnow Lake.
<b>Zone 3</b>	<b>Old Sudbury:</b> Includes the West End, Gatchell and Copper Cliff.
<b>Zones 1-3</b>	<b>Sudbury City</b>
<b>Zone 4</b>	<b>Remainder Metropolitan Area:</b> Includes Valley East, Rayside-Balfour, Nickel Centre, Walden, Markstay-Warren, Onaping Falls and Capreol.
<b>Zones 1-4</b>	<b>Greater Sudbury CMA</b>

# Kitchener-Cambridge-Waterloo



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.2%**

Average Two-Bedroom Rent

**\$1,469**

UP by 7.2%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**1.1%**

Average Two-Bedroom Rent

**\$\*\***

\*\*Data suppressed.

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Elevated immigration and the continued return of students to the classroom contributed to the lowest vacancy rates in 20 years and record-high rent growth.”

**David Carruthers**  
Senior Analyst, Economics  
**MARKET INSIGHTS**

## HIGHLIGHTS

Vacancy rates fell to their lowest level in 20 years. Consequently, rent growth has hit historic highs at 7.2% (2-bedroom apartments).

The resurgence of immigration, particularly student-led non-permanent residents, was a major driver behind increased demand.

Rapid rent increases and tightening budgets reduced mobility. Turnover rates therefore fell from 16.3% to 13.4%.

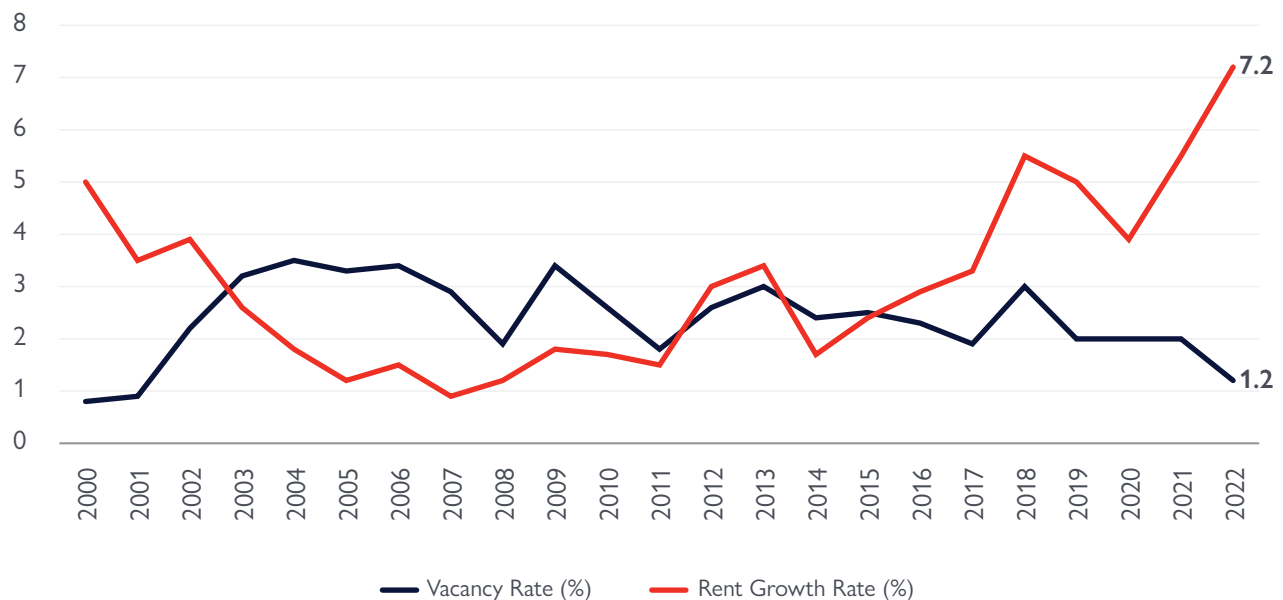
### A significantly tighter rental market led to record rent increases

From the steady 2% seen since 2019, vacancy rates in Kitchener-Cambridge-Waterloo (KCW) have dropped sharply to 1.2% (table 1.1.1). This drop occurred across unit types (number of bedrooms) and most local municipalities. Competition for rental units has led to a rapid increase in rents, with 2-bedroom rents increasing by 7.2% (table 1.1.5).

This pace of increase is extremely high for KCW and outpaces the growth seen in other centres, including Toronto, Guelph, and London.

This historically high rate of rent growth was reflected in the large and growing gap between the rents of units that turned over to new tenants and those that didn't. New data released in this year's survey shows that 2-bedroom apartments that were turned over saw their rent increase by 25.6%. For comparison, the rent increase for units without turnover was 0.9% (Canada table 6.0).

**Figure 1** Lowest vacancy rate in 20 years drives extraordinary rent growth



Source: CMHC

## Very few affordable options for renters and tight household budgets

October 2021 to October 2022 has seen relatively high wage growth. However, rising rents and very high non-shelter inflation across the country have combined to prevent an increase in purchasing power. The low availability of affordable units was a critical challenge. No more than 5% of units were affordable to renters with incomes in the bottom quintile, and 0% of those units were vacant (table 3.1.8).

Tight budgets and the prospect of higher rents when moving are likely to reduce mobility (and turnover rates, as seen in table 3.1.6). Lower mobility may in turn lead to poorer matching of renters with units that suit their needs well (proximity to work and supports, suitable space for the family type, etc.).

## Cost increases and growing gap between rents for turned-over and occupied units create challenges for maintenance and reinvestment

Inflation and rising interest rates are increasing landlord costs, some of which will be passed on to renters through increased rents. Cost inflation and a growing rent gap between units that turned over to a new tenant and those that remained continuously occupied is likely to cause challenges in terms

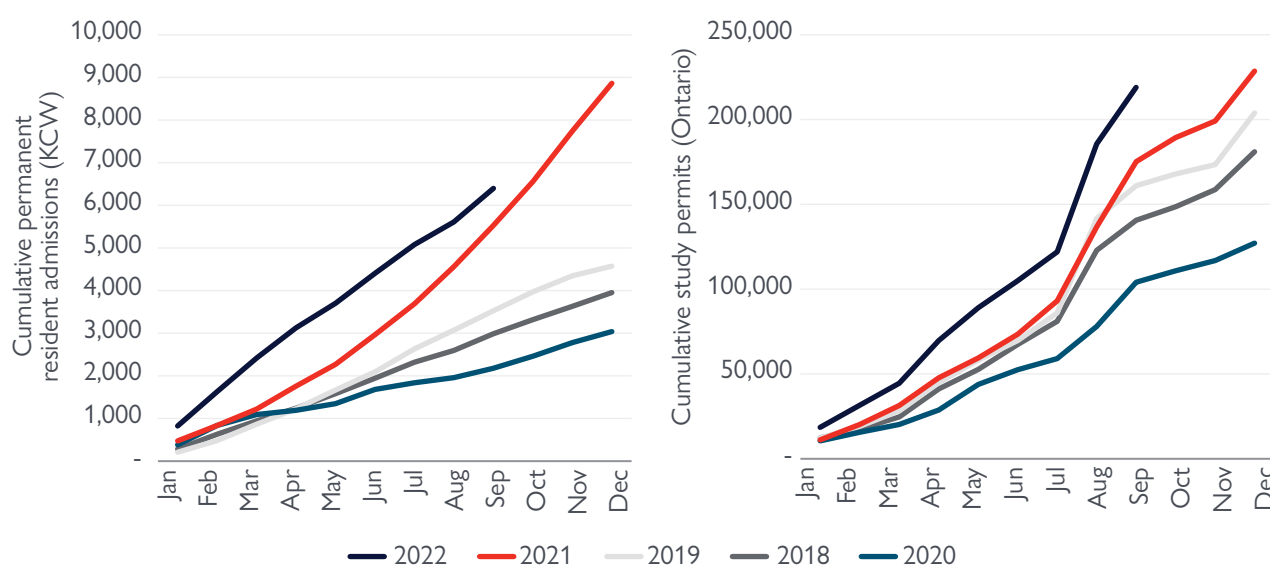
of maintenance and reinvestment in properties. Market participants shared that these cost pressures resulted in an increasing number of applications to the Landlord and Tenant Board for “above-guideline increases.”

## Resurgent immigration, non-permanent residents, and the return of students major demand drivers

The return of international migration and students to the classroom was of particular importance in the tightening KCW rental market. Ontario has seen a strong rebound of immigration non-permanent residents and study permits in 2021–2022. These patterns were likely reflected in KCW, where non-permanent residents are a large source of rental demand. Furthermore, KCW has, in 2022, seen a surge in permanent-resident admissions, surpassing levels in 2021 (a record year).

Post-pandemic adjustments in the student rental market have continued in 2022, contributing to increased demand. These adjustments include the resumption of in-person studies and the ability of graduating and work-term students to remain local for longer due to work-from-home arrangements. While these adjustments are likely to have a diminishing effect over time, market intelligence suggests that they haven't yet fully played out.

**Figure 2** Historically high rates of immigration and the return of students contribute to strong rental demand



Source: IRCC Monthly Updates

## Relatively strong employment growth in high-wage industries likely contributed to demand for high-end units

Employment grew in KCW from October 2021 to October 2022, with almost 10,000 more jobs (3% growth compared to Toronto's 0.8%).<sup>1</sup> Employment growth was led by the high-wage professional, scientific and technical services industry. This growth likely contributed to stronger demand for higher-end purpose-built and condominium rental units.

## High costs of homeownership may have discouraged potential buyers

Sharply rising interest rates meant that the mortgage payment on an average-priced home increased between October 2021 and 2022. This is true even though average sale prices have fallen.<sup>2</sup> Continued unaffordability in the homeownership market may have caused some renters who considered buying to remain renters, reducing turnover and increasing rental demand. Lower sales activity was suggestive of this phenomenon.

## Moderate increases to rental supply, but historically high number of units under construction

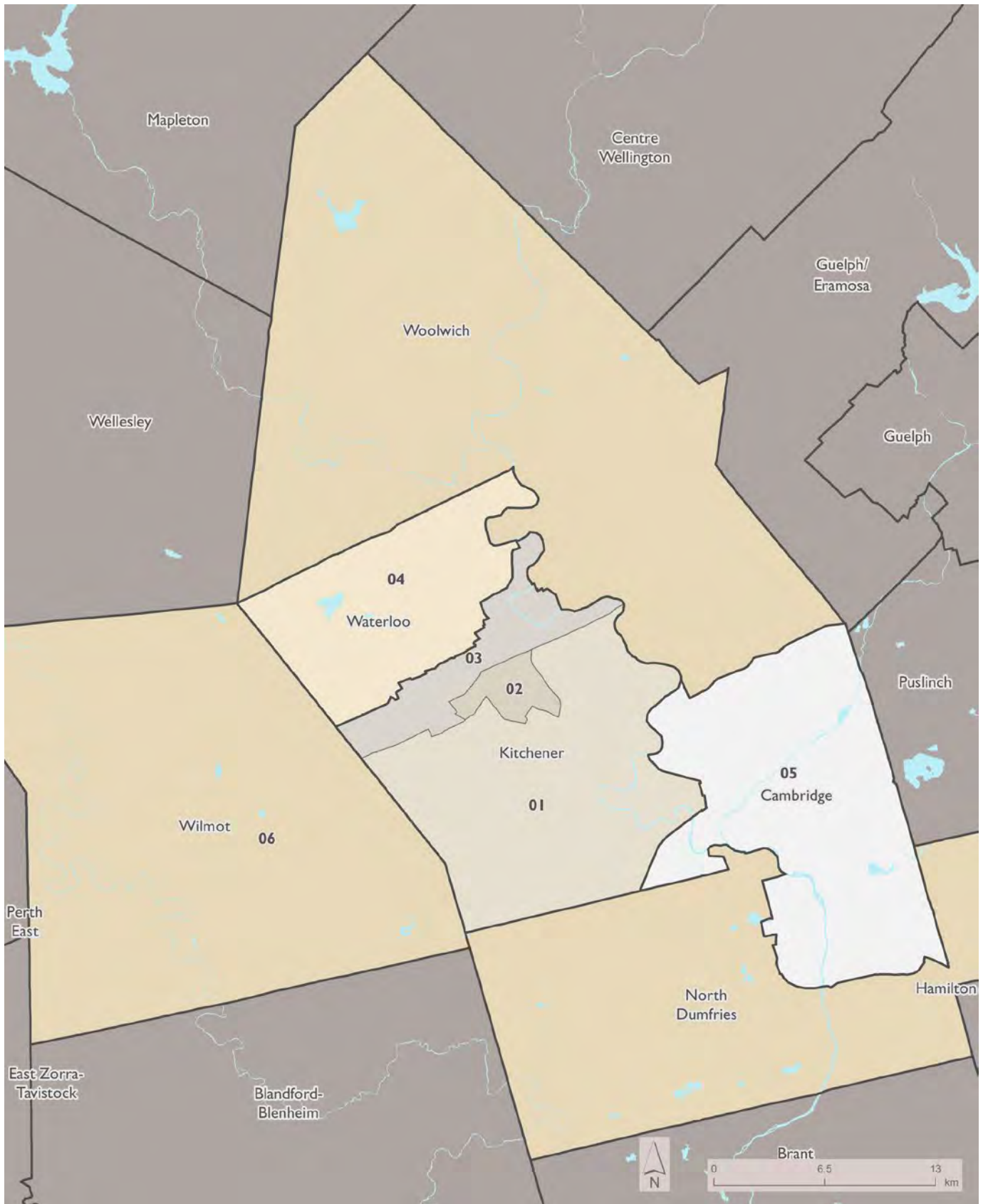
The level of rental units under construction remained elevated, with record highs seen this year. Despite this, net universe additions between the 2021 and 2022 surveys were only 499 units, less than the average increase over the last 10 years (table 3.1.3). These additions were primarily in Kitchener and Waterloo and were driven by increases in 200+ and 50-to-199-unit structures. Additionally, there were approximately 650 additional rental condominiums. The relatively low level of supply added in the previous year likely did little to dampen the effects of strong increases in demand.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).

<sup>1</sup> Statistics Canada, Labour Force Survey, Table 14-10-0379-01 (<https://www150.statcan.gc.ca/t1/tbl1/en/cv.action?pid=1410037901>)

<sup>2</sup> MLS®, Canadian Real Estate Association; MLS® is a registered trademark of the Canadian Real Estate Association



## RMS Zone Descriptions — Kitchener-Cambridge-Waterloo CMA

<b>Zone 1</b>	<b>Kitchener East</b> - Highland Rd. West, Mill St., Victoria Ave. (north), N. Dumfries boundaries (New Dundee Rd.) (south), Woolwich Twp. (Grand River), Cambridge, Hwy 401 (east), Trussler Rd. (west).
<b>Zone 2</b>	<b>Kitchener Central</b> - Victoria Ave. (north), Highland Rd. West, Mill St. (south), Conestoga Pkwy (east), Lawrence Ave. (west).
<b>Zone 3</b>	<b>Kitchener West</b> - Waterloo City boundaries (north), Highland Rd. West, Mill St., Victoria Ave. (south), Woolwich Twp. (Grand River) (east), Wilmot Line/Wilmot Twp boundaries (west).
<b>Zone 1-3</b>	<b>Kitchener City</b>
<b>Zone 4</b>	<b>Waterloo</b> - Woolwich Twp boundaries (north), Kitchener City boundaries (south), Woolwich Twp. (Grand River) (east), Wilmot Line (west).
<b>Zone 5</b>	<b>Cambridge</b> - Woolwich Twp boundaries (north), N. Dumfries Twp boundaries (south), Town Line Rd. (N. Dumfries Twp, Puslinch Twp) (east), Kitchener City boundaries (west).
<b>Zone 6</b>	<b>Three Townships</b> - Woolwich: Waterloo City, Cambridge City boundaries (south), Puslinch Twp (east), Regional Rd 16, Waterloo City, Kitchener City (west); N. Dumfries: Kitchener City, (north), Cambridge City boundaries (east), Trussler Rd. (west); Wilmot: Gerber / Cedar Grove Rd. (north), Oxford Waterloo Rd. (south), Kitchener City (east), Wilmot Easthope Rd. / Oxford Rd. 5 (west).
<b>Zone 1-6</b>	<b>Kitchener-Cambridge-Waterloo CMA</b>



# Belleville



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**2.4%**

Average Two-Bedroom Rent

**\$1,295**

UP by \*\*

\*\*Data Supressed.

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“The vacancy rate increased as demand decreased faster than supply. Affordability continues to be an issue.”

**Olga Golozub**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

The vacancy rate of purpose-built rental apartments increased to 2.4% due to lower demand.

The rental apartment universe contracted by 3.2% in the city of Belleville but remained unchanged in the city of Quinte West.

Access to an adequate supply of affordable rental housing continues to be a challenge for households at the lower end of the income spectrum.

Rent growth was strong at 6.6% despite higher vacancy.

### Vacancy rate moved higher in 2022 after significant market tightening the year before

After significant tightening of rental market conditions in 2021, the vacancy rate in the Belleville census metropolitan area (CMA) increased to 2.4% in 2022 from 1.7% in 2021 (table 1.1.1). Still, it remained well below its 10-year average of 3.3%, prolonging relatively tight rental market conditions.

### Less demand from young renters despite improved labour market conditions

As the local economy reopened, labour market conditions improved to the end of the survey period in October 2022. From October 2021 to October 2022, 10,000 jobs were added in the Belleville CMA. Please refer to the national section of the report for the most recent economic developments. However, the pace of recovery hasn't been uniform across all sectors and demographic groups. The employment level for youth aged 15 to 24 was down by almost half in October 2022 compared to a year before.

Some businesses in the retail, hospitality and food service industries were the hardest hit by the pandemic. Many faced reduced foot traffic and higher operating expenses, and some ceased their operations. As a result, some young people likely left the region to seek employment elsewhere. Others, with scarce employment options and a limited ability to enter the rental market, stayed with their parents, lowering rental demand pressure.

### Significant differences emerged between the cities of Belleville and Quinte West

A difference in vacancy rates was observed between the cities of Belleville and Quinte West. In Belleville, the vacancy rate increased from 1.6% in 2021 to 2.5% in 2022. Decreased pressure on rental demand led to a 4% drop in the number of occupied units. The vacancy rate moved higher for 1- and 2-bedroom apartments despite a significant contraction of the rental universe for these unit types.

In October 2022, the city of Belleville's primary rental market universe was 3.2% smaller than in 2021. It was also almost 4% smaller than its peak in 2020. In 2022, rental units were taken off the market both temporarily and permanently. The temporary removal of rental units was done for a variety of reasons, including renovations and occupancy by owner. Permanent removals include demolitions and conversions to other uses.

The decline in the rental universe was partially offset by 103 new rental apartment completions. These 103 units were completed after the 2022 Rental Market Survey (RMS) cut-off date and, therefore, weren't included in the 2022 RMS universe. These new units likely put upward pressure on the vacancy rates of existing structures, since the absorption of the new units started before CMHC conducted its 2022 Rental Market Survey.

In the city of Quinte West, the number of occupied units and the size of the purpose-built universe remained virtually unchanged from 2021. The vacancy rate therefore remained stable at 2.3% in 2022. This is considered to be statistically unchanged from the rate of 2% recorded in 2021.

## Limited options for those in the lower income quintiles

Table 3.1.8 quantifies the challenges renter households in the lower income quintiles face in finding market rental accommodation. We estimate that less than 28% of the CMA's rental stock would be affordable to renter households in the first 40% of the income distribution (income under \$40,000 per year).

A monthly rent of less than \$1,000 would be affordable to this group. Yet, the vacancy rate for units in this rent range was well below average and stood at 0.8%. Households earning between \$40,000 and \$59,000 per year are able to access accommodations in the broader housing spectrum. The vacancy rate for units that would be affordable to them is around 2.7%.

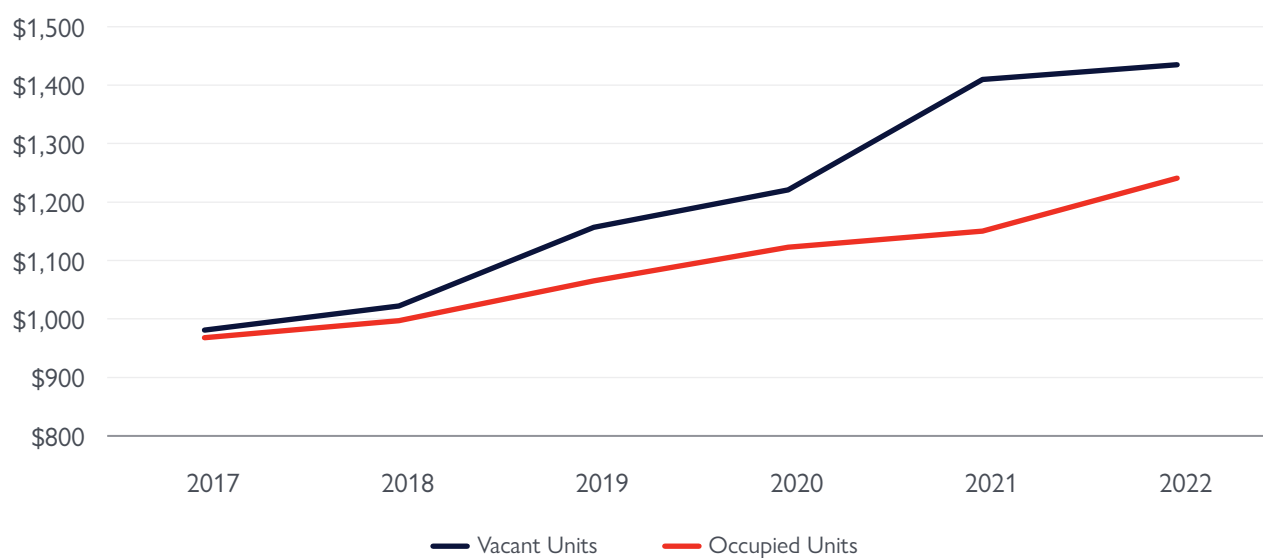
## Average rents continued to rise at turnover to new tenants

Despite higher vacancy, the same-sample percentage increase in the average rent for all unit types was 6.6%. This growth was driven by rents for units that were turned over to new tenants. However, the rate is also heavily affected by longer-term tenancies. Tenants who remain in the same unit only face rent increases in line with the Ontario rent guidelines.

To isolate the effect of long-term tenancies, we provided a new table on the average rent for 2-bedroom units that turned over and units that didn't. Our comparison was based on structures that were common to both the 2021 and 2022 Rental Market Surveys (table 6.0).

The 38% increase in the number of vacant units prompted additional competition among the units. This kept the average asking rent for vacant apartments somewhat similar to 2021. Still, it remained 15.6% higher than the average rent paid for occupied units (figure 1).

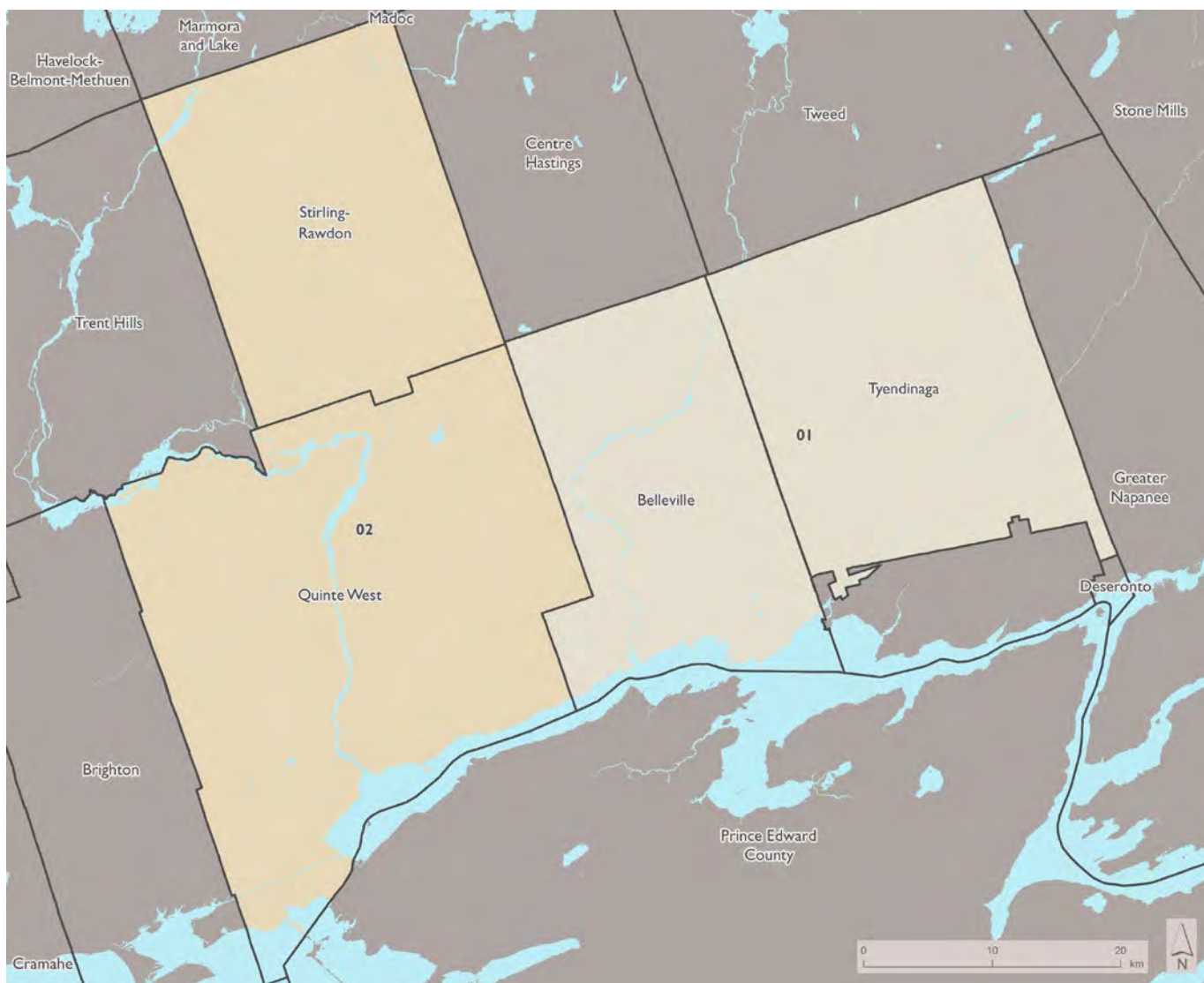
**Figure 1** Rent of vacant apartment units 15.6% higher than rent of occupied units, all bedroom types, Belleville CMA (\$)



Source: CMHC



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Belleville CMA

<b>Zone 1</b>	Comprised of City of Belleville and Tyendinaga Tp.
<b>Zone 2</b>	Comprised of City of Quinte West and Stirling-Rawdon Tp.
<b>Zone 1-2</b>	<b>Belleville CMA</b>

# Peterborough



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.1%**

Average Two-Bedroom Rent

**\$1,339**

UP by 5.4%

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Tight rental market conditions persisted in 2022 despite the 15-year-high increase in rental supply.”

**Olga Golozub**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

The vacancy rate for purpose-built rental apartments was 1.1% in October 2022, statistically unchanged from 1% in 2021. The vacancy rate stabilized because rental demand kept pace with supply growth in 2022.

Tight rental market conditions amplified the challenges faced by renter household. The rent for 2-bedroom apartments that turned over to new tenants increased by 23%, on average.

Peterborough had the lowest vacancy rate in Ontario for 2 years in a row, despite a large expansion of the rental universe in 2022.

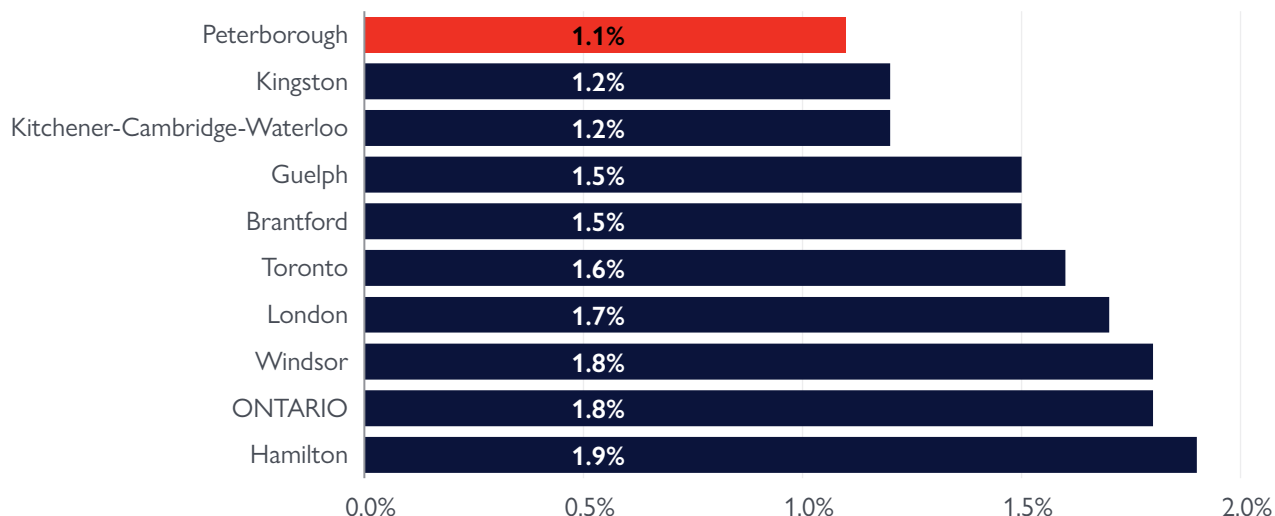
Improved economic and demographic conditions for renters, like recovery in employment and renewed student inflows, supported demand.

### Peterborough rental market remained the tightest in Ontario

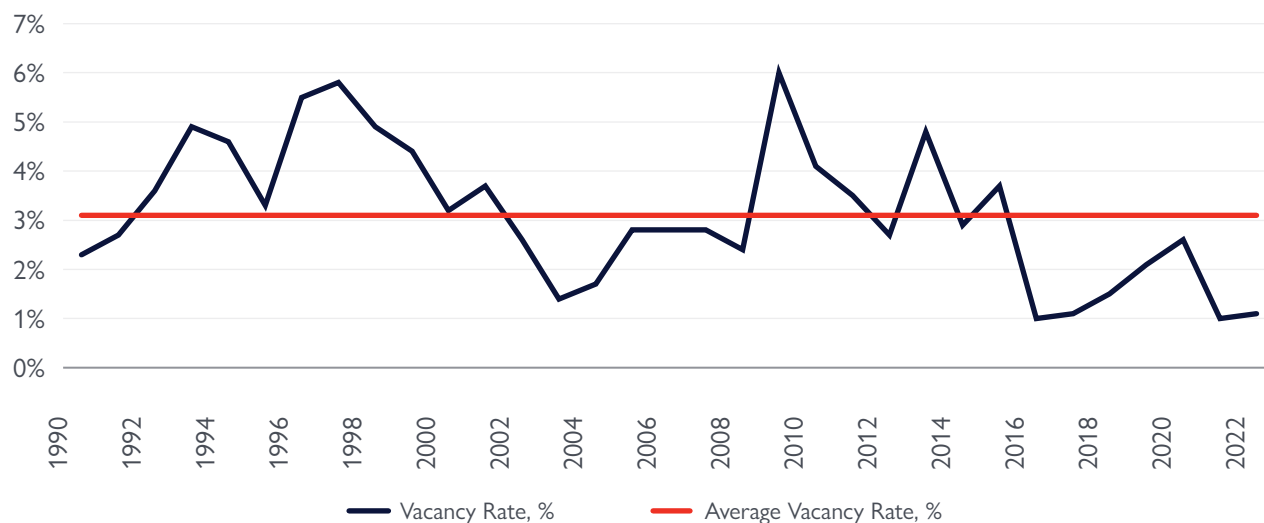
The average vacancy rate for purpose-built rental apartments in the Peterborough census metropolitan area (CMA) remained stable at 1.1% in 2022. For the second consecutive year, the vacancy rate remained the lowest among all major centres in Ontario, prolonging tight rental market conditions (figure 1).

This lack of movement in the vacancy rate echoed the 2016–2017 period. During that time, the vacancy rate dropped to 1%, its lowest level in 30 years, and stayed at that level for another year. Five years later, in 2021 and 2022, it returned to its lowest level, suggesting a persistent supply-to-demand challenge. All in all, the vacancy rate has remained below its long-run average of 3.1% over the past 7 years (figure 2).

**Figure 1 Peterborough 2022 vacancy rate lowest among Ontario CMAs**



Source: CMHC

**Figure 2 Peterborough vacancy rate below its long-time average for past 7 years**

Source: CMHC

The current stability in the apartment vacancy rate resulted from a similar rate of growth in both occupancy and the rental apartment universe. Among all unit types, only 3+ bedroom units saw a statistically significant decline in their vacancy rate. It was down to 0% in both submarkets: Zone 1 — Downtown, and Zone 2 – Remainder of CMA. The vacancy rate for 1- and 2-bedroom apartments remained unchanged despite a considerable expansion of the universe for these unit types, signalling strong demand.

### Largest supply increase in the last 15 years

The CMA's total apartment universe count increased by nearly 170 units or 2.8%, marking the largest annual increase since 2007. Most of the additional supply came from newly completed units located in Peterborough Downtown. In this zone, the universe grew for units of all bedroom counts. However, most of the increase occurred for 1- and 2-bedroom apartments (table 3.1.7).

In Zone 2 – Remainder of CMA, the increase was not new supply. Rather, it was caused by the return of units temporarily removed from the universe in previous years.

Despite a strong increase in supply, the rental market remained tight in both submarkets. Their vacancy rates both neared 1%.

### Demand increased at the same rate as supply

The 2.8% increase in rental supply was met by equally strong growth in demand. Approximately 160 more units were occupied in October 2022 compared to the year before. Demand varied by zone. The centrally located Zone 1 saw an estimated 4.3% increase in the number of occupied units, the highest in the last decade.

This submarket benefits from a large student population. As post-secondary education returned to in-person learning, many students attending Trent University and Fleming College moved back to the region, adding to the demand for rental housing. This year's enrollment likely included more international students. Data from Immigration Refugees and Citizenship Canada (IRCC) shows that there were 20% more temporary residents living in Ontario on a study permit at the time of CMHC's survey compared to the year before.

Zone 2 experienced almost the same growth in demand as in 2021, about 1.3%. Improved demographic conditions supported rental demand. According to the 2021 Census, population growth in the Peterborough CMA occurred in the 25-to-44 age group. This was helped by a higher number of domestic migrants coming from other regions within Ontario (intraprovincial migration). It was also helped, to a smaller extent, by international migration. This age group, twice as large as the 15-to-24 age group, accounts for the greatest share of household formation. It also represents close to 37% of renter households in the region.

Improved labour market conditions also supported rental demand. Year-over-year growth in employment at the end of October 2022 was strong for all age groups.

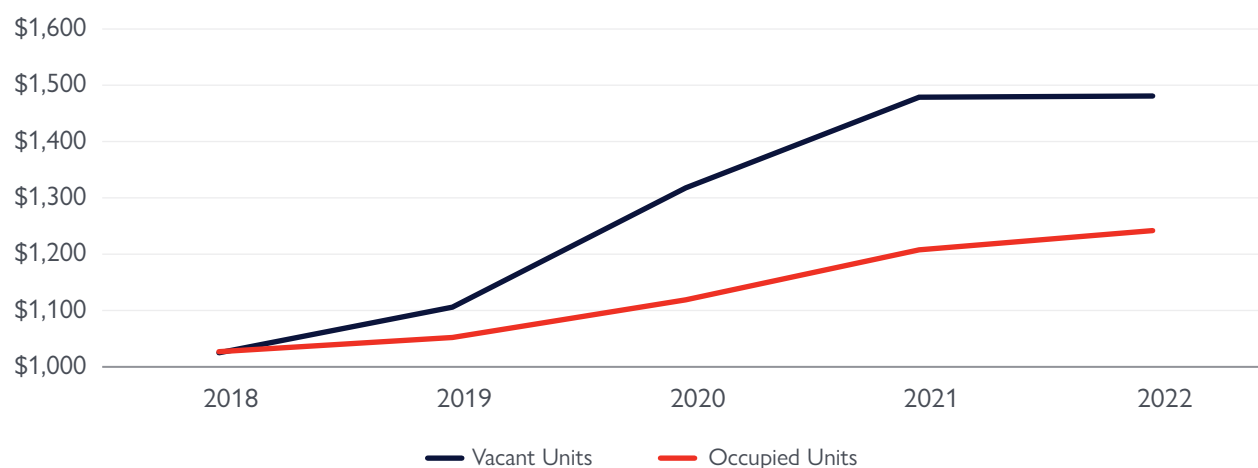
### Average rents continued to rise

Same-sample average rent for a 2-bedroom apartment in the Peterborough CMA grew by 5.4%. This rate is heavily affected by longer-term tenancies, as Peterborough had one of the lowest turnover rates among Ontario CMAs, behind Oshawa (9.5%) (table 1.1.6). At the same time, this rent growth is also driven by rents for units that were turned over to new tenants.

To isolate the effect of long-term tenancies, we provided a new table on the average rent for 2-bedroom units that turned over and units that didn't. Our comparison was based on structures that were common to both the 2021 and 2022 Rental Market Surveys (table 6.0). Within the same structure, a 2-bedroom unit that turned over to a new tenant was, on average, 23% more expensive than one that didn't turn over (table 6.1). A combination of low vacancy rate and increased pent-up repair and renovation costs encouraged property owners to raise rents once units were vacant.

The average asking rent for vacant units remained similar to that recorded in 2021. However, it was 19.2% higher than the average rent paid for occupied units (table 1.1.9 and figure 3). Vacant units are likely getting absorbed by prospective tenants willing to relocate to smaller urban areas from larger cities, especially those who work from home. Increased competition resulted in 0 vacancies in rental buildings completed after 2005 (table 1.2.1). Newer structures with modern amenities were more attractive to tenants, even though rents in such structures were the highest (table 1.2.2).

**Figure 3 Rent of vacant apartment units 19% higher than rent of occupied units, all bedroom types, Peterborough CMA (\$)**

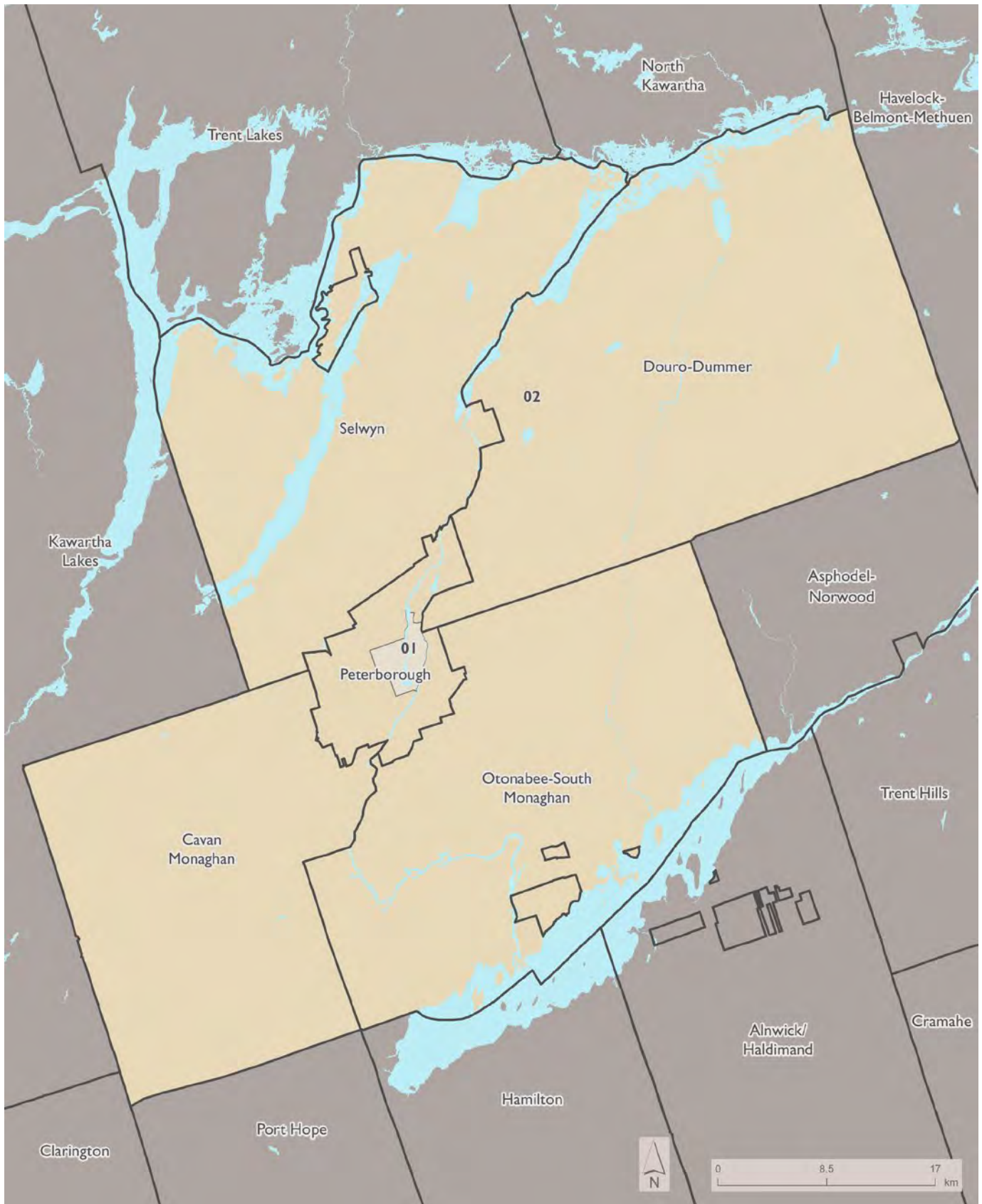


Source: CMHC



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).





## RMS Zone Descriptions — Peterborough CMA

Zone 1	<b>Downtown</b> - Part of Peterborough City (Geographically: Zone 1 is bounded by Park Hill Rd. on north, Lansdowne St. on south, Ashburnham on east, Park St./Monaghan Rd. on west). Census tracts: 0005.00, 0006.00, 0007.00, 0008.00 and 0010.00.
Zone 2	<b>Rest of Peterborough CMA</b> - As well as: Selwyn TP, Douro-Dummer Tp, Otonabee-South Monaghan Tp, Cavan-Millbrook-North Monaghan TP, Curve Lake First Nation 35 IRI, and Hiawatha First Nation IRI. Census tracts: 0001.01, 0001.02, 0002, 0003, 0004, 0009.01, 0009.02, 0009.03, 0009.04, 0011, 0012, 0013, 0014, 0100, 0101, 0102.01, 0102.04, 0103, 0105.02, 0106, 0200.00, 0201.00, 9004.00 and 9005.00.
Zone 1-2	<b>Peterborough CMA</b>

# Windsor



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.8%**

Average Two-Bedroom Rent

**\$1,197**

UP by 3.9%

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



The overall vacancy rate was at a historic low as growth in demand outpaced growth in supply.”

**Tad Mangwengwende**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

The vacancy rate in Windsor hit a record low of 1.8%. Economic recovery and growth boosted demand against supply that was constrained by labour shortages.

Rents for vacant units were 20% higher than those for occupied units, highlighting an affordability barrier for prospective tenants.

Affordability remains a challenge for lower-income households that face very stiff competition for units they can afford. This is because those units are also accessible to higher-income households.

### The vacancy rate is at a historic low

The overall apartment vacancy rate in the Windsor CMA is 1.8%. This is a record low, as shown in figure 1. There were declines in vacancies for all unit types (number of bedrooms). The overall rate in 2022 is the latest result in a declining trend from a peak of 14.5% in 2008. Declining vacancy rates over a sustained period reflect the increasingly tight rental market. In 2022, Windsor started seeing bidding wars on rental apartments for the first time. This was highlighted in conversations with stakeholders on emerging themes.

The low vacancy rate is the result of increasing rental unit demand coming up against limited rental unit supply. Fewer units are available to potential renters when more units are taken up than are made available.

### Demand for rental units grew

Migration increased rental unit demand. Windsor's population grew by 1.2% in October 2022 year-over-year. The easing of pandemic restrictions at the start of the year brought back international migrants and temporary residents. At the University of Windsor, for example, the return to campus brought students back to the area.

Higher rental unit demand was supported by economic recovery and employment growth in sectors where the workers tend to be renters. Employment was 0.8% higher than a year ago. The opening of the US-Canada border earlier this year returned jobs that had been suspended by pandemic restrictions. In addition, capital projects such as the development of the Gordie Howe Bridge contributed to the area's demand for labour.

### Supply remains tight

The rental apartment universe remained flat. This was the net result of the addition of new and renovated units and the removal of some bachelor and 1-bedroom apartments. Some units were temporarily removed for renovations while others were occupied by owners. Skilled-labour shortages constrained the market further by limiting the completion of new developments.

### Higher homeownership costs kept more people in the rental market

Supply was also constrained by higher costs of homeownership. Higher interest rates increased borrowing costs, and this led to a reduction in the capacity of some households to enter the market. The impact of this was evident in the October 2022 MLS® sales, which were 37% below their 5-year average. Some renters who would have transitioned to homeownership remained in the rental market.

This was all reflected in lower rental-unit turnovers. In 2021, almost 17% of units turned over, while in 2022, only 13% of units did. There were lower turnovers recorded for all unit types across all zones of the CMA, revealing the widespread nature of the decline. This lower turnover meant that more than 600 units that would have been available if last year's turnover rates were maintained were not available on the market.

## Average rents were up with significant differences between rents for occupied and vacant units

Same-sample average rents were up 3.6%. This was the result of the strong growth in demand coming up against limited supply. Vacant-unit rents were 20% higher than those for occupied units.

One of the consequences of a tight rental market is a greater disparity between the rents of occupied and vacant units. While the average 2-bedroom rent for occupied units was up 3.9% between 2021 and 2022, it was up 28% for unoccupied ones. This highlighted an affordability barrier faced by renters trying to enter the market or find new housing. These renters could have incomes that put prevailing average rents within their affordability limits, but they may struggle to afford the units that are available to them.

## Lower-income households face an even tighter market

The rental market is particularly tight for lower-income households. The highest vacancy rate in the CMA is for units that would be affordable only to the top 2 income quintiles. Moreover, higher incomes do not prevent renters from competing for units below their affordability limit. As a result, there's stiff competition for the few units that are affordable to the lowest-income households.

## Getting to a less constrained market will require additional supply

Windsor expects to keep growing its population in the coming years as it addresses skilled labour shortages through migration. These migrants will need to be housed. The addition of large capital projects like the electric vehicle battery plant increases demand for both skilled labour and the housing those workers require.

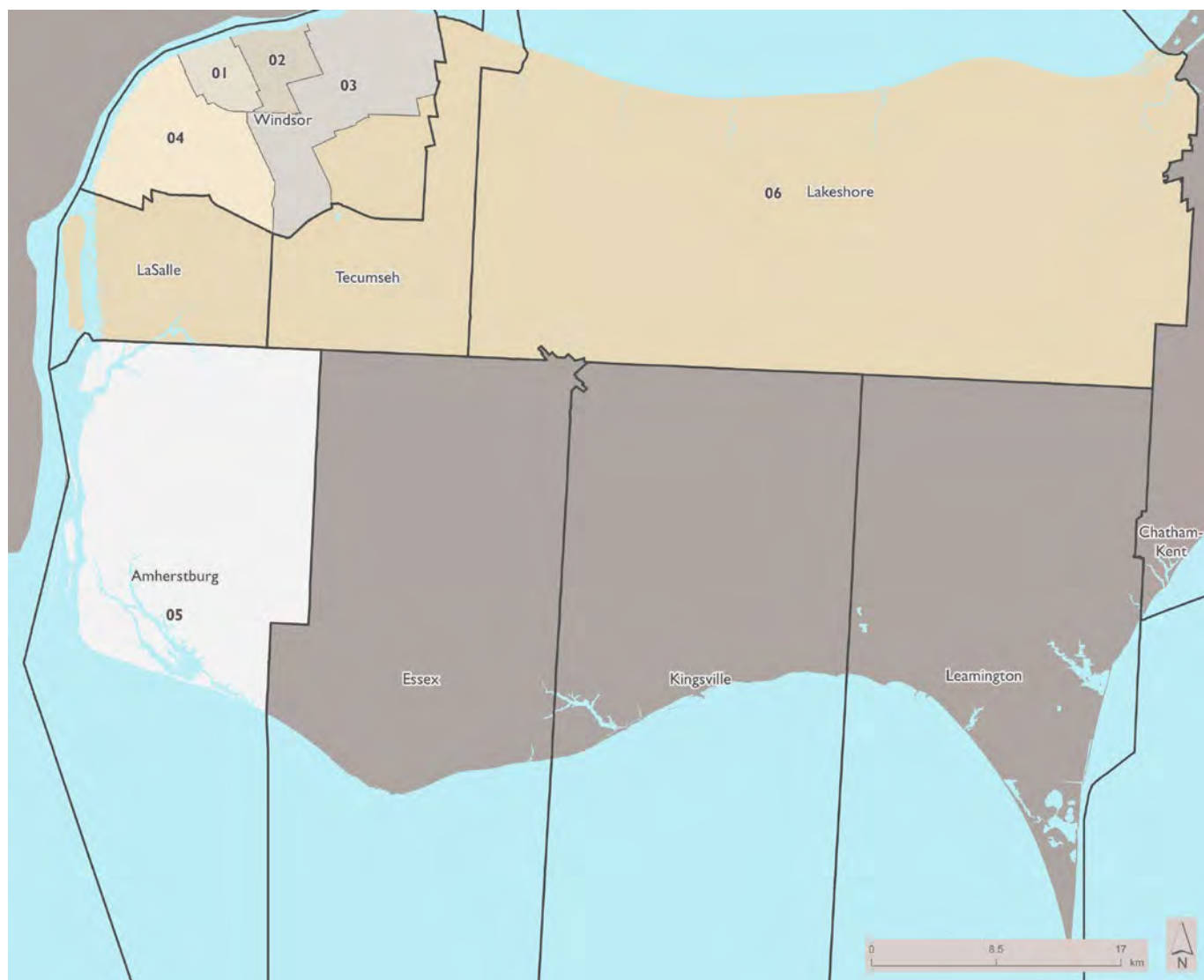
**Figure 1** Total vacancy rate at historic low



Source: CMHC



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Windsor CMA

<b>Zone 1</b>	<b>Centre</b> - North: Detroit River; East: Pierre, Moy Parkwood; South: C.P. Rail, Ypres Blvd.; West: Conrail.
<b>Zone 2</b>	<b>East Inner</b> - North: Detroit River; East: Buckingham, Raymo, Norman, Chrysler; South: C.P. Rail, Tecumseh Rd; West: Zone 1.
<b>Zone 3</b>	<b>East Outer</b> - North: Detroit River; East: City Limit; South: City Limit; West: Zone 2.
<b>Zone 4</b>	<b>West</b> - North: Conrail; East: Howard Avenue; South: City Limit; West: Zone 3.
<b>Zones 1-4</b>	<b>Windsor City</b>
<b>Zone 5</b>	<b>Amherstburg Twp</b>
<b>Zone 6</b>	<b>Rest of CMA</b> - Includes: Essex T., LaSalle T., Lakeshore Twp., St. Clair Beach V./ Sandwich South Twp./ Tecumseh T.
<b>Zones 1-6</b>	<b>Windsor CMA</b>

# St. Catharines-Niagara



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**2.8%**

Average Two-Bedroom Rent

**\$1,260**

UP by 6.3%

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“The largest supply increases in over 30 years helped to push the vacancy rate up by almost 1 percentage point, but didn’t slow rent growth.”

**Inna Breidburg**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

In 2022, rental supply increased faster than demand.

The vacancy rate for purpose-built rental apartment grew to 2.8% in October 2022. This was up from 1.9% in October 2021 and was aligned with the 10-year historical average.

The same-sample average apartment rent increased by 5.9%, the strongest rate of growth in over 30 years.

The gap between the average asking rent for vacant units and the rent paid for occupied units widened to 17.8%.

The number of affordable rental options declined. More tenants stayed put as the costs of changing rental accommodations increased.

### Vacancy rate is up as rental supply increased faster than demand

The average vacancy rate for purpose-built rental apartments in the St. Catharines-Niagara census metropolitan area (CMA) was 2.8% in October 2022. While higher than the rate of 1.9% recorded in October 2021, it aligned with the 10-year historical average. Greater rental demand was driven by stronger employment and migration, as well as higher mortgage rates that kept more households in rentals. Supply increases were more significant, resulting in higher vacancy rates than in 2021.

### Largest supply increases in 30 years

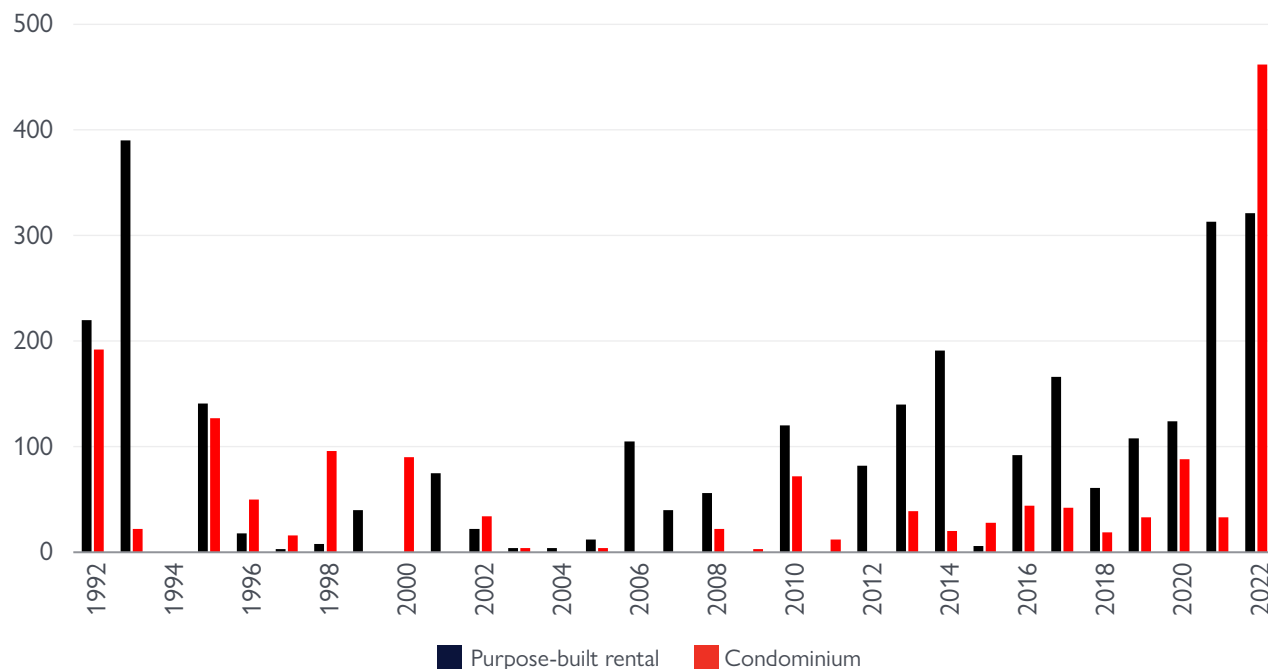
Over the 12-month period ending June 30, 2022 (the cut-off date for the survey), 321 new purpose-built rental apartments were completed—the highest number since the early 1990s. When accounting for existing units being removed from the universe<sup>1</sup> and old projects resuming operations, the net increase of 283 units, or 1.8%, was significant.

New rental apartments are in high demand. Historically, this has been evidenced by their lower-than-average vacancy rates. However, it takes time to rent them out. With the rent premium for new accommodations increasing in 2022, the absorption phase may stretch. Because most projects were completed in the second half of the survey year, they were still in their absorption phase in October 2022.

Furthermore, the number of condominium apartments completed over the survey year was 462—a 30-year high. Some condominium apartments are rented out by investors and owners who don't live in their units. There is no data available on this activity in St. Catharines-Niagara. In nearby Hamilton and Toronto, the share of rented condominium apartments as part of the total condominium apartment stock in 2022 was 25% and 37%, respectively. The newly completed condominium apartments in St. Catharines-Niagara likely contributed to the increase of rental supply.

<sup>1</sup> Due to reasons such as demolition, renovations, and conversions to ownership.



**Figure 1 Apartment completions at 30-year high**

Source: CMHC

Completions over the 12 months period between July 1 and June 30.

Additionally, 319 purpose-built rental and 205 condominium apartments were completed between July 1, 2022, and October 2022. These units weren't included in the survey, but could have been available for rent when it was conducted. These projects satisfied some of the rental demand.

Finally, Brock University completed construction of a 308-bed student residence in 2022. The new facility attracted new and existing students. This translated to higher turnover and vacancy rates in some parts of St. Catharines.

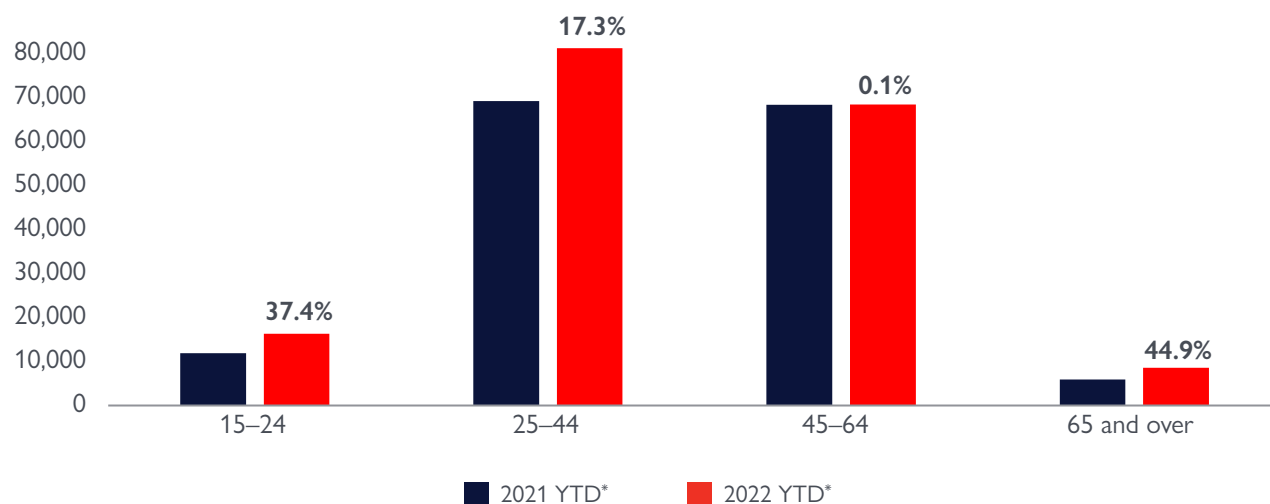
### Higher rental demand amid stronger employment, income, and demographic conditions

Amid stronger rental demand, the number of occupied rental apartments grew by 129 units, or 0.8%.

One of the key sources of rental demand was newly formed households headed by younger adults. Year-to-date<sup>2</sup>, the population of those aged 15 to 24 and 25 to 44 increased by 3.2% and 5.7%, respectively.

The economy in St. Catharines-Niagara bounced back. Compared to 2021, year-to-date full-time employment in the 15-to-24 and 25-to-44 age groups was up by 37.4% and 17.3%, respectively. Employment gains were concentrated in the higher-paying service industries, which provided new renters with the financial ability to pay for their accommodations.

<sup>2</sup> January to September.

**Figure 2 Full-time employment growth supports renter household formation**

Source: Statistics Canada Labour Force Survey

\*YTD (Year-to-Date) refers to January to September.

Another source of new renter demand was immigration. Year-to-date<sup>3</sup>, 2,225 permanent residency visas were granted in St. Catharines-Niagara,<sup>4</sup> up 23% from 2021. While some of the recipients were already in Canada, the majority were new immigrants. Typically, newcomers rent before purchasing a home.

With post-secondary institutions offering in-person classes, there were 25% more international students who received study permits in Ontario this year. Higher education in St. Catharines-Niagara remains attractive to international students, who typically rent while studying.

### Slower transition to homeownership

Fewer renters became homeowners in 2022. As COVID-19—related restrictions eased, and schools and offices reopened, the need for larger living spaces and backyards became less

crucial. This slowed transition to homeownership. Additionally, rising mortgage rates kept more tenants in the rental market despite the declining home prices seen in the second half of 2022.

### Fewer affordable rental options

The higher vacancy rate didn't tame rent growth. The same-sample average rent grew by 5.9%, the fastest rate in over 30 years. The average asking rent for vacant units was almost 18% higher than the overall average rent for occupied units. The disparities in rents faced by prospective tenants were particularly large for 1- and 3-bedroom units, which reached 26% and 33%, respectively.

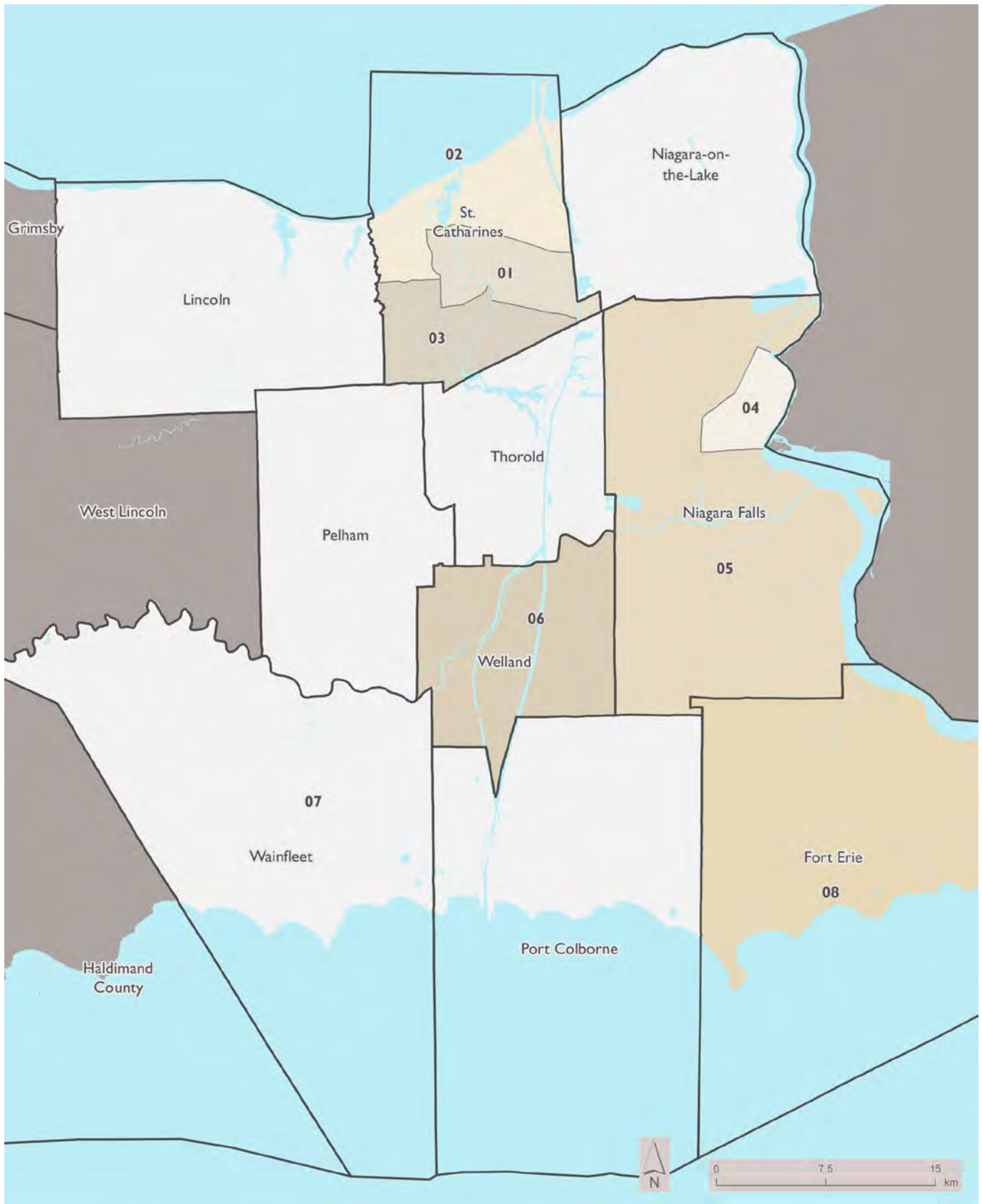
More tenants stayed put to avoid facing higher rents. The rental universe and vacancy rates in the lower rent ranges declined, leaving lower-income households with fewer options.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).

<sup>3</sup> January to September.

<sup>4</sup> IRCC (Immigration Refugees and Citizenship Canada).



## RMS Zone Descriptions — St. Catharines CMA

<b>Zone 1</b>	St. Catharines (Core)
<b>Zone 2</b>	St. Catharines (Remainder North)
<b>Zone 3</b>	St. Catharines (Remainder South)
<b>Zones 1-3</b>	<b>St. Catharines City</b>
<b>Zone 4</b>	Niagara Falls (Core)
<b>Zone 5</b>	Niagara Falls (Remainder)
<b>Zones 4-5</b>	<b>Niagara Falls City</b>
<b>Zone 6</b>	Welland
<b>Zone 7</b>	Niagara-on-the-Lake, Lincoln, Wainfleet, Port Colborne, Thorold, Pelham
<b>Zone 8</b>	Fort Erie
<b>Zones 1-8</b>	<b>St. Catharines-Niagara CMA</b>

# London



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.7%**

Average Two-Bedroom Rent

**\$1,393**

UP by 5.8%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**0.9%**

Average Two-Bedroom Rent

**\$\*\***

\*\*Data suppressed.

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“The lowest vacancy rate in London since 2001 contributed to a substantial increase in rents, particularly for turned-over units.”

**Musawer Muhtaj**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

Demand for purpose-built rental apartments outpaced the increase in new supply, pushing the vacancy rate down to 1.7% in October 2022.

Strong rental demand and high carrying costs contributed to an average rent increase of 25.7% for 2-bedroom units that turned over to a new tenant.

The average rent of a 2-bedroom turned-over unit (\$1,664) was unaffordable to 60% of renter households in the London CMA.

### Overall vacancy rate drops to its second-lowest level on record

The London census metropolitan area's (CMA) purpose-built rental market tightened in 2022 as demand for rental apartments outpaced the increase in new supply. The region's overall vacancy rate for purpose-built rental apartments fell to 1.7% in October 2022, the second-lowest level on record. Conversely, vacancy rates in 2 zones, St. Thomas and Strathroy Caradoc, increased to 2.9% and 3.6%, respectively.

After accounting for renovations, demolitions, conversions, changes to existing structures, and new construction, the purpose-built rental apartment universe grew by 564 units, or 1.2%. This wasn't enough to meet demand, as the number of occupied apartment units grew by 649 units, or 1.4%.

St. Thomas accounted for about 28% (160 units) of the universe's total net increase, resulting in its supply growing by 6.1%. Demand could not keep pace, growing by 4.2% (110 units), pushing the vacancy rate up.

### Immigration, students, and homeownership costs were key factors supporting rental demand

Data from Immigration, Refugees and Citizenship Canada (IRCC) suggests there were 4,475 total permanent resident admissions to the London CMA in the first 3 quarters of 2022. This was about 10% more than in 2021. It was also 9% more than the combined number of permanent resident admissions in 2019 and 2020 over the same period.

As in other regions across Canada, fewer renters likely transitioned to homeownership, due to higher mortgage carrying costs (refer to national section for details).

Since the London CMA is home to 2 post-secondary institutions, students are always a key driver of rental demand. The largest vacancy rate declines in the city of London were in Zones 4 and 8 (Northwest and East). Because these zones are close to Western University and Fanshawe College, their lower vacancy rates suggest a larger student presence this year.

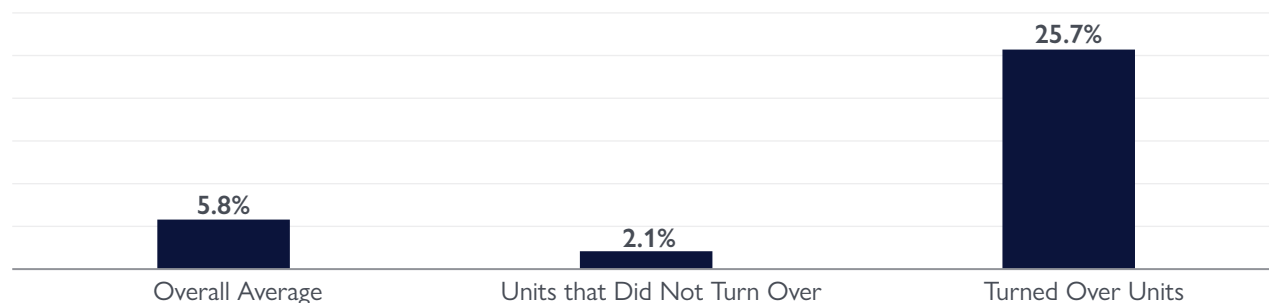
Employment was healthier compared to last year, also supporting demand. Employment of the 25-44 age cohort was up 7% year-over-year in October 2022.

### Rents at turnover increased substantially

The average rent for a 2-bedroom purpose-built apartment unit in London was \$1,393, up 5.8% from the previous year. This average includes rents for both units that did and did not turn over to a new tenant. Rent increases can be significantly different for each group. Isolating rents for just turned-over units can give a better understanding of the experiences of renters who rented a new apartment.

According to new data published in this year's survey, the average rent of 2-bedroom units that turned over was \$1,664. In comparison, the average rent of 2-bedroom units that did not turn over was \$1,296.

Strong rental demand contributed to a substantial increase in rents, particularly for turned-over units. The percentage change in rents for 2-bedroom units that turned over in 2022 and provided rent data in 2021 was 25.7%. The percentage change for units that did not turn over was 2.1% (figure 1).

**Figure 1 Higher average rent increase in turned-over units, London CMA**

Source: CMHC

Inflation likely also played a role in strong rent growth at turnover. Inflation increases landlords' carrying costs, which ultimately get passed on to the new tenant at turnover.

### Rapid rent growth further challenges affordability

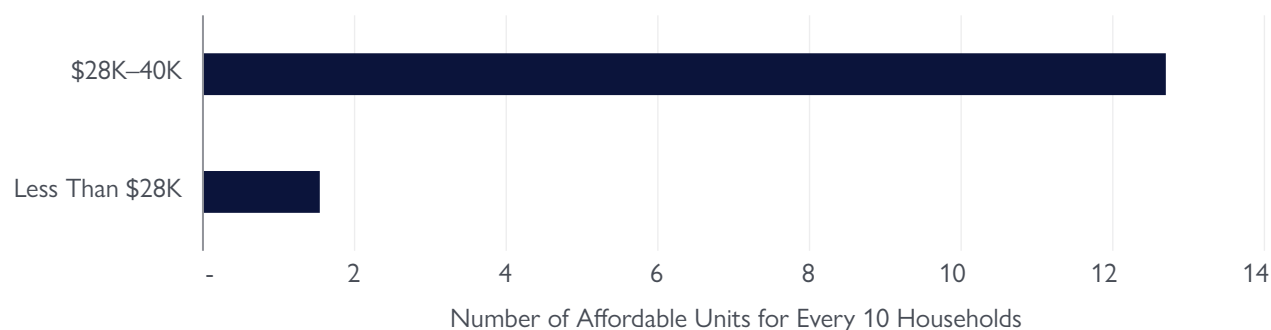
According to the monthly affordable rent ranges in table 3.1.8, turned-over units were unaffordable (rents above 30% of gross annual income) for most renter households. To afford the average rent of a 2-bedroom turned-over unit, a household required an annual income above \$59,000. We estimate that 60% of renter households in the London CMA were below this income threshold.

Newer units were even less affordable. The average rent for a 2-bedroom unit in structures completed between July 2019 and June 2022 was \$2,357 (table 3.1.7). As such, high rents

may have enticed many renters to stay put, resulting in less turnover. The turnover rate for 2-bedroom apartment units in the London CMA fell by 4.5 percentage points to 13.6% in October 2022.

Current rent levels made it much more difficult for the lowest-income earners to find affordable housing. Estimates show that, for every 10 households earning less than \$28,000, there were fewer than 2 affordable units in the universe (figure 2).

While the situation was considerably less difficult for households earning \$28,000 to \$40,000, options were still very limited after factoring in competition. For every 10 households earning \$28,000 to \$40,000, there were about 13 affordable units in the universe. These households would have to compete with those earning less than \$28,000 due to the lack of supply available to them. It's also important to note that the vast majority of these units are already occupied.

**Figure 2 Limited affordable housing options for lowest-income households, London CMA**

Source: CMHC

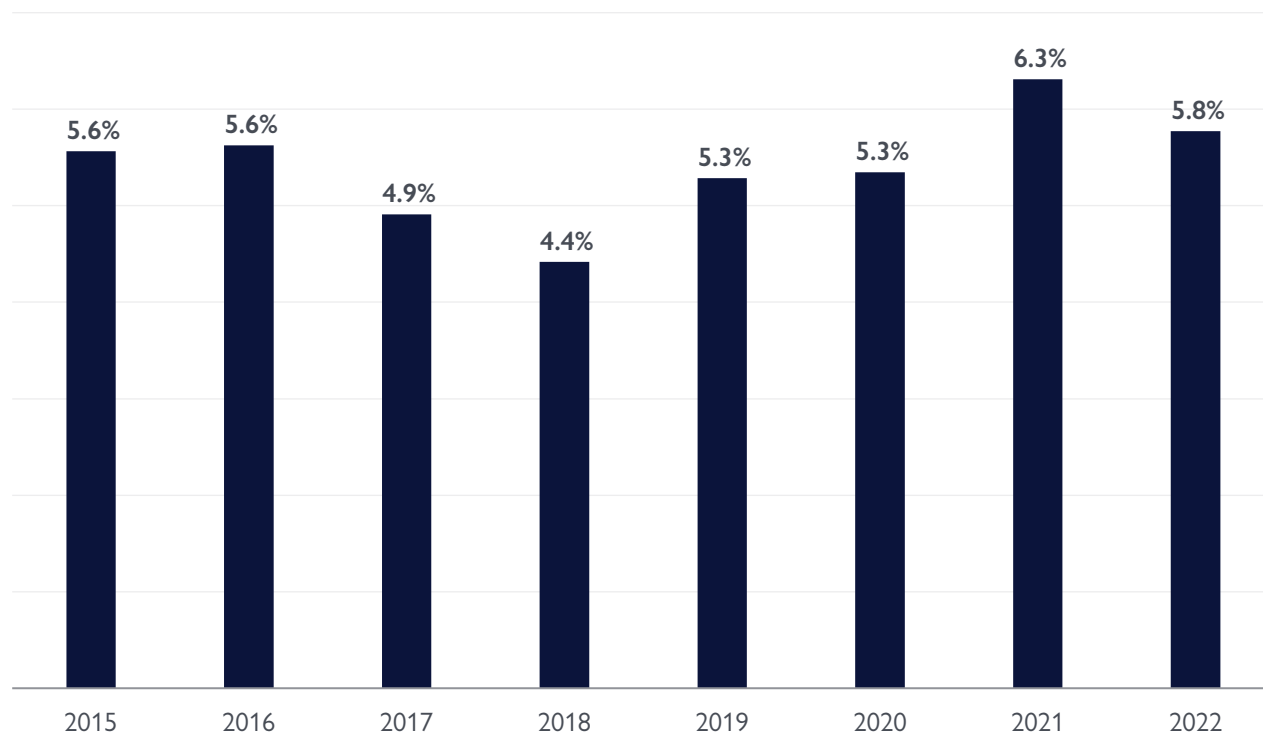
## The condominium market's share of rental housing diminished in 2022

This past year, London's condominium market played a smaller role in the overall rental market. Rental condominium units accounted for 5.8% of all units in CMHC's total rental apartment universe (condominium + purpose-built), down from 6.3% last year (figure 3). This is due to there being 253 fewer condominium units on the rental market. Market

intelligence suggests purpose-built apartments tend to be more popular with renters, since they provide long-term stability and have better management services.

The vacancy rate increased slightly to 0.9% from 0.3%, likely owing to higher rents compared to the purpose-built rental market.

**Figure 3** London's condominium market had smaller share of overall rental market in 2022

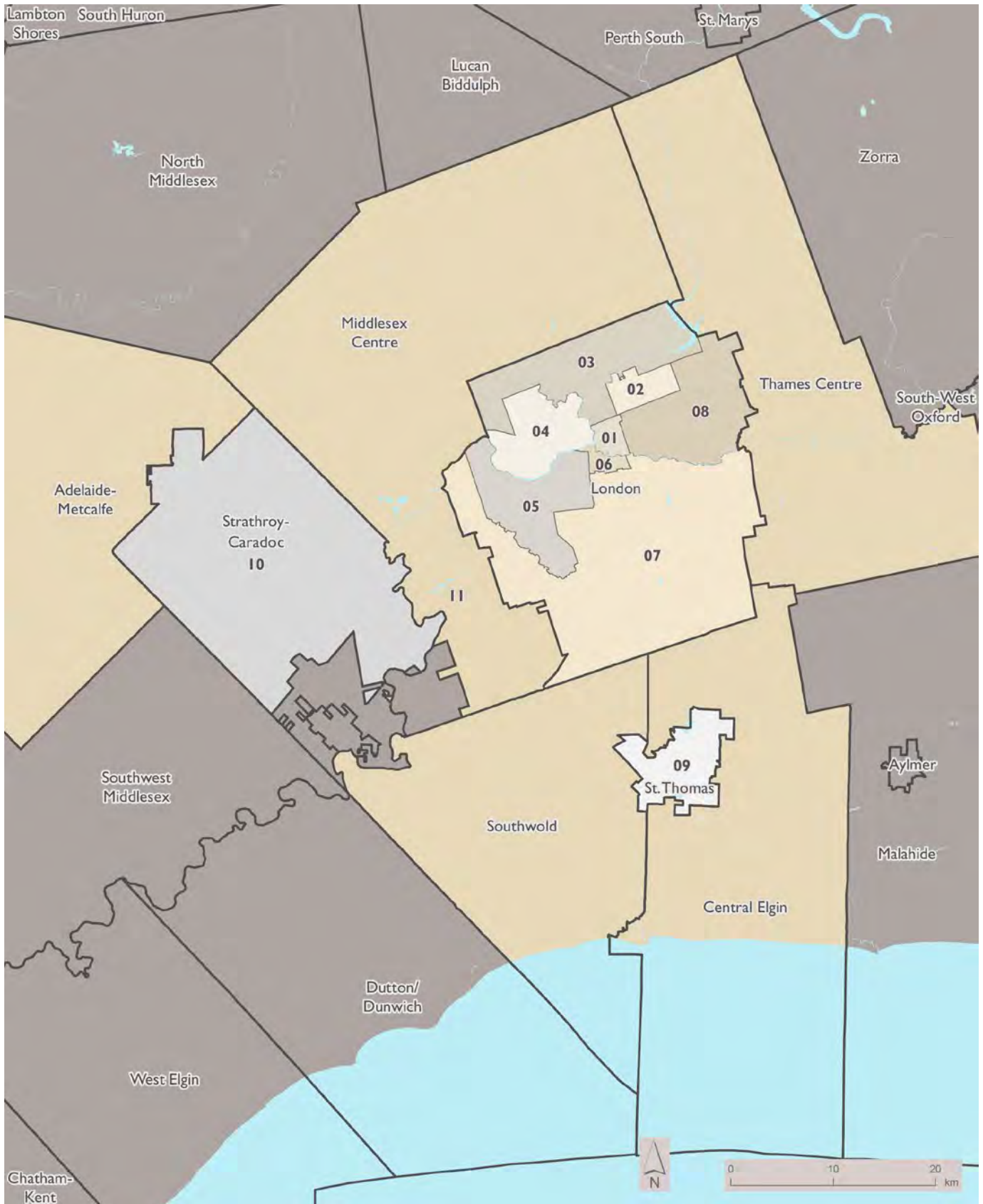


Source: CMHC



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).

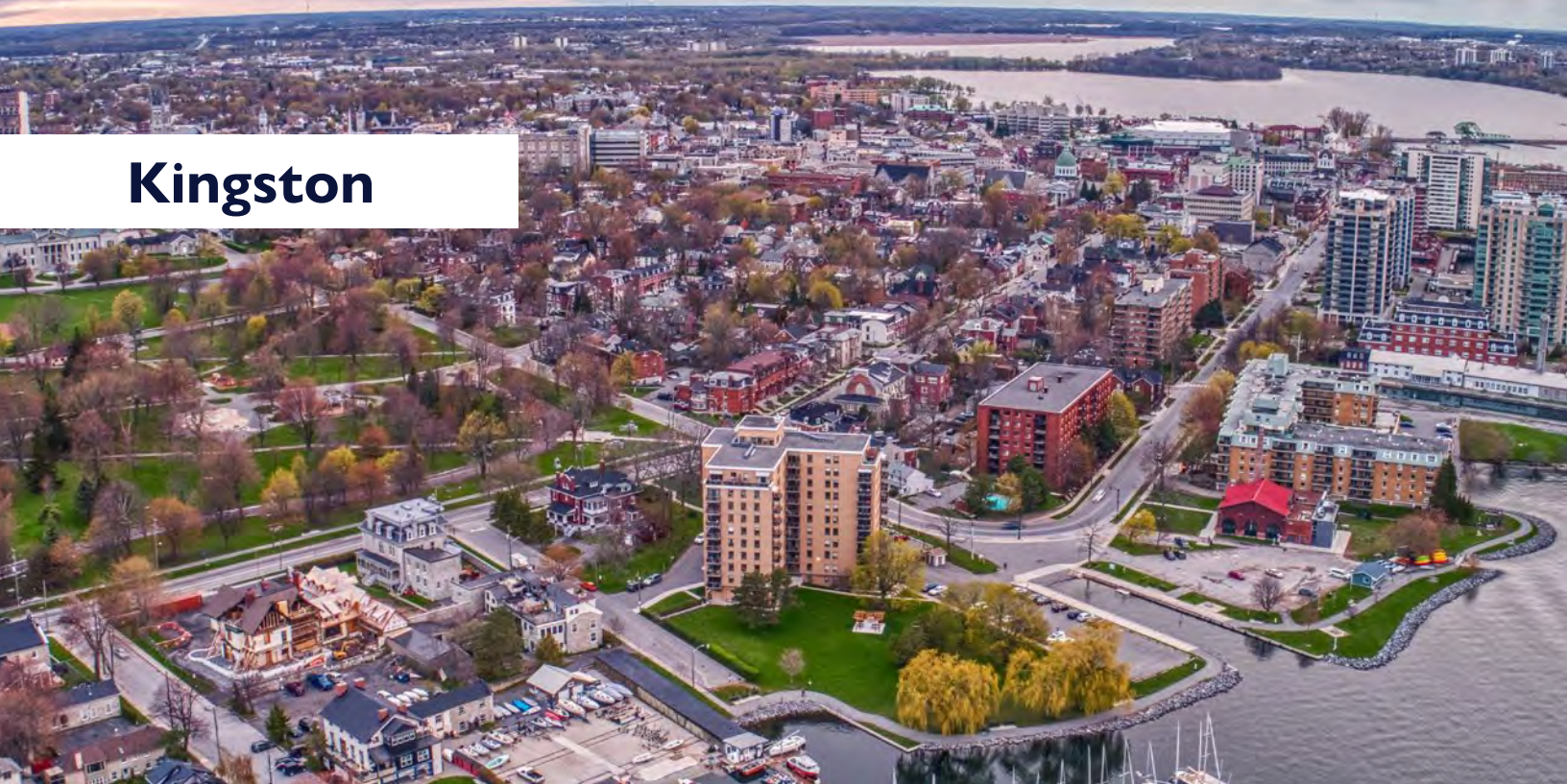




## RMS Zone Descriptions — London CMA

<b>Zone 1</b>	<b>Downtown North</b> - Census tracts 0022, 0023, 0033, 0034. North to Oxford St., East to Adelaide St and bound by the Thames River to the West and South.
<b>Zone 2</b>	<b>Northeast</b> - Census tracts 0038, 0039, 0040, 0041, 0046, 0047, 0048. North of Oxford St., East of Adelaide St., West of Clarke Rd, North to the River and Kilally Rd.
<b>Zone 3</b>	<b>North</b> - Census tracts 0042, 0043, 0045, 0049.01, 0049.02, 0050.01, 0050.02, 0050.03, 0051, 0120.03. North of Oxford St. from North Thames River to Adelaide, West of Fanshawe Lake, East of Denfield, South of Medway.
<b>Zone 4</b>	<b>Northwest</b> - Census tracts 0008, 0009.01, 0009.02, 0020.01, 0020.02, 0021, 0044.01, 0044.02, 0044.04, 0044.05, 0044.06, 0044.07. North of Thames River, West of North Thames River, South of Fanshawe Park from Hyde Park to River, East of Hyde Park.
<b>Zone 5</b>	<b>Southwest</b> - Census tracts 0005.01, 0005.02, 0005.03, 0006.01, 0006.02, 0006.04, 0006.05, 0007.01, 0007.02, 0010.01, 0010.02, 0011, 0019, 0110.01. South of Thames River, East of Westdel Bourne to Dingman Creek, North of Dingman Creek, West of Bostwick & Wharnccliffe.
<b>Zone 6</b>	<b>Central South</b> - Census tracts 0015, 0016, 0017 and 0018. Includes Old South area - East of Wharnccliffe Rd, West of Adelaide St., North of Chester Rd, and South of the Thames River.
<b>Zone 7</b>	<b>South</b> - Census tracts 0001.02, 0001.03, 0001.05, 0001.06, 0001.07, 0001.08, 0002.01, 0002.02, 0002.03, 0002.04, 0003, 0004.01, 0004.03, 0004.04, 0012, 0013, 0014 and 0110.02. East of Woodhull Rd., South of Zone 5, 6 & 8 and south of the Thames River, West of Westchester Bourne, North of Southminster Bourne.
<b>Zone 8</b>	<b>East</b> - Census tracts 0024, 0025, 0026, 0027.03, 0027.04, 0027.05, 0027.06, 0027.07, 0028, 0029, 0030, 0031, 0032, 0035, 0036, 0037. East of Adelaide St, South of Oxford St (except section East of Clarke Rd) to the Eastern City boundary and down to the South branch of the Thames River.
<b>Zones 1-8</b>	<b>London City</b>
<b>Zone 9</b>	<b>St. Thomas</b>
<b>Zone 10</b>	<b>Strathroy-Caradoc TP</b>
<b>Zone 11</b>	<b>Rest of CMA</b> - Includes markets outside of what is included in Zones 1-10.
<b>Zones 1-11</b>	<b>London CMA</b>

# Kingston



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.2%**

Average Two-Bedroom Rent

**\$1,471**

UP by 4.9%

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Tight rental market conditions persisted in Kingston this year, evidenced by a low vacancy rate and substantial rent increase at unit turnover.”

**Olga Golozub**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

The vacancy rate for purpose-built rental apartments was 1.2% in October 2022, statistically unchanged from 1.4% in 2021. The vacancy rate stabilized because rental demand kept pace with supply growth in 2022.

Improved economic and demographic conditions for renters, like recovery in employment and renewed student inflows, supported demand.

Kingston had the second-lowest vacancy rate in Ontario for 2 years in a row, despite a large expansion of the rental universe in 2021 and 2022.

Despite strong growth in supply, the number of affordable rental options remained limited. The rent for 2-bedroom apartments that turned over to new tenants increased by 21.6%, on average, in 2022.

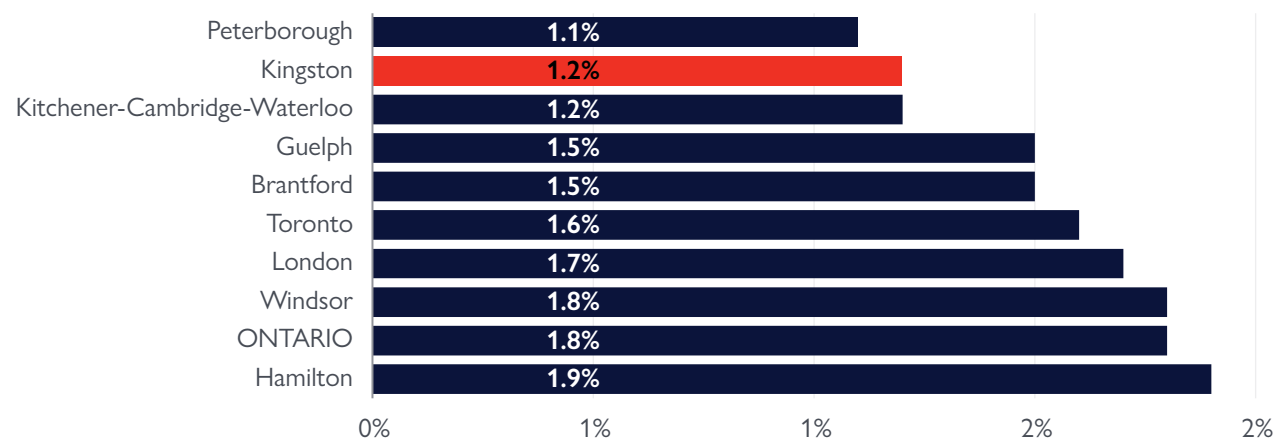
### Vacancy rate held steady in 2022 following significant market tightening the year before

The vacancy rate for purpose-built rental apartments in the Kingston census metropolitan area (CMA) remained stable at 1.2% in October 2022. This is, statistically speaking, unchanged from 1.4% in 2021 (table 1.1.1). The stability in the apartment vacancy rate resulted from growth in both occupancy and the rental universe.

Among all unit types, the vacancy rate of 1-bedroom units saw a statistically significant decline in 2022. Meanwhile, the vacancy rates for 2- and 3-bedroom apartments remained unchanged despite a considerable expansion in the universe of these unit types.

At 1.2%, the Kingston vacancy rate remained the second-lowest among Ontario CMAs (figure 1). Tight market conditions persisted despite the above-average gains of rental supply in both 2021 and 2022, signalling strong demand for rental accommodation.

**Figure 1** Kingston 2022 vacancy rate one of the lowest in Ontario



Source: CMHC

## Largest increase in supply since 2004

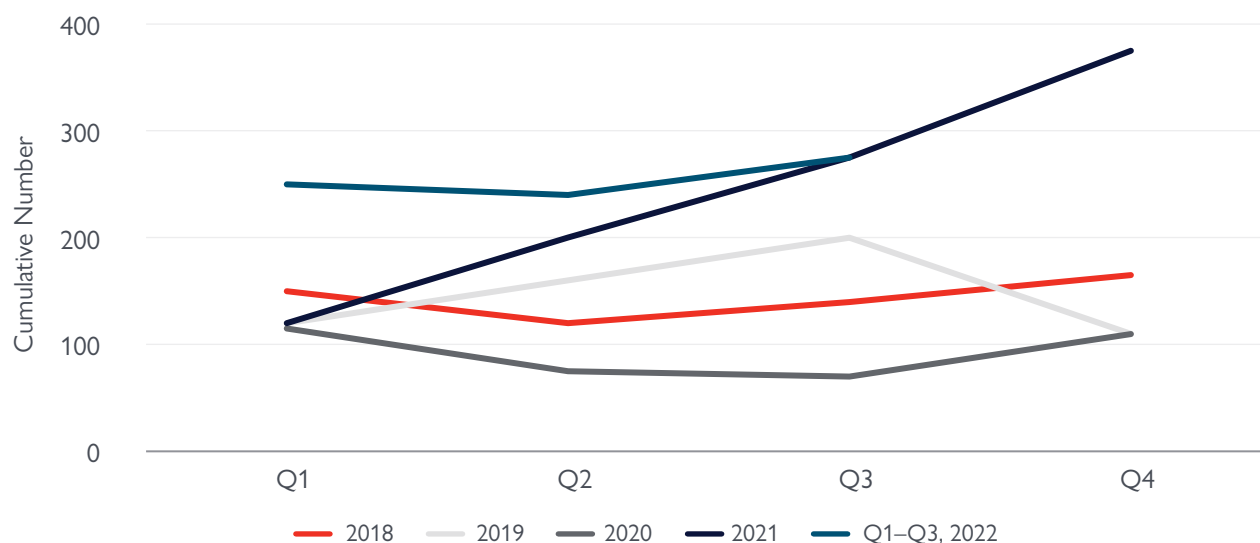
The CMA's apartment universe expanded by nearly 405 units (2.8%), the largest annual increase since 2004. The increase is a result of the elevated number of new rental units started over the past few years now coming to market. The universe grew for all unit types. Nearly 60% of the additions were newly completed units in Zones 1, 2 and 4. The rest was the return of units temporarily removed from the universe in previous years.

## Increased in-migration and stronger labour market conditions contributed to greater demand

As local economies reopened, labour market conditions improved. In October 2022, overall employment was well above the pre-COVID-19 level. Employment for the 15-to-24 age group, members of which have a high propensity to rent, improved as well. According to the 2021 Census, the population of this age group grew in the Kingston CMA.

There were 30% more new permanent residents settled in the Kingston area in the first 3 quarters of 2022 than the same period last year (figure 2). In addition, strong growth in employment for those aged 25 to 44 brought a steady inflow of new tenants into rental housing. Students returning to Queen's University and St. Lawrence College also increased demand for rental accommodation.

**Figure 2 Higher number of permanent resident admissions to Kingston CMA in the first nine months of 2022**



Source: IRCC, September 30, 2022

## Demand increased at similar rate as supply

Strong growth in rental supply was matched by an equally robust increase in demand. Approximately 430 more units (an increase of 3%) were occupied in October 2022 in the Kingston CMA.

The vacancy rate increased in Zone 2, but declined in Zones 3 and 4. The suburban Zone 4 had the tightest market conditions. There, the vacancy rate dropped to 0.6%, the lowest level in over 10 years. The vacancy rate declined even though most of the new rental supply has been located in this zone. Over the last 3 years, 635 units, or 89%, of the total new supply occurred in Zone 4 (table 3.1.7). This suggests that newer units with modern amenities were more attractive to tenants despite the high rents.

Recent rental construction activity in Zone 4 contrasts with that in Zone 3. During the last 3 years, no additions of new rental stock occurred in Zone 3. This zone has only seen the return of units temporarily removed from the universe in previous years. Increased competition alongside limited supply exerted downward pressure on the vacancy rate in Zone 3, which declined to 1.4% in October 2022.

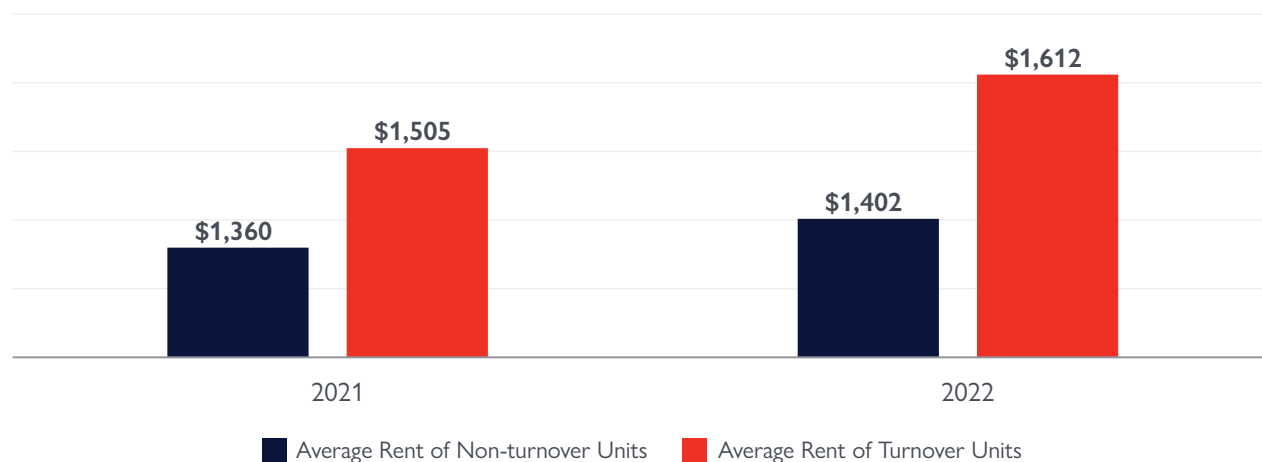
## Rent growth accelerated due to unit turnover

The same-sample average rent increase for 2-bedroom apartments in the Kingston CMA was 4.9% in 2022, up from 2.9% in 2021. This growth was driven by rents for units that were turned over to new tenants. However, the rate is also affected by longer-term tenancies. Tenants who remain in the same unit only face rent increases in line with the Ontario rent guidelines.

To isolate the effect of long-term tenancies, we provided a new table on the average rent for 2-bedroom units that turned over and units that didn't. Our comparison was based on structures that were common to both the 2021 and 2022 Rental Market Surveys (table 6.0).

Strong rent growth was driven by intense competition for units that were vacated. Within the same structure, a 2-bedroom unit that turned over to a new tenant was, on average, 21.6% more expensive than one that didn't turn over (table 6.1). A combination of low vacancy rate and increased pent-up repair and renovation costs encouraged property owners to raise rents once units were vacant.

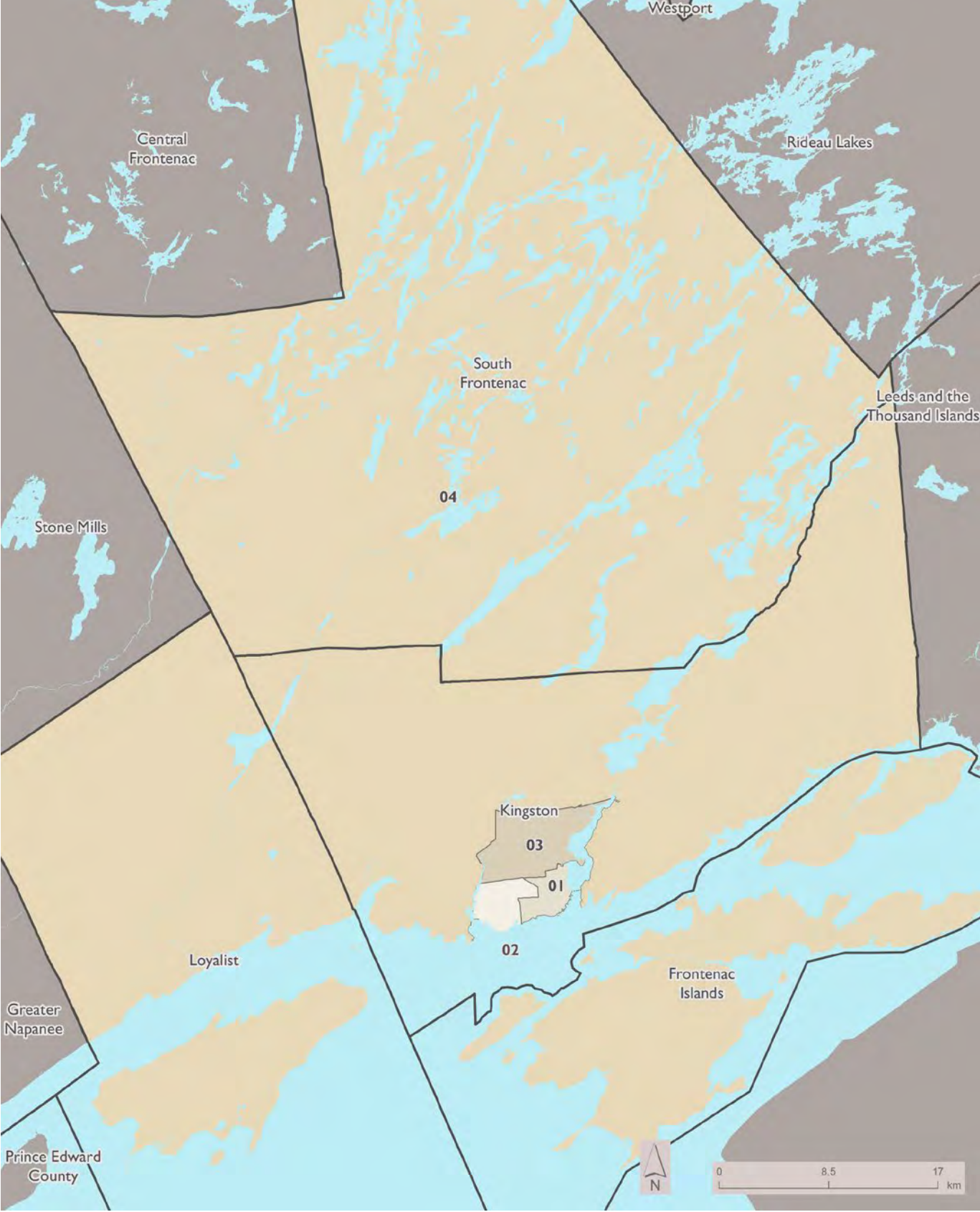
**Figure 3** Average rent of turnover two-bedroom apartments increased in 2022



Source: CMHC



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Kingston CMA

<b>Zone 1</b>	<b>Downtown Kingston</b> - Southern and Eastern boundaries determined by Lake Ontario and the Cataraqui River respectively. Western boundary determined by the following streets: Sir John A Macdonald, Albert, Princess, Division and Montréal. Northern boundary determined by the following streets: Concession, Joseph and Railway.
<b>Zone 2</b>	<b>Southwestern Kingston City</b> - Southern and Western boundaries determined by Lake Ontario and the Little Cataraqui River respectively. Eastern boundary abuts Zone 1.
<b>Zone 3</b>	<b>Northern Kingston City</b> - Southern boundary determined by Zones 1 and 2. Eastern, Northern and Western boundaries determined by Kingston's former city limits.
<b>Zone 4</b>	<b>Rest of Kingston CMA</b>
<b>Zones 1-4</b>	<b>Kingston CMA</b>



# Toronto



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.7%**

Average Two-Bedroom Rent

**\$1,765**

UP by 6.5%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**1.1%**

Average Two-Bedroom Rent

**\$2,671**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Recovery in the labour market brought vacancy rates in the GTA back to pre-pandemic levels, highlighting again the underlying issue of low rental supply.”

**Dana Senagama**  
Senior Specialist  
MARKET INSIGHTS



**Christopher Zakher**  
Senior Analyst, Economics  
MARKET INSIGHTS

## HIGHLIGHTS

Receding COVID-19 pandemic restrictions (such as border closures and business shutdowns) and rising homeownership costs caused rental demand to surge. Vacancy rates in the primary (purpose-built apartment) and secondary (condominium apartment) rental markets fell in 2022 from their levels in the previous year.

Access to affordable supply remains a challenge for low- and middle-income renter households. Units affordable to these households had the lowest primary-market vacancy rates.

The number of apartments added to the primary rental stock in 2022 was the highest in recent decades. This increase, however, couldn't offset the growth in demand.

In the primary rental market, increased competition led to strong rent growth, especially for units turned over to new tenants.

The secondary rental market continues to play an integral role in the Greater Toronto Area (GTA) rental space. The share of condominium apartments held by long-term investors (leased units) grew to 36.2% in 2022.

### Vacancy rate returned to pre-pandemic level in the primary rental market

The vacancy rate for primary rental apartments in the GTA fell to 1.7% in 2022, from 4.4% in the previous year (table 1.1.1). This was a level more consistent with the 10-year pre-pandemic (2010–2019) average of 1.5%. Fewer disruptions to economic activity and immigration in 2022 resulted in a surge in rental demand.

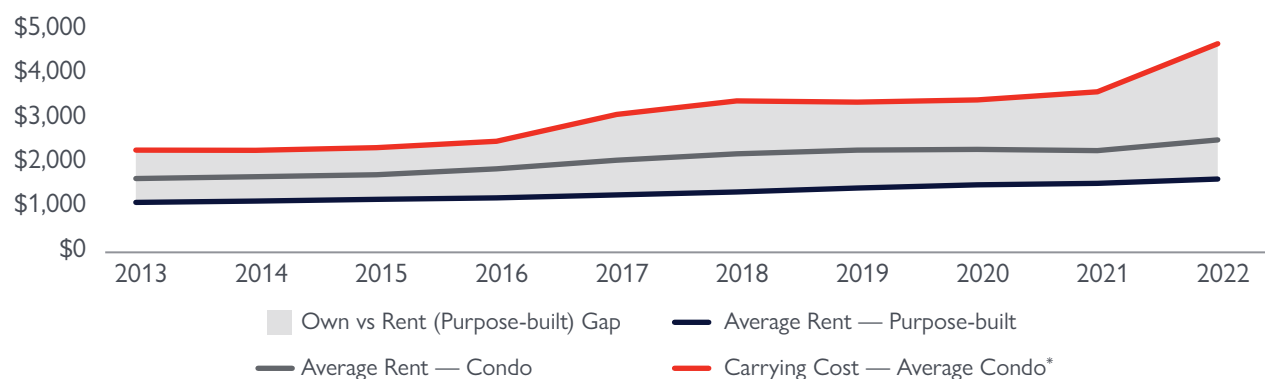
As a result of more businesses reopening, there was a near complete recovery in full-time employment among youth (ages 15–24). This group was disproportionately employed in industries adversely impacted by public health measures. Their employment recovery is important for the rental market, since youth have the highest propensity to rent according to Census data.

Full-time employment among people aged 25 to 44 was also up in 2022 and above pre-pandemic levels. This age group accounts for nearly half of renter households in the Toronto CMA. Improved labour-market conditions for the

GTA's youth, the population aged 25 to 44, and the broader population, enabled some to enter (or re-enter) the rental market in 2022.

A strong resurgence in population growth due to eased COVID-19 border restrictions and higher immigration targets also contributed to strong rental demand. The latest estimates from Statistics Canada (2021/2022) indicate that Ontario had the highest level of international migration in the past 50 years. A record gain in non-permanent residents was one reason for this. Historically, the GTA accounted for approximately 80% of net international migration to Ontario. New migrants typically rent in their first few years of living in Canada.

Amid rising mortgage carrying costs (figure 1), many debating between renting and owning likely opted to rent. Meanwhile, some prospective buyers currently renting chose to occupy their units for longer, as evidenced by declining turnover rates (table 1.1.6). Exceptionally weak sales volumes for both existing and new homes, through the second half of 2022, further suggest decreased mobility between renting and homeownership.

**Figure 1 Monthly rent and carrying cost of ownership, GTA**

Sources: CMHC, TRREB. CMHC calculations

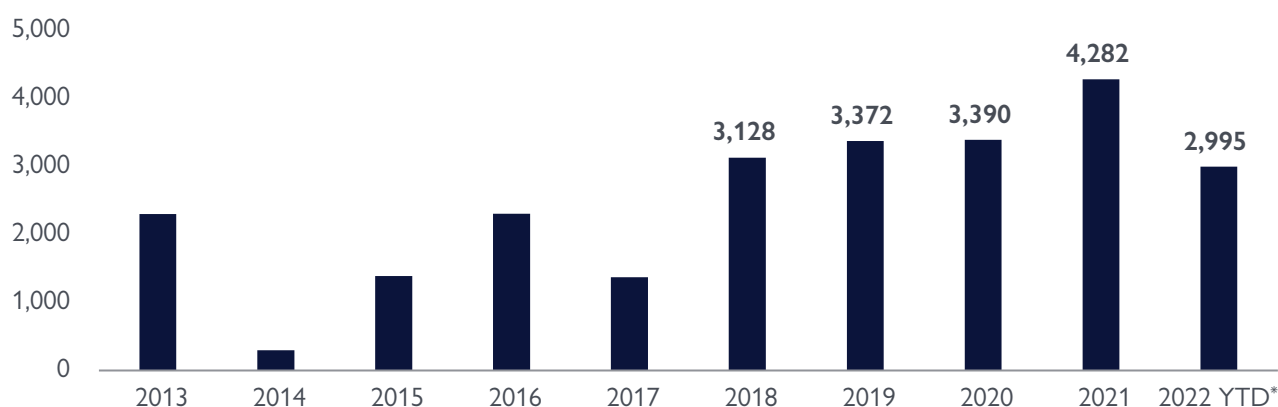
\*Carrying costs for a condominium are calculated on the average MLS® price, a 5% down payment, the discounted five-year fixed mortgage rate, and a 25-year amortization period. They include condominium fees, property taxes, and mortgage loan insurance premiums.

## Supply increased, but affordability challenges persist

The GTA's primary rental apartment universe increased by 2.1%, or 7,175 units, in 2022 from the previous year (table 1.1.3). This was the strongest increase in recent decades and was due to elevated rental completions in recent years (figure 2).

While rental supply increased, it couldn't offset the growth in demand. Moreover, access to affordable supply remains a challenge for low- and middle-income renter households

(the second and third income quintiles). For instance, units affordable<sup>1</sup> to these households had the lowest vacancy rates in the GTA (table 3.1.8). Meanwhile, the average rent for new supply entering the market was 45.4% higher than the average rent for all units (tables 1.1.2 and 3.1.7). Newer units would only be affordable to households in the higher (fourth and fifth) income quintiles.

**Figure 2 Rental apartment completions (units), Toronto CMA**

Source: CMHC

\*Year-to-date (YTD) reflects data from January-to-October.

<sup>1</sup> A rental unit is affordable when rent doesn't exceed 30% of the occupying household's income.

## Sharp rent growth, especially for units turning over

There's little doubt that increased competition for fewer units led to strong rent growth in the primary market. The same-sample average rent for a 2-bedroom apartment grew by 6.5% in 2022, well surpassing the 1.5% increase recorded in 2021 (table 1.1.5).

When isolating for units in the same structure that turned over to a new tenant, the change in the average 2-bedroom rent was markedly higher, at 29% (Canada table 6.0). Rent increases for most units that didn't turn over were limited to the provincial increase guideline (1.2% in 2022).

## Rental demand for condominiums surged as pandemic restrictions eased

Easing pandemic restrictions resulted in more students (including international students) returning to in-person learning and more workers going back to their offices. Immigration also resumed at very high levels. As they did in the primary rental market, these factors caused demand for rental condominium apartments to increase. The vacancy rate for condominium apartments decreased to 1.1% in 2022, from 1.6% in the previous year (table 4.1.1).

Average condominium apartment rents were more than 50% higher than average rents in the primary rental market (tables 1.1.2 and 4.1.3). The low vacancy rate for condominiums indicates strong demand from higher-income households. The people who rent condominium apartments tend to be young professionals employed in higher-paying sectors like technology and finance.

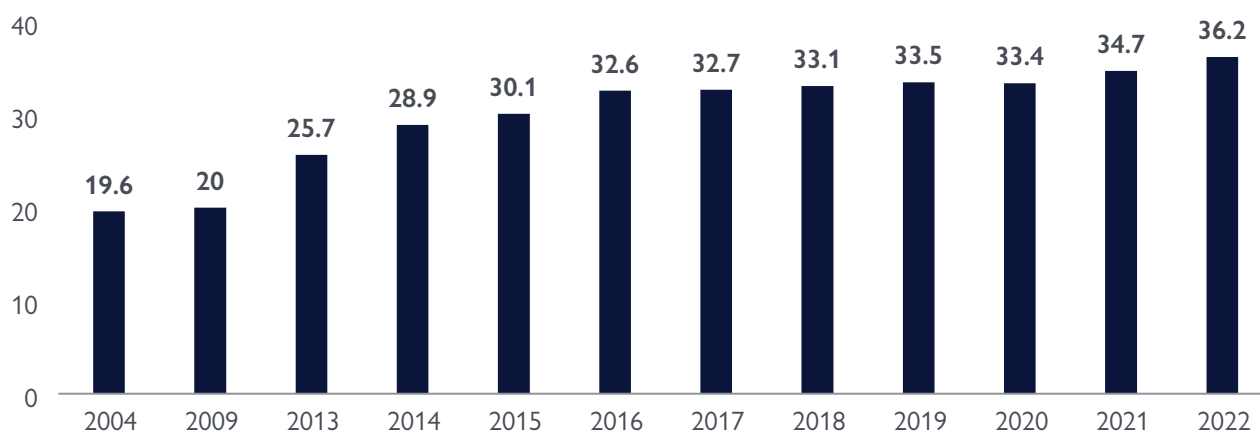
## Newly built condominiums lead growth in the rental stock, but fewer units completed in 2022

The increase in the rental condominium apartment universe (table 4.3.2) was led by newly completed units, as opposed to existing units being converted to rentals. However, the rate of condominium apartment completions fell in the 12 months ending in May 2022 (the cut-off point for inclusion in our survey). Completions were down by 23%, reaching just above 17,000 units. Supply-chain issues and labour shortages, which impacted the construction industry over the past year, were the main reasons for this decline.

The share of apartments held by long-term investors grew to 36.2% in 2022 (figure 3 and table 4.3.1). A pandemic-softened tourism/travel industry (particularly in late 2021 and early 2022) and stricter short-term rental rules resulted in more landlords converting their short-term rental units into long-term ones. Also, some short-term investors who bought pre-construction units to sell upon completion listed their newly completed units for rent instead. This was a response to waning homeownership demand throughout much of 2022.

In recent years, about 50% of newly completed units added to the condominium apartment universe were offered for rent. However, in 2022 and 2021, units offered for rent accounted for only about 37% of newly completed units added to the universe. The resale home market showed record-breaking price appreciation in late 2021 and early 2022. This appreciation likely persuaded some condominium owners to sell their units instead of making them available for rent.

**Figure 3** Condominium apartment investor share (%), GTA



Source: CMHC

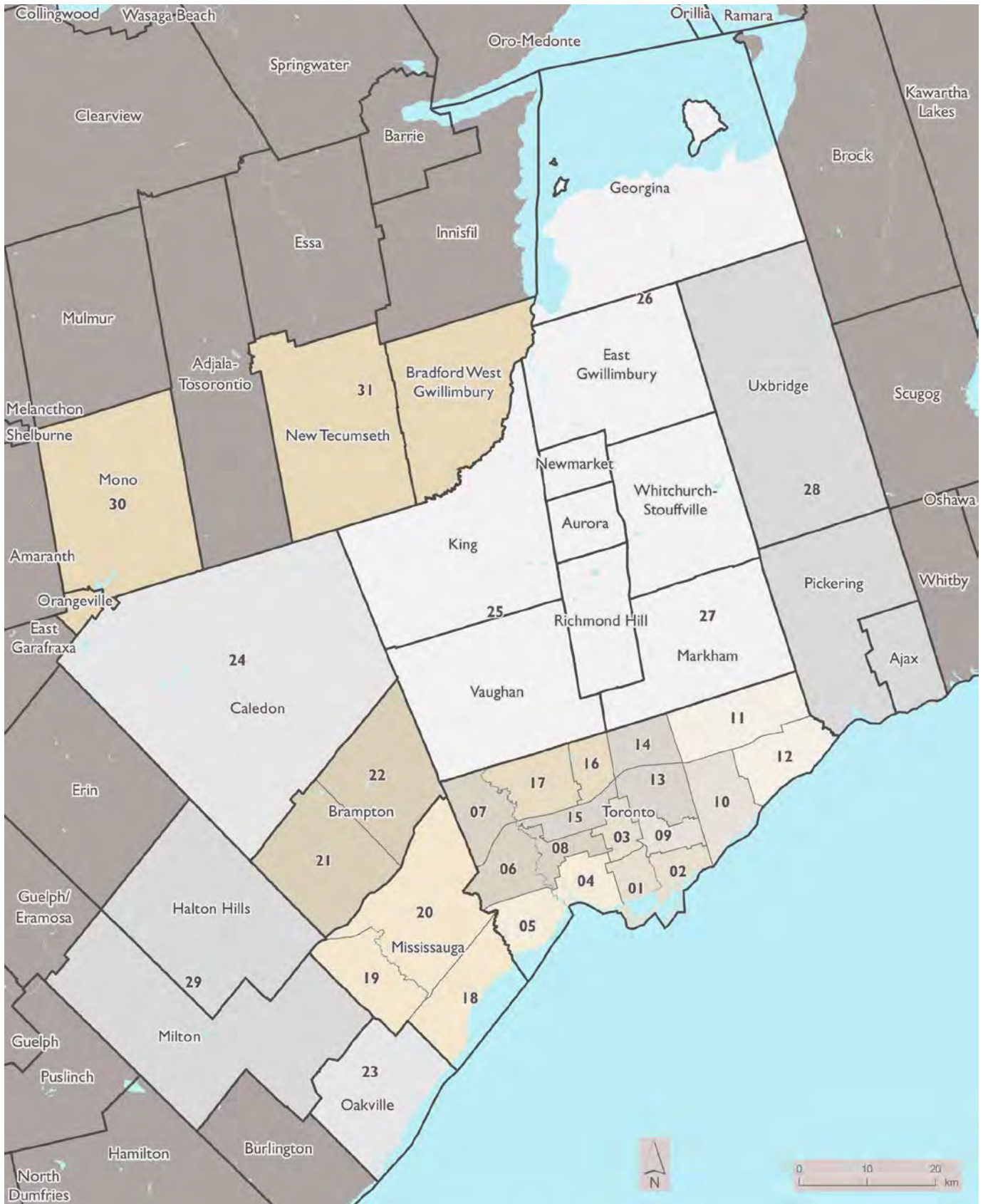
## Rents stayed high for condominium apartments

There was no statistically significant percentage change in the same-sample average rent for condominium apartments. Still, condominium rent levels remained significantly higher than those in the primary rental market (table 4.1.2). This was because of a compositional effect of the rental stock. The

increase in the condominium rental stock was driven mainly by brand-new units in 2022. Existing landlords were forced to keep rent increases to a minimum to compete with brand new units, which likely offered the latest in amenities.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Toronto CMA

<b>Zone 1</b>	<b>Former City of Toronto (Central)</b> - North: C.P.R. Line; East: City Limit & Don River; South: Lake Ontario; West: Bathurst St. (East Side); Census tracts - 0002, 0011, 0012.01, 0012.03, 0012.04, 0013.01, 0013.02, 0014, 0015, 0016, 0017, 0030, 0031, 0032, 0033, 0034.01, 0034.02, 0035, 0036, 0037, 0038, 0039, 0059, 0060, 0061, 0062.01, 0062.02, 0063.03, 0063.04, 0063.05, 0063.06, 0064, 0065.01, 0065.02, 0066, 0067, 0068, 0086, 0087, 0088, 0089, 0090, 0091.01, 0091.02, 0092 and 0093.
<b>Zone 2</b>	<b>Former City of Toronto (East)</b> - North: City Limit; East: City Limit; South: Lake Ontario; West: Don River; Census tracts - 0001, 0018, 0019, 0020, 0021, 0022, 0023, 0024, 0025, 0026, 0027, 0028.01, 0028.02, 0029, 0069, 0070, 0071, 0072.01, 0072.02, 0073, 0074, 0075, 0076, 0077, 0078, 0079, 0080.01, 0080.02, 0081, 0082, 0083, 0084 and 0085.
<b>Zone 3</b>	<b>Former City of Toronto (North)</b> - North: City Limit; East: City Limit; South: C.P.R. Line; West: City Limit (Bathurst St. East Side); Census tracts - 0117, 0118, 0119, 0120, 0121, 0122, 0123, 0124, 0125, 0126, 0127, 0128.02, 0128.04, 0128.05, 0128.06, 0129, 0130, 0131, 0132, 0133, 0134, 0135, 0136.01, 0136.02, 0137, 0138, 0139.01, 0139.02, 0140, 0141.01, 0141.02 and 0142.
<b>Zone 4</b>	<b>Former City of Toronto (West)</b> - North: City Limit; East: Bathurst St. (West Side); South: Lake Ontario; West: City Limit; Census tracts 0003, 0004, 0005, 0006, 0007.01, 0007.02, 0008.01, 0008.02, 0009, 0010.01, 0010.02, 0040, 0041, 0042, 0043, 0044, 0045, 0046, 0047.02, 0047.03, 0047.04, 0048, 0049, 0050.01, 0050.03, 0050.04, 0051, 0052, 0053, 0054, 0055, 0056, 0057, 0058, 0094, 0095, 0096.01, 0096.02, 0097.01, 0097.03, 0097.04, 0098, 0099, 0100, 0101, 0102.02, 0102.03, 0102.04, 102.05, 0103, 0104, 0105, 0106, 0107, 0108, 0109, 0110, 0111, 0112, 0113, 0114, 0115 and 0116.
<b>Zones 1-4</b>	<b>Former City of Toronto</b>
<b>Zone 5</b>	<b>Etobicoke (South)</b> - North: Bloor St. West; East: Humber River; South: Lake Ontario; West: Etobicoke Creek; Census tracts 0200.01, 0200.02, 0201, 0202, 0203, 0204, 0205, 0206.01, 0206.02, 0207, 0208, 0209, 0210.01, 0210.02, 0211, 0212, 0213.01, 0213.02, 0214, 0215, 0216, 0217, 0218, 0219 and 0220.
<b>Zone 6</b>	<b>Etobicoke (Central)</b> - North: Highway 401; East: Humber River; South: Bloor St. West; West: Etobicoke Creek; Census tracts - 0221.01, 0221.02, 0222.01, 0222.02, 0223.01, 0223.02, 0224, 0225.01, 0225.02, 0226, 0227, 0228, 0229, 0230.01, 0230.02, 0231, 0232, 0233, 0234, 0235.01, 0235.02, 0236.01, 0236.02, 0237.01, 0237.02, 0237.03, 0238.01, 0238.02, 0239, 0240.01, 0240.02, 0241, 0242, 0243.01 and 0243.02.
<b>Zone 7</b>	<b>Etobicoke (North)</b> - North: Steeles Ave.; East: Humber River; South: Highway 401; West: Etobicoke Creek; Census tracts - 0244.01, 0244.02, 0245, 0246, 0247.01, 0247.02, 0248.02, 0248.03, 0248.04, 0248.05, 0249.01, 0249.03, 0249.04, 0249.05, 0250.01, 0250.02, 0250.04 and 0250.05.
<b>Zones 5-7</b>	<b>Etobicoke</b>
<b>Zone 8</b>	<b>York City</b> - Census Tracts 0150, 0151, 0152, 0153, 0154, 0155, 0156.01, 0156.02, 0157, 0158, 0159.01, 0159.02, 0160, 0161, 0162, 0163, 0164, 0165, 0166, 0167.01, 0167.02, 0168, 0169.01, 0169.02, 0170, 0171, 0172, 0173, 0174, 0175.01, 0175.02 and 0176.
<b>Zone 9</b>	<b>East York (Borough)</b> - Census tracts - 0180, 0181.01, 0181.02, 0182, 0183.01, 0183.02, 0184.01, 0184.02, 0185.01, 0185.02, 0186, 0187, 0188, 0189, 0190.01, 0190.02, 0191, 0192, 0193, 0194.01, 0194.02, 0194.03, 0194.04, 0195.01, 0195.02, 0196.01 and 0196.02.
<b>Zone 10</b>	<b>Scarborough (Central)</b> - North: Highway 401; East: Brimley Rd. & McCowan Rd.; South: Lake Ontario; West: City Limit; Census tracts - 0333, 0334, 0335, 0336, 0337.01, 0337.02, 0338, 0339, 0340, 0341.02, 0341.03, 0341.04, 0342, 0343, 0344.01, 0344.02, 0345, 0346.01, 0346.02, 0347, 0348, 0349, 0350, 0351.01, 0351.02, 0352, 0353.02, 0353.03, 0353.04, 0354, 0355.02, 0355.04, 0355.05, 0355.06, 0368.01, 0368.02, 0369, 0370.01, 0370.02, 0370.03, 0371, 0372 and 0373.
<b>Zone 11</b>	<b>Scarborough (North)</b> - North: Steeles Ave.; East: City Limit; South: Highway 401 & Twyn River Dr.; West: City Limit; Census Tracts: 0374.01, 0374.02, 0374.03, 0375.01, 0375.02, 0375.03, 0375.04, 0375.05, 0376.01, 0376.02, 0376.04, 0376.05, 0376.06, 0376.08, 0376.09, 0376.11, 0376.12, 0376.13, 0376.14, 0376.15, 0376.16, 0377.01, 0377.02, 0377.03, 0377.04, 0377.06, 0377.07, 0378.02, 0378.03, 0378.04, 0378.05, 0378.06, 0378.07, 0378.08, 0378.11, 0378.12, 0378.14, 0378.16, 0378.17, 0378.18, 0378.19, 0378.20, 0378.21, 0378.22, 0378.23, 0378.24, 0378.25, 0378.26, 0378.27 and 0378.28.

<b>Zone 12</b>	<b>Scarborough (East)</b> - North: Highway 401 & Twyn River Dr.; East: City Limit; South: Lake Ontario; West: Brimley Rd. & McCowan Rd.; Census tracts - 0330, 0331.01, 0331.03, 0331.04, 0332, 0356, 0357.01, 0357.02, 0358.01, 0358.02, 0358.03, 0359, 0360, 0361.01, 0361.02, 0362.01, 0362.02, 0362.03, 0362.04, 0363.02, 0363.04, 0363.05, 0363.06, 0363.07, 0364.01, 0364.02, 0365, 0366, 0367.01, 0367.02, 0802.01 and 0802.02.
<b>Zones 10-12</b>	<b>Scarborough</b>
<b>Zone 13</b>	<b>North York (Southeast)</b> - North: Highway 401; East: City Limit; South: City Limit; West: Yonge St.; Census tracts - 0260.01, 0260.04, 0260.05, 0260.06, 0260.07, 0261, 0262.01, 0262.02, 0263.02, 0263.03, 0263.04, 0264, 0265, 0266, 0267, 0268, 0269.01, 0269.02, 0270.01, 0270.02, 0271.01, 0271.02, 0272.01, 0272.02, 0273.01, 0273.02, 0274.01 and 0274.02.
<b>Zone 14</b>	<b>North York (Northeast)</b> - North: Steeles Ave.; East: City Limit; South: Highway 401; West: Yonge St.; Census tracts - 0300, 0301.01, 0301.03, 0301.04, 0302.01, 0302.02, 0302.03, 0303, 0304.01, 0304.02, 0304.03, 0304.04, 0304.05, 0304.06, 0305.01, 0305.03, 0305.04, 0306.01, 0306.02, 0307.03, 0307.04, 0307.05, 0307.06, 0307.07, 0321.01, 0321.02, 0322.01, 0322.02, 0323.01, 0323.02, 0324.01, 0324.02, 0324.03, 0324.05 and 0324.06.
<b>Zone 15</b>	<b>North York (Southwest)</b> - North: Highway 401; East: Yonge St. & City Limit; South: City Limit; West: City Limit; Census tracts - 0275, 0276.01, 0276.02, 0277, 0278, 0279.01, 0279.02, 0280, 0281.01, 0281.02, 0282, 0283.01, 0283.02, 0284, 0285, 0286, 0287.02, 0287.03 and 0287.04.
<b>Zone 16</b>	<b>North York (North Central)</b> - North: Steeles Ave.; East: Yonge St.; South: Highway 401; West: Dufferin St. & Sunnyview Rd.; Census tracts - 0288, 0297.01, 0297.02, 0298, 0299.01, 0299.02, 0308.02, 0308.03, 0308.04, 0309, 0310.01, 0310.02, 0317.02, 0317.03, 0317.04, 0317.05, 0318, 0319, 0320.01 and 0320.02.
<b>Zone 17</b>	<b>North York (Northwest)</b> - North: Steeles Ave.; East: Dufferin St. & Sunnyview Rd.; South: Highway 401; West: Humber River; Census tracts - 0289, 0290.01, 0290.02, 0291.01, 0291.03, 0291.04, 0292, 0293, 0294.01, 0294.02, 0295, 0296, 0311.02, 0311.03, 0311.04, 0311.05, 0311.06, 0312.02, 0312.03, 0312.04, 0312.05, 0312.06, 0312.07, 0313, 0314.01, 0314.02, 0315.01, 0315.02, 0315.03, 0316.01, 0316.03, 0316.04, 0316.05 and 0316.06.
<b>Zones 13-17</b>	<b>North York</b>
<b>Zones 5-17</b>	<b>Rest of Toronto City</b>
<b>Zones 1-17</b>	<b>Toronto</b>
<b>Zone 18</b>	<b>Mississauga (South)</b> - North: Dundas St.; East: Etobicoke Creek; South: Lake Ontario; West: City Limit; Census tracts - 0500.01, 0500.02, 0501.01, 0501.02, 0502.01, 0502.02, 0503, 0504, 0505.01, 0505.02, 0506, 0507, 0508, 0509.01, 0509.02, 0510, 0511.01, 0511.02, 0512, 0513.01, 0513.02, 0513.03, 0513.04, 0514.01, 0514.02, 0515.01, 0515.02, 0540.01 and 0540.02.
<b>Zone 19</b>	<b>Mississauga (Northwest)</b> - North: Highway 401; East: Credit River; South: Dundas St.; West: City Limit; Census tracts - 0516.01, 0516.02, 0516.03, 0516.04, 0516.05, 0516.06, 0516.08, 0516.09, 0516.11, 0516.16, 0516.17, 0516.18, 0516.20, 0516.21, 0516.22, 0516.23, 0516.24, 0516.25, 0516.26, 0516.28, 0516.29, 0516.30, 0516.31, 0516.32, 0516.37, 0516.38, 0516.39, 0516.40, 0516.41, 0516.42, 0516.43, 0516.44, 0516.46, 0516.47, 0516.48, 0516.49, 0550.01 and 0550.02.
<b>Zone 20</b>	<b>Mississauga (Northeast)</b> - North: Steeles Ave.; East: City Limit; South: Dundas St.; West: Credit River; Census tracts - 0517, 0518, 0519, 0520.01, 0520.02, 0520.05, 0520.07, 0520.08, 0520.09, 0520.10, 0521.01, 0521.02, 0521.03, 0521.04, 0521.05, 0521.06, 0522, 0523, 0524.01, 0524.02, 0525.01, 0525.02, 0526.01, 0526.02, 0527.01, 0527.02, 0527.03, 0527.04, 0527.05, 0527.06, 0527.07, 0527.08, 0527.09, 0528.01, 0528.02, 0528.10, 0528.11, 0528.12, 0528.13, 0528.15, 0528.16, 0528.18, 0528.19, 0528.24, 0528.25, 0528.26, 0528.32, 0528.33, 0528.34, 0528.35, 0528.39, 0528.40, 0528.41, 0528.42, 0528.43, 0528.44, 0528.45, 0528.46, 0528.47, 0528.48, 0528.49, 0529.01, 0529.02, 0530.01, 0530.02, 0531.01, 0531.02, 0532.01 and 0532.02.
<b>Zones 18-20</b>	<b>Mississauga City</b>



<b>Zone 21</b>	<b>Brampton (West)</b> - North: #10 Side Road; East: Heart Lake Rd.; South: Steeles Ave.; West: Second Line; Census tracts 0528.20, 0528.21, 0528.22, 0528.31, 0528.36, 0528.37, 0570.01, 0570.02, 0571.01, 0571.02, 0572.01, 0572.04, 0572.05, 0572.07, 0572.08, 0572.09, 0572.10, 0573.03, 0573.05, 0573.06, 0573.07, 0573.09, 0573.10, 0573.11, 0574, 0575.01, 0575.02, 0575.03, 0575.04, 0575.05, 0575.07, 0575.08, 0576.04, 0576.05, 0576.06, 0576.07, 0576.09, 0576.29, 0576.31, 0576.32, 0576.33, 0576.34, 0576.41, 0576.42, 0576.43, 0576.44, 0576.49, 0576.50, 0576.52, 0576.53, 0576.70, 0576.71 and 0576.72.
<b>Zone 22</b>	<b>Brampton (East)</b> - North: Highway 7; East: Torbram Rd.; South: Steeles Ave.; West: Heart Lake Rd.; Census tracts - 0560, 0561, 0562.02, 0562.03, 0562.04, 0562.05, 0562.06, 0562.07, 0562.08, 0562.09, 0562.11, 0562.12, 0562.13, 0562.14, 0562.15, 0563.01, 0563.02, 0564.01, 0564.02, 0576.10, 0576.16, 0576.17, 0576.20, 0576.22, 0576.24, 0576.40, 0576.45, 0576.46, 0576.47, 0576.54, 0576.55, 0576.56, 0576.57, 0576.58, 0576.59, 0576.60, 0576.61, 0576.62, 0576.63, 0576.64, 0576.65, 0576.66, 0576.67, 0576.68 and 0576.69.
<b>Zones 21-22</b>	<b>Brampton City</b>
<b>Zone 23</b>	<b>Oakville Town</b> - Census tracts - 0600.01, 0600.02, 0601, 0602, 0603, 0604, 0605, 0606, 0607, 0608, 0609, 0610.02, 0610.03, 0610.04, 0611, 0612.01, 0612.03, 0612.05, 0612.08, 0612.10, 0612.11, 0612.12, 0612.13, 0612.14, 0612.15, 0612.18, 0612.19, 0612.20, 0612.21, 0612.22, 0612.23, 0612.24, 0612.25, 0612.26, 0612.27, 0613.01, 0613.03, 0613.04, 0614.01, 0614.02 and 0615.
<b>Zone 24</b>	<b>Caledon</b> - Census tracts - 0585.02, 0585.03, 0585.05, 0585.07, 0585.08, 0585.09, 0585.10, 0586.01, 0586.02, 0587.01 and 0587.02.
<b>Zone 25</b>	<b>Richmond Hill</b> - Census tracts - 0420.03, 0420.05, 0420.06, 0420.08, 0420.09, 0420.10, 0420.11, 0420.13, 0420.14, 0420.15, 0421.01, 0421.04, 0421.05, 0421.06, 0421.07, 0422.02, 0422.03, 0422.04, 0422.05, 0422.06, 0423.01, 0423.02, 0424.04, 0424.05, 0424.07, 0424.08, 0424.09, 0424.10, 0424.11, 0424.13, 0424.14, 0424.15 and 0424.16; <b>Vaughan</b> - Census tracts 0410.02, 0410.03, 0410.04, 0410.05, 0410.07, 0410.09, 0410.10, 0410.11, 0410.12, 0410.13, 0410.14, 0410.15, 0411.01, 0411.04, 0411.07, 0411.08, 0411.09, 0411.12, 0411.15, 0411.16, 0411.17, 0411.18, 0411.19, 0411.21, 0411.22, 0411.23, 0411.24, 0411.25, 0411.26, 0411.27, 0411.28, 0411.29, 0411.30, 0412.01, 0412.02, 0412.04, 0412.06, 0412.08, 0412.10, 0412.11, 0412.12, 0412.13, 0412.14, 0412.15, 0412.18, 0412.19, 0412.20, 0412.21, 0412.22, 0412.24, 0412.25, 0412.26, 0413.01 and 0413.02; <b>King</b> - Census tracts 0460.01, 0460.02, 0461.01 and 0461.02.
<b>Zone 26</b>	<b>Aurora</b> - Census tracts - 0440, 0441.02, 0441.03, 0441.04, 0442.02, 0442.03, 0442.04, 0442.05 and 0442.06; <b>Newmarket</b> - Census tracts - 0450.02, 0450.03, 0450.05, 0450.06, 0451.01, 0451.02, 0451.03, 0451.05, 0451.06, 0451.07, 0452.01, 0452.02, 0452.03, 0452.05, 0452.06 and 0452.07; <b>Whitchurch-Stouffville</b> - Census tracts - 0430.03, 0430.05, 0430.06, 0430.07, 0430.08, 0431.01 and 0431.02; <b>East Gwillimbury</b> - Census tracts - 0455, 0456.01, 0456.02 and 0456.03; <b>Georgina Township</b> - Census tracts - 0470, 0471, 0472, 0473.01, 0473.02, 0473.03, 0474 and 0475; <b>Georgina Island</b> - Census tract - 0476.02.
<b>Zone 27</b>	<b>Markham Town</b> - Census tracts - 0400.02, 0400.03, 0400.04, 0400.06, 0400.07, 0400.08, 0400.11, 0400.12, 0400.13, 0400.14, 0400.15, 0400.16, 0400.17, 0400.18, 0400.19, 0400.20, 0400.21, 0400.22, 0400.23, 0401.04, 0401.05, 0401.06, 0401.07, 0401.08, 0401.09, 0401.10, 0401.11, 0401.13, 0401.14, 0401.15, 0401.17, 0401.18, 0401.19, 0401.20, 0401.21, 0401.22, 0401.23, 0402.01, 0402.02, 0402.03, 0402.04, 0402.05, 0402.06, 0402.07, 0402.08, 0402.09, 0402.10, 0402.12, 0402.13, 0403.01, 0403.04, 0403.05, 0403.07, 0403.09, 0403.10, 0403.11, 0403.12, 0403.13, 0403.14, 0403.15 and 403.16.
<b>Zones 25-27</b>	<b>York Region</b>
<b>Zone 28</b>	<b>Pickering</b> - Census tracts - 0800.01, 0800.02, 0801.01, 0801.02, 0803.03, 0803.04, 0803.05, 0803.06, 0804.01, 0804.05, 0804.06, 0804.07, 0804.08, 0804.10, 0804.11, 0804.12, 0804.13, 0806 and 0807; <b>Ajax</b> - Census tracts - 0805.04, 0805.06, 0805.09, 0805.10, 0805.12, 0805.14, 0805.15, 0805.16, 0805.17, 0805.18, 0805.19, 0805.20, 0805.21, 0810.01, 0810.02, 0810.03, 0810.04, 0810.05, 0811, 0812, 0820.03, 0820.04, 820.05, 820.06 and 0820.07; <b>Uxbridge</b> - Census tracts - 0830, 0831.01, 0831.02 and 0832.
<b>Zone 29</b>	<b>Milton</b> - Census tracts - 0620.01, 0620.05, 0620.06, 0620.07, 0620.08, 0620.09, 0620.10, 0620.11, 0620.12, 0620.13, 0621, 0622, 0623, 0624, 0625 and 0626; <b>Halton Hills</b> - Census tracts - 0630, 0631.02, 0631.03, 0631.04, 0632, 0633, 0634.01, 0634.02, 0635, 0636, 0637, 0638 and 0639.

<b>Zone 30</b>	<b>Orangeville</b> - Census tracts 0590, 0591.01, 0591.02, 0592.01, 0592.02 and 0593.
<b>Zone 31</b>	<b>Bradford-West Gwillimbury</b> - Census tracts - 0480.01, 0480.02, 0481.01, 0481.02 and 0482; <b>New Tecumseth</b> - Census tracts - 0483.01, 0483.02, 0484.02, 0484.03, 0484.04, 0485.01 and 0485.02.
<b>Zones 18-31</b>	<b>Remaining CMA</b>
<b>Durham Region</b>	Includes Ajax, Pickering and Uxbridge (RMS Zone 28); Clarington (Oshawa RMS Zone 4); Oshawa (Oshawa Zones 1 and 2); Whitby (Oshawa RMS Zone 3); Brock and Scugog.
<b>York Region</b>	Includes Aurora, East Gwillimbury, Georgina, Newmarket, Whitchurch-Stouffville (RMS Zone 26); King, Richmond Hill and Vaughan (RMS Zone 25); Markham (RMS Zone 27).
<b>Peel Region</b>	Includes Caledon (RMS Zone 24); Brampton (RMS Zones 21-22); Mississauga (RMS Zones 18-20).
<b>Halton Region</b>	Includes Halton Hills and Milton (RMS Zone 29); Burlington (Hamilton CMA Zone 8); Oakville (RMS Zone 23).
<b>Toronto GTA</b>	(Zones 1-17 plus Durham, Peel, Halton and York Regions)
<b>Zones 1-31</b>	<b>Toronto CMA</b>

## Condominium Sub Area Descriptions — Toronto CMA

<b>Sub Area 1</b>	<b>Former City of Toronto, York and East York</b> includes RMS Zone 1: Former City of Toronto (Central); Zone 2: Former City of Toronto (East); Zone 3: Former City of Toronto (North); Zone 4: Former City of Toronto (West); Zone 8: York City; and Zone 9: East York (Borough).
<b>Sub Area 2</b>	<b>Etobicoke</b> includes RMS Zone 5: Etobicoke (South); Zone 6: Etobicoke (Central); and Zone 7: Etobicoke (North).
<b>Sub Area 3</b>	<b>Scarborough</b> includes RMS Zone 10: Scarborough (Central); Zone 11: Scarborough (North); and Zone 12: Scarborough (East).
<b>Sub Area 4</b>	<b>North York</b> includes RMS Zone 13: North York (Southeast); Zone 14: North York (Northeast); Zone 15: North York (Southwest); Zone 16: North York (North Central); and Zone 17: North York (Northwest).
<b>Sub Areas 1-4</b>	<b>Toronto City</b>
<b>Sub Area 5</b>	<b>York Region</b> includes RMS Zone 25: Richmond Hill, Vaughan and King; Zone 26: Aurora, Newmarket, Whitchurch-Stouffville, East Gwillimbury, Georgina Township and Georgina Island; and Zone 27: Markham Town.
<b>Sub Area 6</b>	<b>Peel Region</b> includes RMS Zone 18: Mississauga (South); Zone 19: Mississauga (Northwest); Zone 20: Mississauga (Northeast); Zone 21: Brampton (West); Zone 22: Brampton (East); and Zone 24: Caledon.
<b>Sub Area 7</b>	<b>Durham Region</b> includes RMS Zone 28: Pickering, Ajax and Uxbridge; Oshawa Zone 1: Oshawa (North); Oshawa Zone 2: Oshawa (South/Central); Oshawa Zone 3: Whitby; and Oshawa Zone 4: Clarington; Brock; and Scugog.
<b>Sub Area 8</b>	<b>Halton Region</b> includes RMS Zone 23: Oakville Town; Zone 29: Milton, Halton Hills; and Hamilton Zone 8: Burlington.
<b>Sub Areas 1-8</b>	<b>GTA</b>
	<b>Toronto CMA (includes all RMS Zones 1-31)</b>

# Ottawa<sup>1</sup>



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**2.1%**

Average Two-Bedroom Rent

**\$1,625**

UP by 4.8%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**0.5%**

Average Two-Bedroom Rent

**\$2,075**

<sup>1</sup> Ontario portion of the Ottawa-Gatineau census metropolitan area (CMA).

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“The vacancy rate fell from 3.4% to 2.1%. The greatest declines occurred in central neighbourhoods, partly because of the return of students.”

**Lukas Jasmin-Tucci**  
Senior Analyst, Economics  
MARKET INSIGHTS

## HIGHLIGHTS

Strong demographic and economic fundamental conditions supported rental demand. As a result, the vacancy rate fell from 3.4% to 2.1%.

The return of students to campuses contributed to reducing vacancy rates in central neighbourhoods.

Within the same structure, rents for 2-bedroom apartments vary depending on whether they were turned over to new tenants. Rents are about 17% higher, on average, for new tenants. These gaps limit options for low-income households looking for a new home.

The vacancy rate for rental condominium apartments remained stable at 0.5%. Stagnation in the supply of rental condominiums, combined with strong demand, is maintaining the scarcity of available units.

### Vacancy rate drops

The vacancy rate in the Ontario part of the Ottawa-Gatineau census metropolitan area (CMA) was 2.1%. This was a decline from the rate posted in October 2021 (3.4%) and a return to pre-pandemic levels.

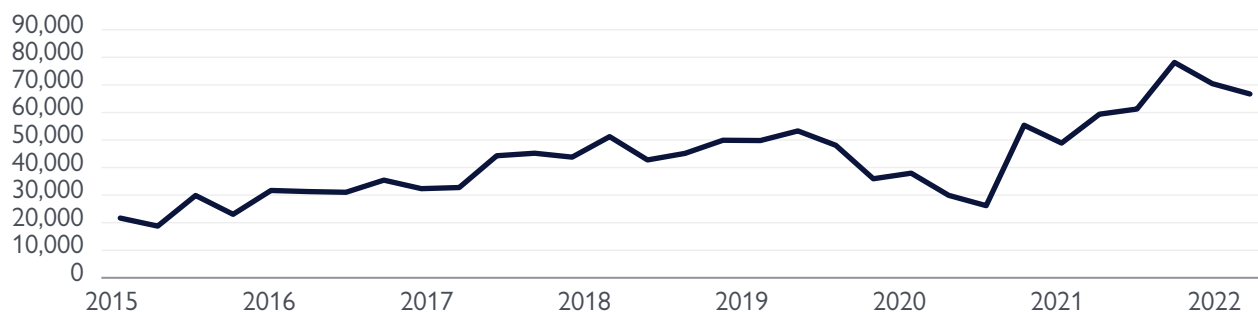
### Net migration continues to recover

Looking at demographic factors, international migration continues to recover as shown by the record number of immigrants and non-permanent residents who settled in Ontario. Migration to the Ottawa area usually follows the provincial trend, so it probably also increased in the CMA.

Indeed, the number of new permanent residents who planned to settle in the Ottawa area rose considerably. It climbed by nearly 50% in the first 3 quarters of 2022 compared to the same period in 2021.

Students, who make up a significant share of non-permanent residents, followed the same trend. The number of study-permit holders who planned to settle in Ontario was up 25% in the first 3 quarters of 2022 compared to the same period a year earlier (figure 1). Nearly 10% usually head to Ottawa, and they have mainly supported rental demand in the central sectors of the region.

**Figure 1** Study permit holders planning to study in Ontario



Source: Immigration, Refugees and Citizenship Canada  
Note: Seasonally adjusted quarterly data.

Net interprovincial migration has not been as negative as it was in 2021–2022 for at least 50 years. In Ottawa, labour market activity is concentrated in industries where the potential for remote work is high. These industries used to attract people to the area, but now may contribute less to migration to Ottawa.

Still, the decline in interprovincial migration didn't stop improvement in overall net migration. The increase observed in other migration categories led to higher rental demand.

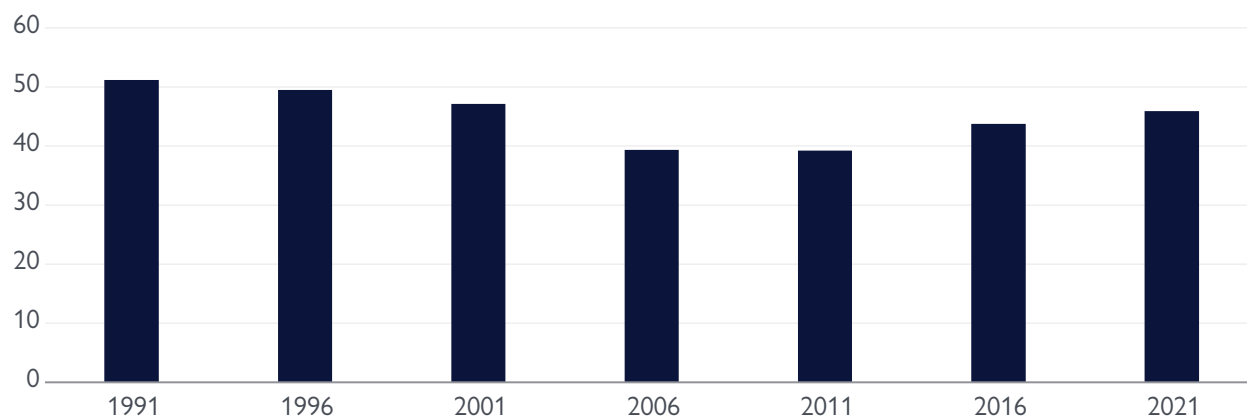
## Other factors support demand

Employment among youth aged 15 to 24 continued to rise over the past 12 months in both full-time and part-time positions. This factor certainly supported rental demand by encouraging the creation of new renter households.

Despite some easing, pressure in the resale market is still present. Rapidly rising prices and higher mortgage rates may have slowed transition to homeownership for some renter households who had considered buying in 2022. These households have possibly remained on the rental market, thereby increasing demand.

For many years, demand also came from people aged 25 to 44, who are more and more likely to be renters. The rental rate in this age group rose from 39% to 46% over the last 10 years (figure 2).

**Figure 2** Proportion of 25-to-44-year-old households that are renter households (%)



Source: Statistics Canada

On the supply side, a considerable number of units were added to the rental stock. This has been the case since 2020. In addition, commercial buildings are being converted into rental housing projects, particularly in the downtown area. The significant drop in the vacancy rate shows that these additions were not enough to meet growing demand.

## Returning students contribute to lowering vacancy rates in central neighbourhoods

The record number of study-permit holders planning to move to Ontario has likely increased demand in the Ottawa rental market. In addition, local students are also returning

to the classroom. While vacancy rates fell in several sectors of the Ottawa area, the drop was most apparent in central neighbourhoods (table 1.1.1 for Ottawa).

- The Sandy Hill/Lowertown sector, where the University of Ottawa is located, is among areas where the vacancy rate decreased the most, falling from 5.3% to 2.1%.
- Vacancy rates are also low in the areas surrounding this sector. They stand at 1.3% in the Downtown area and at 0.7% in the Glebe / Old Ottawa South area, which is next to Carleton University.
- The vacancy rate for these 3 areas, as a whole, is 1.5%.

The 3.5% rate in Alta Vista is higher than in other sectors, but it was down from the previous year (7.9%). This was the sharpest decline out of all sectors of the CMA. Alta Vista was among the sectors with the greatest number of completions in 2020 and 2021. The addition of these units could explain why the vacancy rate there remains higher than elsewhere.

## Rent growth accelerates

Over the past 12 months, the same-sample average rent for a 2-bedroom apartment rose by 4.8%.

The increase wasn't as strong in 2021 (1.3%). It had likely been slowed by the rent freeze in Ontario and the high vacancy rate that year. With the growing scarcity of vacant units, rents are once again under pressure, as they were from 2018 to 2020.

This situation may encourage owners to raise the rent when a tenant moves out of a unit. The average rent for a 2-bedroom apartment in 2022 was:

- \$1,520 for units that didn't turn over to a new tenant;
- \$1,831 for units that did turn over to a new tenant.

Within the same structure, an apartment that turned over to a new tenant was, on average, about 17% more expensive than one that didn't turn over.

These rent increases limit options for low-income households, as shown by the difference in vacancy rates by rent range. In the lower rent ranges (under \$1,200), vacancy rates hover between 1.2% and 1.5%. These are below the overall average. For apartments rented at \$1,350 or more, the vacancy rate is 2.6% (table 1.4 for Ottawa).

## Turnover rate shows general decline

The turnover rate fell from 2021 to 2022. It declined from 22.8% to 16.8%, a lower rate than in 2020, at the peak of the pandemic (17.9%). In 2021, the reluctance of tenants to move faded away. Over the past year, this hesitation to look for a new home was renewed by the significant drop in vacancy rates and the increase in rents for vacant units.

## Condominium vacancy rate is stable, but remains low

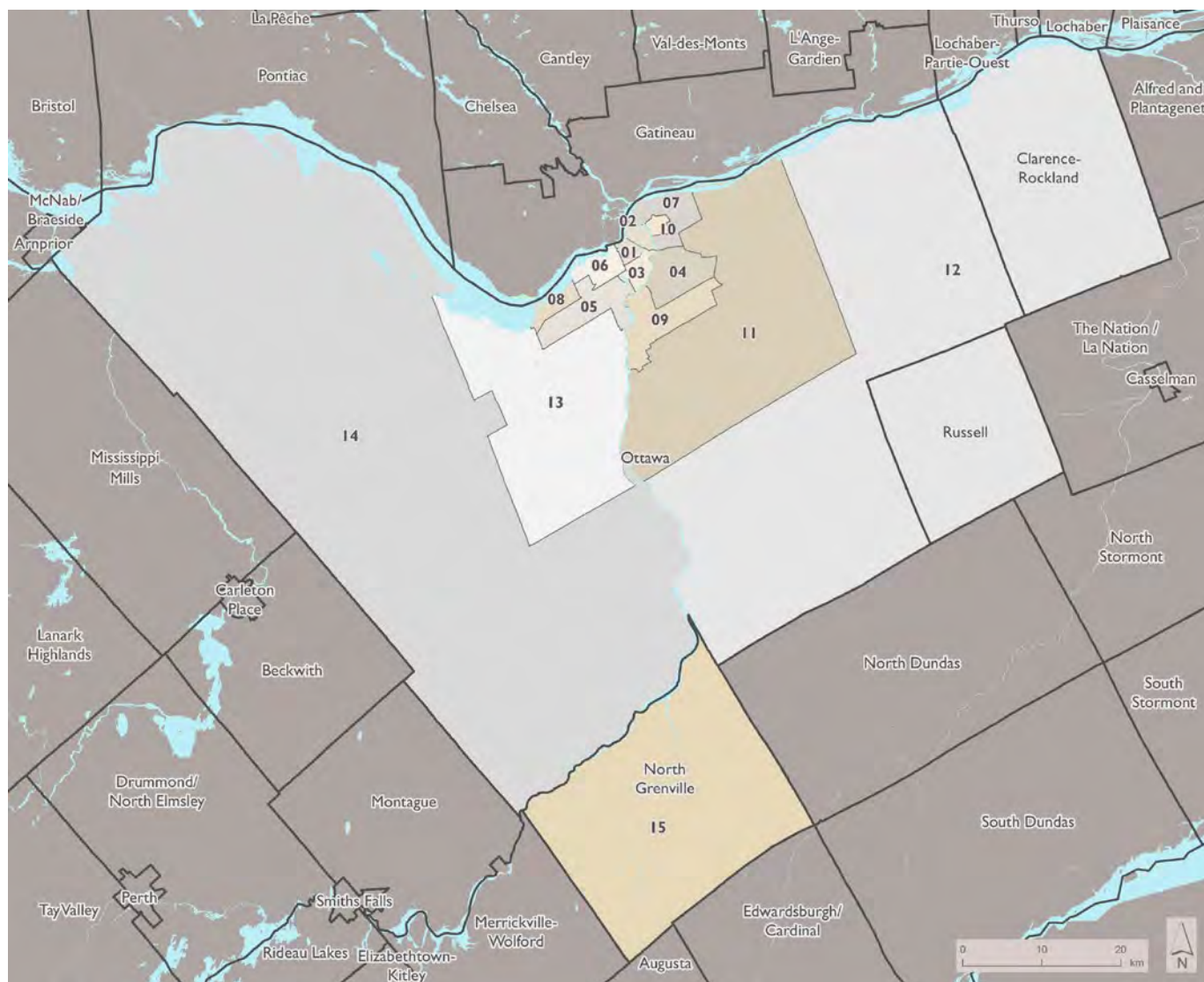
The vacancy rate for rental condominium apartments remained stable at only 0.5%. It has been below 1% since 2019.

The rate has remained low since the supply of rental condominiums stagnated. The supply has stagnated because condominium completions have slowed down and the proportion of condominiums offered as rentals has stopped increasing. This proportion has remained stable at about 30% since 2016. Again, this year, it was 28.7%.

The average rent for rental condominiums remained higher than for purpose-built rental apartments (\$2,075 versus \$1,625 for 2-bedroom units). Most new condominiums on the market were added starting in 2004 and are therefore recent. Rents tend to be higher in recently built units.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Ottawa-Gatineau CMA (Ontario Portion)

<b>Zone 1</b>	<b>Downtown</b> - Bounded by Queensway (south), Bronson (west), Ottawa River (north), Rideau Canal (east).
<b>Zone 2</b>	<b>Sandy Hill/Lowertown</b> - Includes Sandy Hill and Lowertown.
<b>Zone 3</b>	<b>Glebe/Old Ottawa South</b> - Includes the Glebe and Old Ottawa South.
<b>Zone 4</b>	<b>Alta Vista</b> - Includes Alta Vista
<b>Zone 5</b>	<b>Carlington/Iris</b> - Includes the area south of Carling Ave., west of Bronson and the Rideau River and north of Beatrice (Carlington and Iris).
<b>Zone 6</b>	<b>Chinatown/Hintonburg/Westboro North</b> - Includes Chinatown, Hintonburg and Westboro north of Richmond Rd.
<b>Zone 7</b>	<b>New Edinburgh/Manor Park/Overbrook</b> - Includes New Edinburgh, Manor Park and Overbrook.
<b>Zone 8</b>	<b>Westboro South/Hampton Park/Britannia</b> - Includes Westboro South, Hampton Park and Britannia.
<b>Zone 9</b>	<b>Hunt Club/South Keys</b>
<b>Zones 1-9</b>	<b>Former City of Ottawa</b>

<b>Zone 10</b>	<b>Vanier</b> - Includes Vanier.
<b>Zone 11</b>	<b>Gloucester North/Orleans</b> - Includes the former municipality of Gloucester.
<b>Zone 12</b>	<b>Eastern Ottawa Surrounding Areas</b> - Includes the former municipalities of Cumberland, Clarence-Rockland, Russell and Osgoode.
<b>Zones 11-12</b>	<b>Gloucester and Eastern Areas</b>
<b>Zone 13</b>	<b>Nepean</b> - Includes the former municipality of Nepean.
<b>Zone 14</b>	<b>Western Ottawa Surrounding Areas</b> - Includes the former municipalities of Kanata, West Carleton, Goulbourn and Rideau.
<b>Zone 15</b>	<b>North Grenville</b>
<b>Zones 13-15</b>	<b>Nepean and Western Areas</b>
<b>Zones 1-15</b>	<b>Ottawa-Gatineau CMA (Ontario portion)</b>

### Condominium Sub Area Descriptions — Ottawa-Gatineau CMA (Ontario Portion)

<b>Sub Area 1</b>	<b>Downtown</b> includes RMS Zone 1 (Downtown); Zone 2 (Sandy Hill/Lowertown); and Zone 3 (Glebe/Old Ottawa South).
<b>Sub Area 2</b>	<b>Inner Suburbs</b> includes RMS Zone 4 (Alta Vista); Zone 6 (Chinatown/Hintonburg/Westboro North); Zone 7 (NewEdinburgh/Manor Park/Overbrook); Zone 8 (Westboro South/Hampton Park/Britannia); and Zone 10 (Vanier).
<b>Sub Area 3</b>	<b>Outer Suburbs</b> includes RMS Zone 5 (Carlington/Iris); Zone 9 (Hunt Club/South Keys); Zone 11 (Gloucester North/Orleans); Zone 12 (Eastern Ottawa Surrounding Areas); Zone 13 (Nepean); Zone 14 (Western Ottawa Surrounding Areas); and Zone 15 (North Grenville).
<b>Sub Areas 1-3</b>	<b>Ottawa-Gatineau CMA (Ontario portion)</b>



# Gatineau<sup>1</sup>



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**0.8%**

Average Two-Bedroom Rent

**\$1,269**

UP by 9.1%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**1.2%**

Average Two-Bedroom Rent

**\$1,298**

<sup>1</sup> Québec portion of the Ottawa-Gatineau census metropolitan area (CMA).

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Migration, youth employment and slower transition to homeownership continue to drive rental demand, holding the vacancy rate below 1%.”

**Lukas Jasmin-Tucci**  
Senior Analyst, Economics

MARKET INSIGHTS

## HIGHLIGHTS

Supply again increased a lot, but a number of factors contributed to equivalent growth in demand. The vacancy rate therefore remained stable (0.8%).

The average rent for 2-bedroom apartments posted its greatest increase (9.1%) since data has been available.

The scarcity of available apartments and higher rents faced by tenants who move mean that few of them are changing apartments. The turnover rate in the Gatineau area (9.5%) is one of the lowest in Canada.

Rental demand was most likely supported by growing net migration. The 2 largest sources were international migration and non-permanent residents.

### Vacancy rate remains stable in the Gatineau rental market

The vacancy rate in the Québec part of the Ottawa-Gatineau census metropolitan area (CMA) stood at 0.8%. Statistically speaking, it remained stable compared to the rate recorded in October 2021 (1.1%).

Supply and demand both experienced strong growth, resulting in a stable vacancy rate.

### Return of migration supports rental demand

Net migration at the provincial level rose in the past 12 months. It reached its 2019 level and therefore offset the decline caused by the pandemic in 2020. About three quarters of migrant households choose to rent when they arrive. Several aspects of migration supported the growth in rental demand.

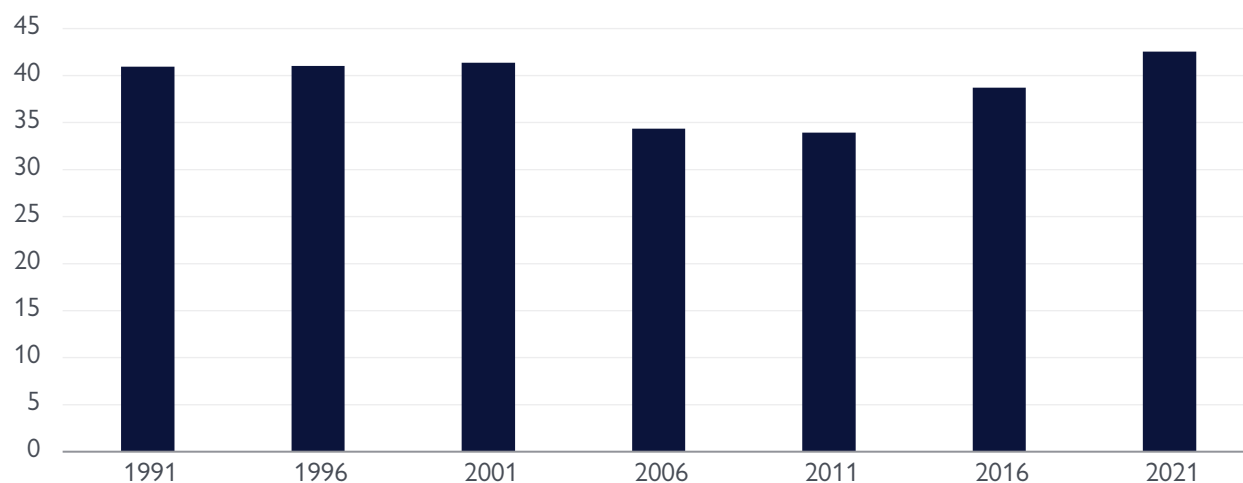
The 2 largest sources of migration were immigration and non-permanent residents.

The particularly strong increase in immigration could be explained as a catch-up effect. Migration flows to the Gatineau area usually reflect provincial flows, since a large share of migrants settle here. These newcomers can therefore be expected to join the pool of potential renters in the Gatineau area.

Interprovincial migration also increased, thanks in part to an improved balance with Ontario. Indeed, the number of people leaving Ontario for Québec continued to grow, almost erasing Québec's usual migration deficit with Ontario. Typically, a large share of these Ontario households (mainly from Ottawa) settle in the Gatineau area.

So, it seems that all the elements of net migration came together in 2022 to drive growth in rental demand.

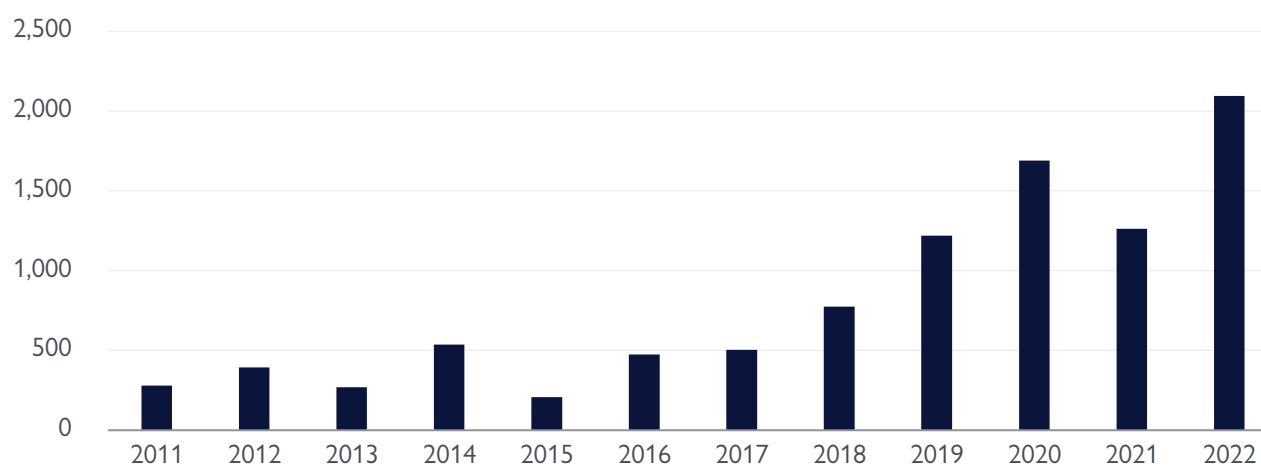
On the resale market, the housing supply is historically low, and prices have risen sharply. These factors, together with rising mortgage rates, are limiting the transition to homeownership for some renter households. As a result of this situation, a growing share of households in the 25 to 44 age group are remaining renters. In fact, the rental rate in this age group increased from 34% to 43% over the last 10 years (figure 1). This trend probably continued, strengthening rental demand in this age group.

**Figure 1** Proportion of 25-to-44-year-old households that are renter households (%)

Source: Statistics Canada

The employment level for youth aged 15 to 24 recently exceeded the level attained in the months before the pandemic. This age group was the hardest hit by job losses and also had the slowest recovery. Because this segment of the population consists mostly of renters, the improvement in the job market may have supported rental demand by enabling the creation of new households.

On the supply side, more than 2,000 rental units were completed since the last survey. After a slowdown in 2021, rental housing completions resumed the sustained pace that began in 2019 (figure 2). Despite this, demand in the region continued to increase enough to keep the vacancy rate low.

**Figure 2** Conventional rental unit completions

Source: CMHC

Note: Years from October to September.

## Rent growth accelerates

The average rent for 2-bedroom apartments rose by 9.1%. Such a big increase has not been seen since rent data became available. This increase is also among the biggest recorded in Québec in 2022. As has been the case since 2018, the number of available units is low, adding to the pressure on rents.

Renter households who move are more exposed to these increases. Indeed, rent growth was higher (11%) for units that turned over to new tenants (in the last 12 months) than for units that did not turn over. For 2-bedroom apartments, the average rent for a vacant unit was \$1,502 compared to \$1,268 for occupied units.

The scarcity of available apartments and higher rents faced by tenants who move mean that few tenants are changing apartments. The turnover rate in the Gatineau area (9.5%) is one of the lowest in Canada.

## Reduced supply on the rental condominium market

Since the last survey, the number of condominiums offered as rentals has fallen sharply. Only 23% of condominiums are on the rental market now, compared to more than 30% in the previous 6 surveys.

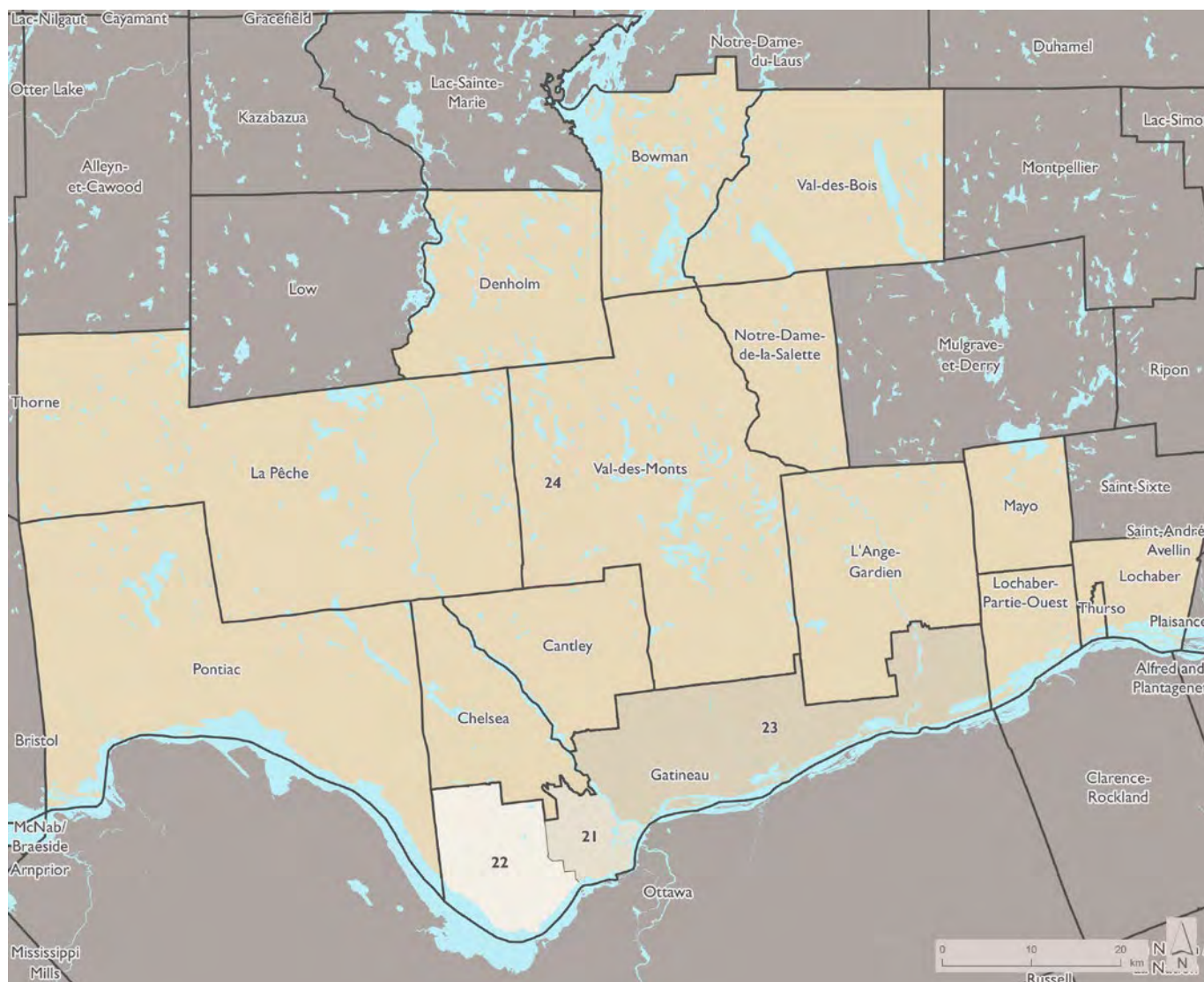
This decrease in supply means that the vacancy rate remains low, at 1.2%. This rate is similar to that on the purpose-built rental market.

For 2-bedroom units, the gap narrowed between rents for rental condominiums (\$1,298) and those for purpose-built rental units (\$1,269). This shrinking gap can be explained by:

- the significant addition of new units to the purpose-built rental market (newer units tend to have higher rents);
- the decline in the number of new condominium units (fewer than 100 condominiums were completed since 2019).



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Ottawa-Gatineau CMA (Québec Portion)

<b>Zone 21</b>	<b>Hull:</b> Gatineau sector corresponding to the former municipality of Hull.
<b>Zone 22</b>	<b>Aylmer:</b> Gatineau sector corresponding to the former municipality of Aylmer.
<b>Zone 23</b>	<b>Gatineau:</b> Gatineau sector corresponding to the former municipality of Gatineau, the former municipality of Buckingham and the former municipality of Masson-Angers.
<b>Zone 24</b>	<b>Outlying area:</b> Corresponds to the following municipalities: Chelsea, Cantley, La Pêche, Pontiac, Val-des-Monts, L'Ange-Gardien, Denholm, Thurso, Lochaber, and Lochaber-Partie-Ouest.
<b>Zones 21-24</b>	<b>Ottawa-Gatineau CMA (Québec portion).</b>

# Québec



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1.5%**

Average Two-Bedroom Rent

**\$976**

UP by 3.5%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**\*\*%**

Average Two-Bedroom Rent

**\$1,192**

\*\*Data suppressed.

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“At 1.5%, the vacancy rate in the CMA hasn’t been this low since 2010. Although supply has remained strong in recent years, it clearly isn’t meeting demand.”

**Olivier Fortin-Gagnon**  
Senior Analyst, Economics

MARKET INSIGHTS

## HIGHLIGHTS

The overall vacancy rate in the area was 1.5% in October 2022, its lowest level since 2010. Strong rental demand was clearly fuelled by rising migration, slowed transition to homeownership and the resumption of on-campus learning.

The vacancy rate for the least expensive rental units fell below 1%. This low availability creates more affordability problems for the lowest-income households in the area.

Rent growth in the Québec CMA in 2022 was 8.2% for 2-bedroom apartments that turned over to a new tenant. It was 3.8% for those that did not turn over.

### CMA vacancy rate fell to 1.5% in 2022, its lowest level since 2010

The overall vacancy rate for rental housing in the Québec census metropolitan area (CMA) was 1.5% in October 2022. This was a sharp decline compared to the last 3 years, when it hovered around 2.5%. We need to go back to 2010 to see a lower rate (1.0%).

### Students and migration contribute to strong rental demand

The resumption of regular university and CEGEP courses in 2022 raised the number of full-time and international students. This led to greater rental demand, especially in central neighbourhoods and the lowest rent ranges.

In 2022, provincial migration returned to its pre-pandemic level. In the first half of 2022, net migration to the province nearly tripled compared to the same period in 2021. The area likely received a good share of this flow, helping drive rental demand.

Since 2016, more and more young households have postponed homeownership. They are held back by rising prices and low supply on the resale market. Indeed, the proportion of younger households that are renters reached 65.7%, a level not seen since 2006 (figure 1). These young households are putting added pressure on rental demand in the CMA.

**Figure 1** Percentage (%) of households under age 35 that are renter households — Québec CMA



Source: Statistics Canada (2001 to 2021 censuses and 2011 National Household Survey)

## Supply is strong, but clearly not meeting demand

Clearly, the supply of rental housing in the CMA has increased in recent years. We note that the share of total housing starts accounted for by rental units is steadily increasing in the area.

From 2011 to 2016, an average of 1,178 rental units were completed per year. In comparison, this number more than quadrupled in 2022 to 4,567. However, this greater supply still isn't enough to meet the strong demand in the area.

**Figure 2** Rental housing units completed\* in the Québec CMA



Source: CMHC

\*Data from July to June, for example, from July 2021 to June 2022 for the 2022 period. Data excludes units in seniors' homes.

## Vacancy rate fell significantly in most sectors of the region

With the return of regular and international students, a significant drop in vacancy rates was observed in sectors surrounding the CEGEPs and Université Laval (Haute-Ville, Basse-Ville and Sainte-Foy–Sillery). However, rates in those sectors still remained higher than the CMA average.

Rental demand is very strong in the other sectors of the Québec agglomeration, with almost all of them posting vacancy rates below 1%.

## Vacancy rates are low in all rent ranges

Vacancy rates for the least expensive rental units dropped below 1% in 2022. Once again, these low rates clearly show the general dynamics of the region: supply is not high enough to meet growing demand for affordable rental housing.

This situation creates additional pressure for the lowest-income households in the CMA. Indeed, it's increasingly difficult for them to find units that meet their needs and have rents that cost less than 30% of their income.

**Table 1** Vacancy rates (%) of privately initiated apartments by rent range — Québec (CMA)

Rent ranges	Vacancy Rates	
	2021	2022
Québec (CMA)		
Less than \$700	2.3	1.0
\$700 to \$799	1.8	0.4
\$800 to \$899	1.6	0.8
\$900 to \$999	2.2	0.7
\$1,000 to \$1,099	3.9	2.0
\$1,100 or more	4.2	3.3
All ranges	2.5	1.5



## Rent increases were moderate in the area compared to the provincial average

In 2022, we collected new data on rent differences between 2-bedroom units that turned over to new tenants during the year and those that didn't. We saw rent increases of:

- 8.2% for units that turned over to new tenants;
- 3.4% for units that did not turn over.

These increases show that when tenants changed, landlords adjusted rents to the market value. So, in 2022, the average rent was \$1,000 for 2-bedroom units that turned over and \$900 for those that didn't, which is \$100 less.

It should be noted that about 15% of the area's renters changed apartments between 2021 and 2022. This turnover rate is low compared to the pre-pandemic rate of about 22%.

Province-wide, the average rent for units that turned over in 2022 increased by 13.2%. In contrast, rents for units that didn't turn over rose by 3.6%.

## Vacancy rates for rental condominiums fell sharply in buildings with 100 or more units

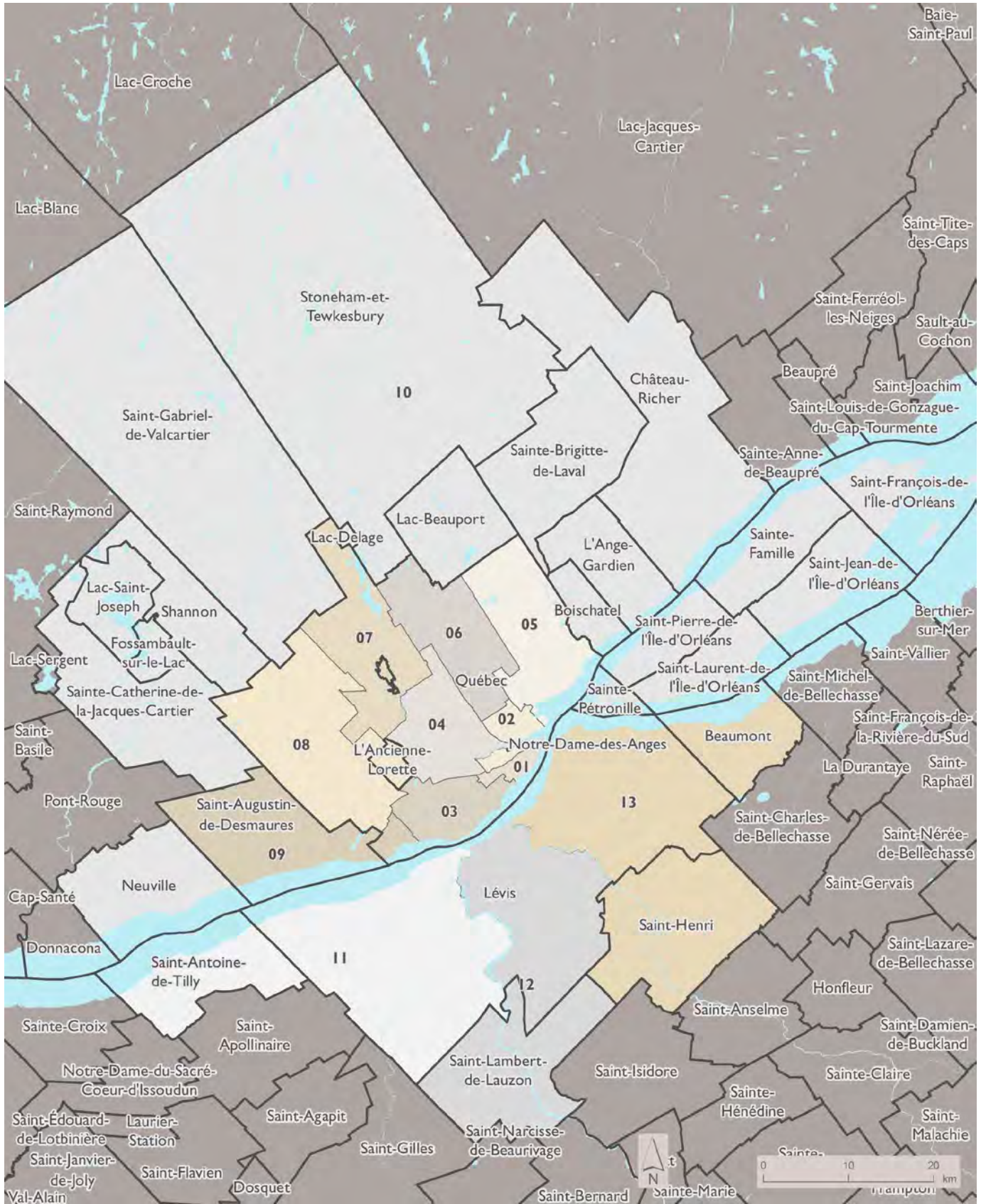
The vacancy rate for rental condominiums in buildings with 100 or more units declined sharply in 2022 compared to 2021. It fell from 7% to around 0%.

This decline was largely due to strong demand in the Québec agglomeration, where these buildings are located. Demand there was supported by the return of students and an increase in migration.

The average rent for a 2-bedroom unit in 2022 was higher on the rental condominium market (\$1,192) than on the purpose-built rental market (\$976).



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).



## RMS Zone Descriptions — Québec CMA

<b>Zone 1</b>	<b>Haute-Ville</b> - Districts of Saint-Jean-Baptiste, Montcalm, Vieux-Québec–Cap-Blanc–colline-Parlementaire and Saint-Sacrement
<b>Zone 2</b>	<b>Basse-Ville</b> - Districts of Saint-Roch, Saint-Sauveur, Maizerets, Vieux-Limoilou and Lairet
<b>Zone 3</b>	<b>Sainte-Foy–Sillery</b> - Districts of Sillery, Cité-Universitaire, Pointe-de-Sainte-Foy, Saint-Louis and Plateau
<b>Zone 4</b>	<b>Les Rivières</b> - Borough of Les Rivières
<b>Zone 5</b>	<b>Beauport</b> - Borough of Beauport
<b>Zone 6</b>	<b>Charlesbourg</b> - Borough of Charlesbourg
<b>Zone 7</b>	<b>Haute-Saint-Charles</b> - Districts of Lac-Saint-Charles, Châtelets, Saint-Émile and Loretteville
<b>Zone 8</b>	<b>Val-Bélair–L'Ancienne-Lorette</b> - Districts of Val-Bélair and Aéroport, and city of L'Ancienne-Lorette
<b>Zone 9</b>	<b>Saint-Augustin–Cap-Rouge</b> - City of Saint-Augustin-de-Desmaures and district of Cap-Rouge
<b>Zones 1-9</b>	<b>Québec Agglomeration</b>
<b>Zone 10</b>	<b>Northern Surrounding Area</b> - Côte-de-Beaupré (Regional county municipalities of La Côte-de-Beaupré and L'Île-d'Orléans), Jacques-Cartier (Regional county municipality of La Jacques-Cartier and city of Neuville)
<b>Zone 11</b>	<b>South Shore West</b> - Borough of Les Chutes-de-la-Chaudière-Ouest and municipality of Saint-Antoine-de-Tilly
<b>Zone 12</b>	<b>South Shore Centre</b> - Borough of Les Chutes-de-la-Chaudière-Est and municipality of Saint-Lambert-de-Lauzon
<b>Zone 13</b>	<b>South Shore East</b> - Borough of Desjardins and municipalities of Saint-Henri and Beaumont
<b>Zones 11-13</b>	<b>South Shore</b>
<b>Zones 1-13</b>	<b>Québec CMA</b>

## Condominium Sub Area Descriptions — Québec CMA

<b>Sub Area 1</b>	<b>North Centre</b> includes RMS Zone 1 (Québec Haute-Ville), Zone 2 (Québec Basse-Ville), Zone 3 (Sainte-Foy-Sillery), and Zone 4 (Les Rivières).
<b>Sub Area 2</b>	<b>Northern Crown</b> includes RMS Zone 5 (Beauport), Zone 6 (Charlesbourg), Zone 7 (Haute-Saint-Charles), Zone 8 (Val-Bélair/L'Ancienne-Lorette), Zone 9 (Saint-Augustin-Cap-Rouge) and Zone 10 (Côte-de-Beaupré, Jacques-Cartier).
<b>Sub Area 3</b>	<b>South Shore</b> includes RMS Zone 11 (South Shore West), Zone 12 (South Shore Centre) and Zone 13 (South Shore East).
<b>Sub Areas 1-3</b>	<b>Québec CMA</b>

# Montréal



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**2%**

Average Two-Bedroom Rent

**\$1,022**

UP by 5.4%

## CONDOMINIUM APARTMENT MARKET

Vacancy Rate

**2%**

Average Two-Bedroom Rent

**\$1,517**

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“Strong demand in the rental market pushed the vacancy rate down. Rent increases were also significant, especially for renters who moved.”

**Francis Cortellino**  
Economist

MARKET INSIGHTS

## HIGHLIGHTS

The vacancy rate on the Island of Montréal fell from 3.7% to 2.3%. This decline was caused by a strong rebound in international migration and a slower transition to homeownership. That last factor also supported rental demand in the suburbs. Despite the addition of thousands of new apartments, the suburbs continued to have a vacancy rate around 1%.

New data: For 2-bedroom apartments, there was a 28% gap between the average rent for units that turned over to a new tenant (\$1,235) and the average rent for units that did not turn over (\$963).

The change in average rent for 2-bedroom apartments from 2021 to 2022 was the biggest in 20 years (+5.4%). However, the increase was 14.5% for units that turned over and 3.5% for units that didn't.

The supply of rental condominiums rose sharply in 2022. However, demand also rose, for the same reasons that affected the purpose-built rental market, so the vacancy rate remained stable at 2%.

## Demand is recovering on the Island of Montréal, and vacancy rates are low in the suburbs

The vacancy rate in the Montréal area fell to 2% in 2022. As such, it's approaching its 2019 pre-pandemic level of 1.5%. However, the proportion of vacant units varied by sector (table 1).

**Table 1** Vacancy rate (%) in selected geographic areas of the Montréal CMA

Areas	2019	2020	2021	2022
Downtown Montréal/Île-des-Soeurs	2.6	10.2	6.3	4.3
Côte-des-Neiges/Mont-Royal/Outremont	1.7	4.7	4.8	3.3
<b>Island of Montréal</b>	<b>1.6</b>	<b>3.2</b>	<b>3.7</b>	<b>2.3</b>
<b>Suburbs</b>	<b>1.2</b>	<b>1.2</b>	<b>1.1</b>	<b>1.3</b>
<b>Montréal CMA</b>	<b>1.5</b>	<b>2.7</b>	<b>3.0</b>	<b>2.0</b>

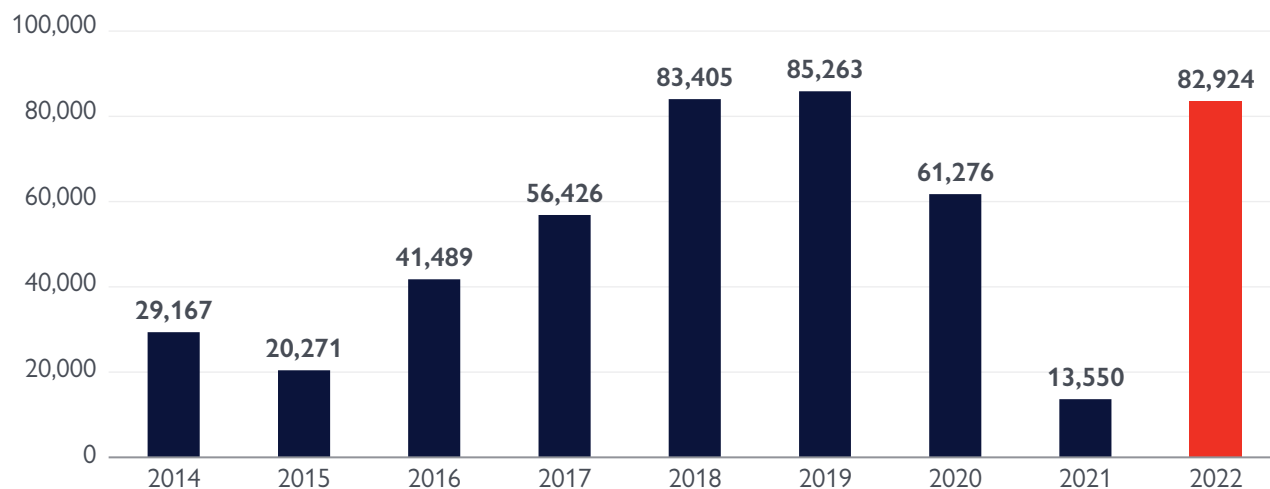
Source: CMHC

On the Island of Montréal, the vacancy rate fell to 2.3% after practically doubling from 2019 to 2021.

In the central neighbourhoods of the Island where there are many students and newcomers, such as downtown and Côte-des-Neiges, vacancy rates decreased (table 1). Rates fell mainly for small apartments (bachelor and 1-bedroom units).

The strong rebound in migration (figure 1) and in-person college and university classes fuelled rental demand in these neighbourhoods on the Island.

The same neighbourhoods were also among those where the largest number of rental apartments were added in 2022. This increase in supply means that vacancy rates here remain higher than in several other sectors on the Island.

**Figure 1 Significant rebound in net migration\* to Québec in 2022**

Source: Statistics Canada

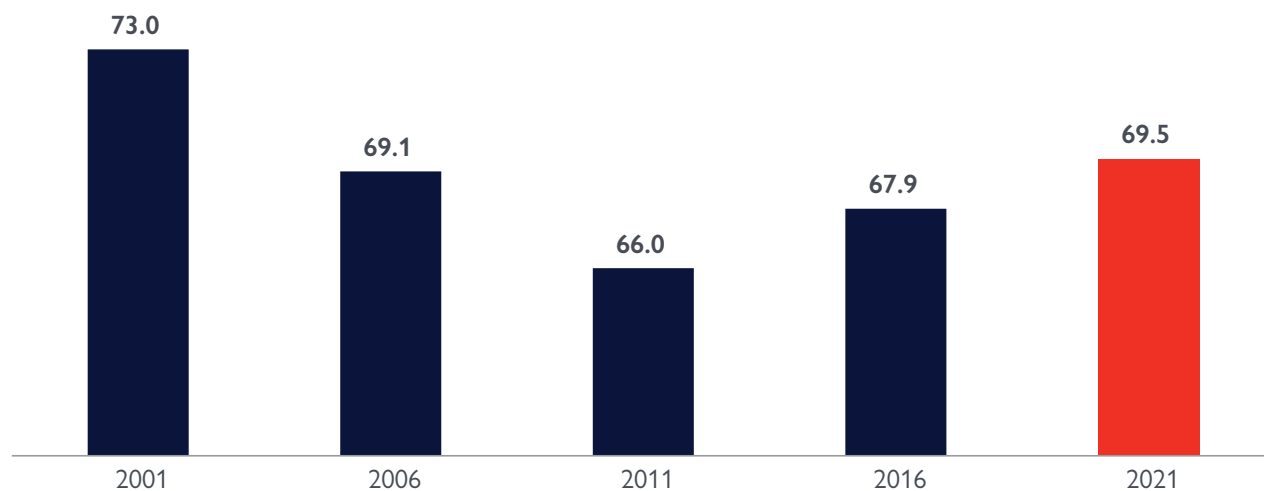
\*From July of the previous year to June of the current year.

Throughout the territory of Montréal (Island and suburbs), 2 other factors also supported rental demand: rising youth employment and strong price increases on the housing market since the start of the pandemic.

That last factor made it harder for renter households to become homeowners.

Indeed, in most age groups, the proportion of Montréal households that were renters was higher in 2021 than in 2016 (census data). This increase likely continued into 2022.

Younger households followed this trend. Over the past decade or so, more and more of them, percentage-wise, have tended to rent (figure 2).

**Figure 2 The proportion (%) of households under age 35 that are renter households continues to rise in the Montréal CMA**

Sources: Statistics Canada and CMHC (calculations)

The difficulty in transitioning to homeownership likely fuelled rental demand in the CMA. It also helps explain rental market conditions in the suburbs, where the vacancy rate remained stable at 1%.

The vacancy rate in the suburbs remained low despite certain supply and demand factors that could have caused it to increase:

- more than 60% of the CMA's 12,000 new rental units were in the suburbs;
- during the pandemic, there was a strong increase in the number of people leaving the suburbs to settle elsewhere in Québec.

All the major suburban sectors, namely the South Shore (1.2%), Laval (1.8%) and the North Shore (1.3%), posted similar vacancy rates. Only the North Shore stood out a little. Its vacancy rate increased slightly from 2021 to 2022 (from 0.4% to 1.3%).

Since the North Shore is the sector where housing is least expensive, it seems the transition to homeownership slowed less there.

This shows that rental demand was slightly less sustained on the North Shore than elsewhere, which explains the increase in the vacancy rate.

## Vacancy rate higher for newer units

In 2022, the increase in the supply of newer apartments outpaced the increase in demand in this market segment.

Indeed, the vacancy rate for apartments built in the last 3 years was higher (at 4.2%) than that of the overall market (regardless of the year of construction).

This indicates an easing on the market for newer rental apartments, since the vacancy rate in 2021 was only 2.7%.

Average rents for newer units are higher than those on the overall market (57% gap for 2-bedroom apartments in the CMA in 2022). This difference might have limited the number of potential renters.

## Few affordable apartments are vacant

The supply of affordable housing remains an issue in Greater Montréal despite the sustained construction of rental apartments in recent years.

Generally, vacancy rates are higher in the high rent ranges that are unaffordable to low-income renter households.

For example, vacancy rates were only 1% for apartments considered affordable to the least affluent 40% of renter households (those that make under \$43,000 per year). In contrast, the vacancy rate was 5.4% for apartments that were affordable to households making between \$63,000 and \$97,000 per year.

## New data: Rents and their growth rate are higher for apartments that turned over

For 2-bedroom apartments, there was a 28% gap between the average rent of units that turned over to new tenants (\$1,235) and units that didn't (\$963).

Here's why: When a unit is vacated by its tenant, the owner can adjust the rent in line with rents for comparable units on the market. The owner may also have renovated the unit.

Indeed, we observe that, from 2021 to 2022:

- The increase in the average rent was 14.5% for 2-bedroom apartments that turned over.
- The increase was only 3.5% for units that did not turn over.

The increase in the average rent for all 2-bedroom apartments was 5.4%, the largest in 20 years. The scarcity of rental units is one factor behind this strong increase. The increase in the average rent was similar for all apartments, regardless of size. It was also quite uniform across the main geographic sectors of the CMA.

Low vacancy rates and progressively higher rent increases have made tenants more reluctant to move. In fact, 10% of Montréal renter households changed addresses in 2022, compared to 11% in 2021 and 16% in 2019 (just before the pandemic).

## Rental condominium vacancy rate remains stable

In 2022, the vacancy rate for rental condominiums remained stable at 2% in the Montréal CMA. This is similar to the rate observed on the purpose-built rental market.

This stability is explained by supply and demand growing at the same pace.

After holding steady in 2021, the number of condominiums offered as rentals increased significantly in 2022. A total of 4,200 units were added, one of the largest increases in recent years.

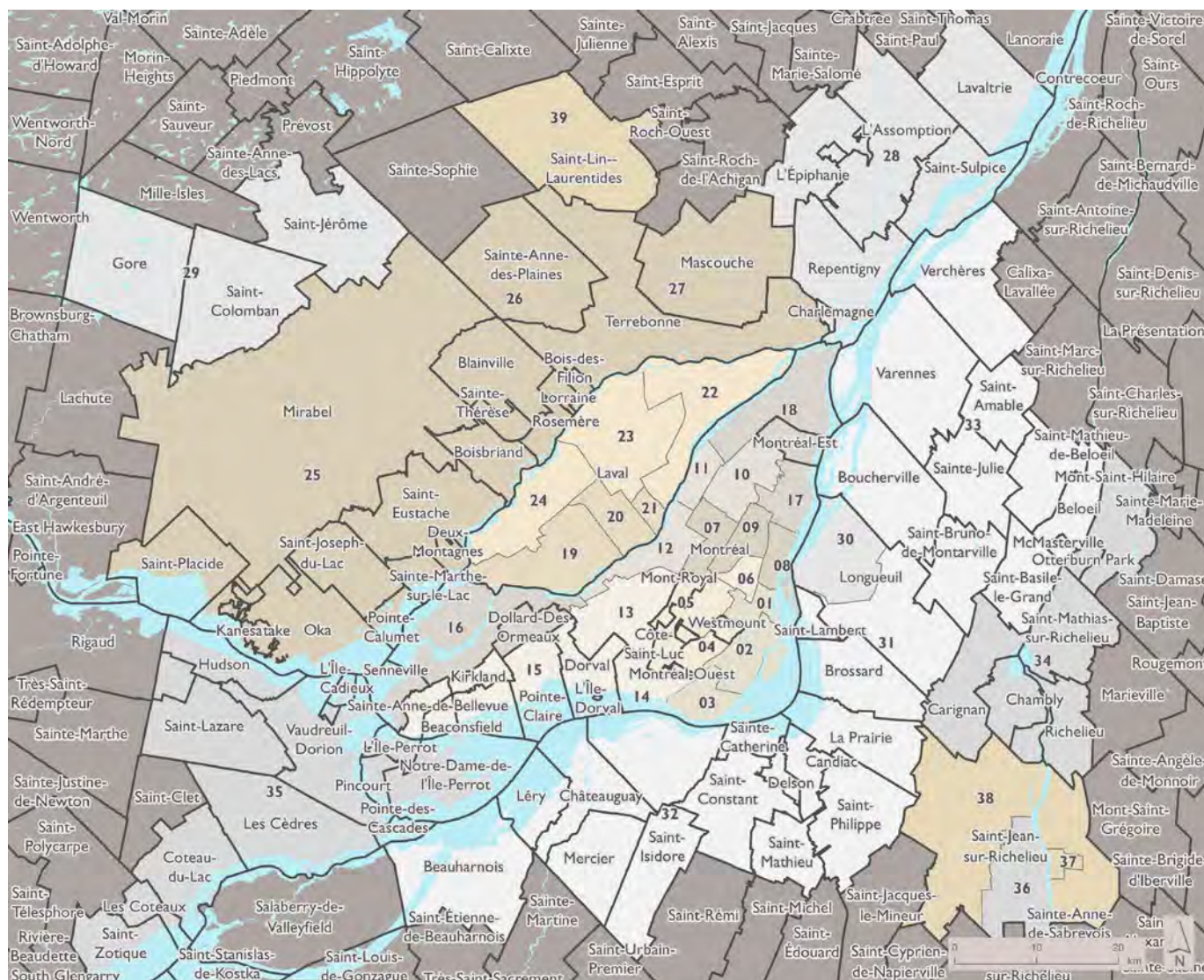
Demand for rental condominiums therefore remained strong. This is partly explained by the rebound in international migration and students returning to in-person learning. The slower transition to homeownership may have added to the number of households choosing to rent a condominium. This was another factor that influenced demand.

The scarcity of rental condominiums put upward pressure on rents. The average rent for 2-bedroom condominiums in the Montréal area reached \$1,520 in 2022, compared to \$1,420 in 2021.



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).





## RMS Zone Descriptions — Montréal CMA

<b>Zone 1</b>	<b>Downtown Montréal, Île-des-Soeurs</b> - St. Lawrence River (south), Chemin Remembrance, Des Pins Avenue and Sherbrooke Street (north), Amherst Street (east), Guy Street (west) and Île-des-Soeurs.
<b>Zone 2</b>	<b>Le Sud-Ouest (Mtl), Verdun (Mtl)</b> - St. Lawrence River (south), Lachine Canal and limits of Westmount (north), Guy Street and Autoroute Bonaventure (east), limits of Lasalle (west).
<b>Zone 3</b>	<b>Lasalle (Mtl)</b>
<b>Zone 4</b>	<b>Notre-Dame-de-Grâce (Mtl), Côte-Saint-Luc, Hampstead, Westmount, Montréal-Ouest</b> - Lachine Canal (south), limits of Côte-Saint-Luc and Hampstead (north), Décarie Blvd. and limits of Westmount (east), limits of Montréal-Ouest and Saint-Pierre (west).
<b>Zone 5</b>	<b>Côte-des-Neiges (Mtl), Mont-Royal, Outremont (Mtl)</b> - limits of Westmount and Voie Camillien-Houde (south), limits of Mont-Royal (north), limits of Outremont (east), Décarie Blvd. (west).
<b>Zone 6</b>	<b>Plateau Mont-Royal (Mtl)</b> - Sherbrooke Street (south), CP Railway (north), D'Iberville Street (east), limits of Outremont and Du Parc Avenue (west).
<b>Zone 7</b>	<b>Villeray (Mtl), Saint-Michel (Mtl), Parc-Extension (Mtl)</b> - Bélanger Street and Jean-Talon Street (south), Autoroute Métropolitaine and CN Railway (north), 24th Avenue (east), De l'Acadie Blvd. (west).

<b>Zone 8</b>	<b>Hochelaga-Maisonneuve (Mtl)</b> - St. Lawrence River (south), Sherbrooke Street (north), Viau Street (east), Amherst Street (west).
<b>Zone 9</b>	<b>Rosemont (Mtl), La Petite-Patrie (Mtl)</b> - Sherbrooke Street and CP Railway (south), Jean-Talon Street, Bélanger Street and limits of Saint-Léonard (north), Lacordaire Street and Dickson Street (east), Du Parc Avenue (west).
<b>Zone 10</b>	<b>Anjou (Mtl), Saint-Léonard (Mtl)</b> - Métropolitain Blvd. and Jarry Street (south), Rivière des Prairies (river) (north), limits of Montréal-Nord and Saint-Léonard (east), Railway (west).
<b>Zone 11</b>	<b>Montréal-Nord (Mtl)</b>
<b>Zone 12</b>	<b>Ahuntsic (Mtl), Cartierville (Mtl)</b> - Rivière des Prairies (river) (north), Saint-Michel Blvd. (east), limits of the former municipality of Pierrefonds (west).
<b>Zone 13</b>	<b>Saint-Laurent (Mtl)</b>
<b>Zone 14</b>	<b>Dorval, Lachine, Saint-Pierre (Mtl)</b>
<b>Zone 15</b>	<b>Baie-d'Urfé, Beaconsfield, Kirkland, Pointe-Claire, Senneville, Sainte-Anne-de-Bellevue</b>
<b>Zone 16</b>	<b>Dollard-des-Ormeaux, Saint-Raphaël-de-l'Île-Bizard (Mtl), Pierrefonds (Mtl), Roxboro (Mtl), Sainte-Geneviève (Mtl), Senneville (Mtl)</b>
<b>Zone 17</b>	<b>Mercier (Mtl)</b> - St. Lawrence River (south), Bélanger Street (north), limits of the former municipality of Montréal-Est (east), Viau Street and Dickson Street (west).
<b>Zone 18</b>	<b>Pointe-aux-Trembles (Mtl), Rivière-des-Prairies (Mtl), Montréal-Est (Mtl)</b>
<b>Zones 1-18</b>	<b>Île de Montréal</b>
<b>Zone 19</b>	<b>Chomedey, Sainte-Dorothée (Laval)</b>
<b>Zone 20</b>	<b>Laval-des-Rapides (Laval)</b>
<b>Zone 21</b>	<b>Pont-Viau (Laval)</b>
<b>Zone 22</b>	<b>Saint-François, Saint-Vincent, Duvernay (Laval)</b>
<b>Zone 23</b>	<b>Vimont, Auteuil (Laval)</b>
<b>Zone 24</b>	<b>Laval-Ouest, Fabreville, Sainte-Rose (Laval)</b>
<b>Zones 19-24</b>	<b>Laval</b>
<b>Zone 25</b>	<b>Deux-Montagnes, Oka, Pointe-Calumet, Sainte-Marthe-sur-le-Lac, Saint-Eustache, Saint-Joseph-du-Lac, Saint-Placide, Mirabel</b>
<b>Zones 26</b>	<b>Blainville, Boisbriand, Bois-des-Filion, Lorraine, Rosemère, Sainte-Anne-des-Plaines, Sainte-Thérèse</b>
<b>Zone 28</b>	<b>Charlemagne, L'Assomption, Le Gardeur, L'Épiphanie, Repentigny, Saint-Gérard-Majella, Saint-Sulpice, Lavaltrie</b>
<b>Zone 29</b>	<b>Bellefeuille, Lafontaine, Saint-Antoine, Saint-Jérôme, Gore, Saint-Colomban</b>
<b>Zones 27 &amp; 39</b>	<b>Lachenaie, La Plaine, Mascouche, Terrebonne, Saint-Lin-Laurentides</b>
<b>Zones 25-29, 39</b>	<b>North Shore</b>
<b>Zones 19-29, 39</b>	<b>Laval and North Shore</b>
<b>Zone 30</b>	<b>Longueuil</b>
<b>Zones 31</b>	<b>Boucherville, Brossard, Greenfield-Park, Lemoyne, Saint-Hubert, Saint-Lambert</b>
<b>Zone 32</b>	<b>Beauharnois, Candiac, Châteauguay, Delson, Laprairie, Léry, Maple Grove, Melocheville, Mercier, Sainte-Catherine, Saint-Constant, Saint-Isidore, Saint-Mathieu, Saint-Philippe</b>
<b>Zones 33</b>	<b>Beloeil, McMasterville, Saint-Amable, Saint-Basile-le-Grand, Saint-Bruno-de-Montarville, Sainte-Julie, Saint-Mathieu-de-Beloeil, Varennes, Verchères</b>

Zone 34	Carignan, Chambly, Mont-Saint-Hilaire, Notre-Dame-du-Bon-Secours, Otterburn Park, Richelieu, Saint- Mathias
Zones 36-38	St-Jean-sur-Richelieu, Iberville, Saint-Luc
Zones 30-34, 36-38	South Shore
Zone 35	Notre-Dame-de-L'île-Perrot, Pincourt, Pointe-des-Cascades, Vaudreuil-sur-le-Lac, Saint-Lazare, Terrasse-Vaudreuil, Vaudreuil-Dorion, Hudson, Île-Cadieus, Île-Perrot, Les Cèdres, Saint-Zotique, Coteau-du-Lac M, Les Coteaux M.
Zones 19-39	Suburbs
Zones 1-39	Montréal CMA

## Condominium Sub Area Descriptions — Montréal CMA

Sub Area 1	<b>Downtown</b> includes RMS Zone 1: Downtown Montréal, Île-des-Soeurs.
Sub Area 2	<b>Outer Centre</b> includes RMS Zone 2: Le Sud-Ouest (Mtl), Verdun (Mtl); Zone 4: Notre-Dame-de-Grâce (Mtl), Côte-Saint-Luc, Hampstead, Westmount, Montréal-Ouest; Zone 5: Côte-des-Neiges (Mtl), Mont-Royal, Outremont (Mtl); and Zone 6: Plateau Mont-Royal (Mtl).
Sub Area 3	<b>West Part of Island of Montréal</b> includes RMS Zone 3: LaSalle (Mtl); Zone 12: Ahuntsic (Mtl), Cartierville (Mtl); Zone 13: Saint-Laurent (Mtl); Zone 14: Dorval, Lachine (Mtl); Zone 15: Baie-d'Urfé, Beaconsfield, Kirkland, Pointe-Claire, Senneville, Sainte-Anne-de-Bellevue; and Zone 16: Dollard-des-Ormeaux, Saint-Raphaël-de-l'Île-Bizard (Mtl), Pierrefonds (Mtl), Roxboro (Mtl), Sainte-Geneviève (Mtl).
Sub Area 4	<b>East Part of Island of Montréal</b> includes RMS Zone 7: Villeray (Mtl), Saint-Michel (Mtl), Parc-Extension (Mtl); Zone 8: Hochelaga-Maisonneuve (Mtl); Zone 9: Rosemont (Mtl), La Petite-Patrie (Mtl); Zone 10: Anjou (Mtl), Saint-Léonard (Mtl); Zone 11: Montréal-Nord (Mtl); Zone 17: Mercier (Mtl); and Zone 18: Pointe-aux-Trembles (Mtl), Rivière-des-Prairies (Mtl), Montréal-Est (Mtl).
Sub Areas 1-4	<b>Montréal Island</b>
Sub Area 5	<b>Laval</b> includes RMS Zone 19: Chomedey, Sainte-Dorothée (Laval); Zone 20: Laval-des-Rapides (Laval); Zone 21: Pont-Viau (Laval); Zone 22: Saint-François, Saint-Vincent, Duvernay (Laval); Zone 23: Vimont, Auteuil (Laval); Zone 24: Laval-Ouest, Fabreville, Sainte-Rose (Laval).
Sub Area 6	<b>Vaudreuil-Soulanges</b> includes Zone 35: Notre-Dame-de-l'Île-Perrot, Pincourt, Pointe-des-Cascades, Vaudreuil-sur-le-Lac, Saint-Lazare, Terrasse-Vaudreuil, Vaudreuil-Dorion, Hudson, Île-Cadieus, Île-Perrot, Les Cèdres.
Sub Area 7	<b>North Shore</b> includes Zone 25: Deux-Montagnes, Oka, Pointe-Calumet, Sainte-Marthe-sur-le-Lac, Saint-Eustache, Saint-Joseph-du-Lac, Saint-Placide, Mirabel; Zone 26: Blainville, Boisbriand, Bois-des-Filion, Lorraine, Rosemère, Sainte-Anne-des-Plaines, Sainte-Thérèse; Zone 28: Charlemagne, L'Assomption, Le Gardeur, L'Épiphanie, Repentigny, Saint-Gérard-Majella, Saint-Sulpice, Lavaltrie; Zone 29: Bellefeuille, Lafontaine, Saint-Antoine, Saint-Jérôme, Gore, Saint-Colomban; Zone 27 & 39: Lachenaie, La Plaine, Mascouche, Terrebonne, Saint-Lin-Laurentides.
Sub Area 8	<b>South Shore</b> includes RMS Zone 30: Longueuil; Zone 31: Boucherville, Brossard, Greenfield-Park, Lemoyne, Saint-Hubert, Saint-Lambert; Zone 32: Beauharnois, Candiac, Châteauguay, Delson, Laprairie, Léry, Maple Grove, Melocheville, Mercier, Sainte-Catherine, Saint-Constant, Saint-Isidore, Saint-Mathieu, Saint-Philippe; Zone 33: Beloeil, McMasterville, Saint-Amable, Saint-Basile-le-Grand, Saint-Bruno-de-Montarville, Sainte-Julie, Saint-Mathieu-de-Beloeil, Varennes; Zone 34: Carignan, Chambly, Mont-Saint-Hilaire, Notre-Dame-du-Bon-Secours, Otterburn Park, Richelieu, Saint-Mathias; Zone 36-38: St-Jean-sur-Richelieu, Iberville, Saint-Luc.
Sub Areas 1-8	<b>Montréal CMA</b>

# Halifax



## PURPOSE BUILT RENTAL MARKET

Vacancy Rate

**1%**

Average Two-Bedroom Rent

**\$1,449**

UP by 9.3%

Data tables from the Rental Market Survey and the Condominium Apartment Survey are available by market by clicking on the link [www.cmhc.ca/rental-data-tables](http://www.cmhc.ca/rental-data-tables)



“There was no relief for renters in 2022, as the vacancy rate was unchanged and average rent increased at the fastest pace on record.”

**Kelvin Ndoro**  
Senior Analyst, Economics

**MARKET INSIGHTS**

## HIGHLIGHTS

Vacancy rate stayed at record low of 1% as demand matched supply.

Turnover rate dropped to lowest level in last 5 years, showing tenants' reduced tendency to move.

Overall same-sample average rent increase of 8.9% was highest single-year increase and 4 times above average historical growth rate.

Rental affordability remains a challenge for low-income households: only 3% of the rental universe is affordable to renter households in the lowest 20% of the income distribution.

### Halifax vacancy rate remained steady

The average apartment vacancy rate in Halifax did not change in 2022, staying at the record low of 1%. The change in vacancy rate varied across the city, but wasn't statistically significant in all neighbourhoods.

Demand was particularly strong for:

- structures with 100+ units in Dartmouth North (0.2% vacancy);
- the Remainder of CMA (0.3% vacancy);
- rental units in the \$850-to-\$949 rent range (0.5% vacancy); and
- 2-bedroom units (0.9% vacancy).

### Demand from students and young people remains strong

The number of non-permanent residents, which includes foreign students, increased as universities returned to in-person learning after the pandemic. The vacancy rate in the student-dominated Peninsula South zone dropped from 1% to 0.6%. Higher mortgage rates are lowering people's borrowing capacity and making homeownership tougher. Young people are staying in rentals longer and continue to boost rental demand. Of all households led by adults aged 25 to 44, 52.3% were renters in 2021, compared to 50.8% in 2016, according to Census data.

### Higher demand from young people moderated by preference for staying with parents

Vacancy rates have remained stable, as demand didn't change significantly, despite record population growth. High demand from young people has been moderated by others opting to stay with parents. This enables them to save for a down payment or avoid paying unaffordable rents. There were 22% more adults aged 25 to 44 living with their parents between the 2016 and 2021 Census. The population of this age cohort increased by 16% within the same period.

### Unaffordable rents contributing to outmigration

The number of people leaving for other provinces (13,561) increased by 33% compared to the previous year. A majority of outmigrants (53%) left for more affordable provinces. There were twice as many in-migrants as there were out-migrants. More than half of in-migrants were from Ontario, most likely attracted to the relatively affordable housing market. These in-migrants were also the least likely to rent.

The possibility of remote work is allowing people to leave Halifax in search of cheaper rental options. Vacancy rates dropped and were lower in provincial areas outside Halifax, such as Truro, Kentville and East Hants. In 2021, more rental units were completed in Halifax (1,762) than were completed in the rest of the province (232).

## Rental supply grew, but at a slower pace

Pandemic restrictions, higher commodity prices, and labour and logistical constraints have slowed down rental completions in the last 2 years. The number of rental apartment units increased by 1,348 (table 1.1.3). The increase in new supply was mostly from 1,201 rental apartment completions.<sup>1</sup> This was the lowest number of annual rental completions in a single survey year since 2016.

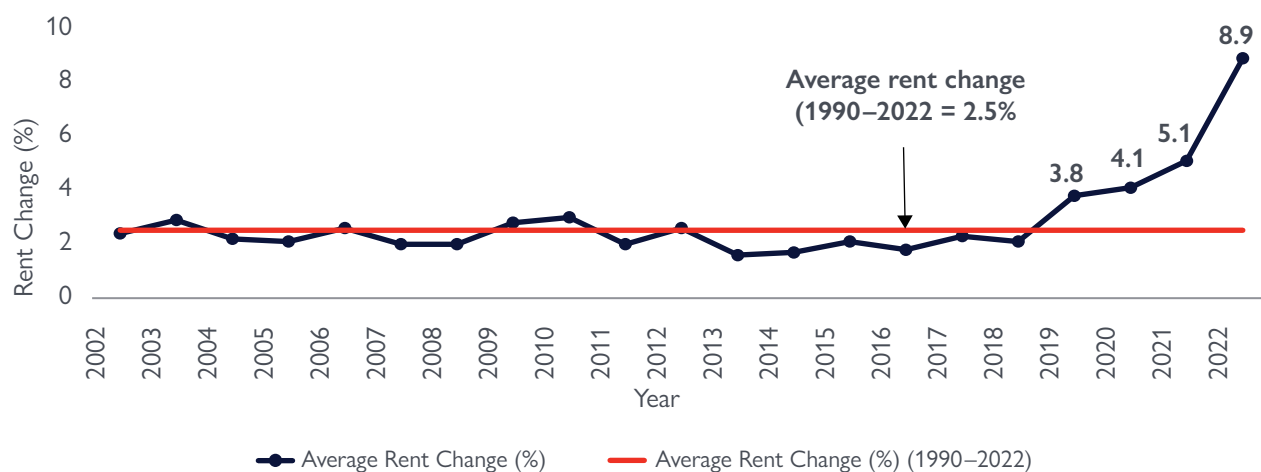
New rental supply was concentrated in the Remainder of CMA and Peninsula South. These areas, respectively, accounted for 48% and 30% of the overall increase. Rental demand was stronger in the Remainder of CMA. This area

had the highest increase in the number of rental units (+29%). Its vacancy rate dropped from 0.6% to 0.3%, despite significant supply growth.

## Record increase in average rents

Overall, same-sample average rent increased by 8.9%, despite Nova Scotia legislating a temporary 2% rent cap for existing leases in November 2020. Within the same structure, a two-bedroom unit occupied by a new tenant was on average 28% more expensive than one that did not turn over (Canada table 6.1). This rent disparity might be from renovated turnover units or property owners adjusting rents to market value because of higher operating costs.

**Figure 1** Halifax, percent change in same-sample average rents, 2002 to 2022



Source: CMHC

Given the difficulty of finding a unit of comparable value in a rental market with low vacancies and increased rents, turnover rates decreased from 17% to 11%. Vacant units had higher average rents compared to occupied units in most rental zones, except Mainland South and Sackville (table 1.1.9).

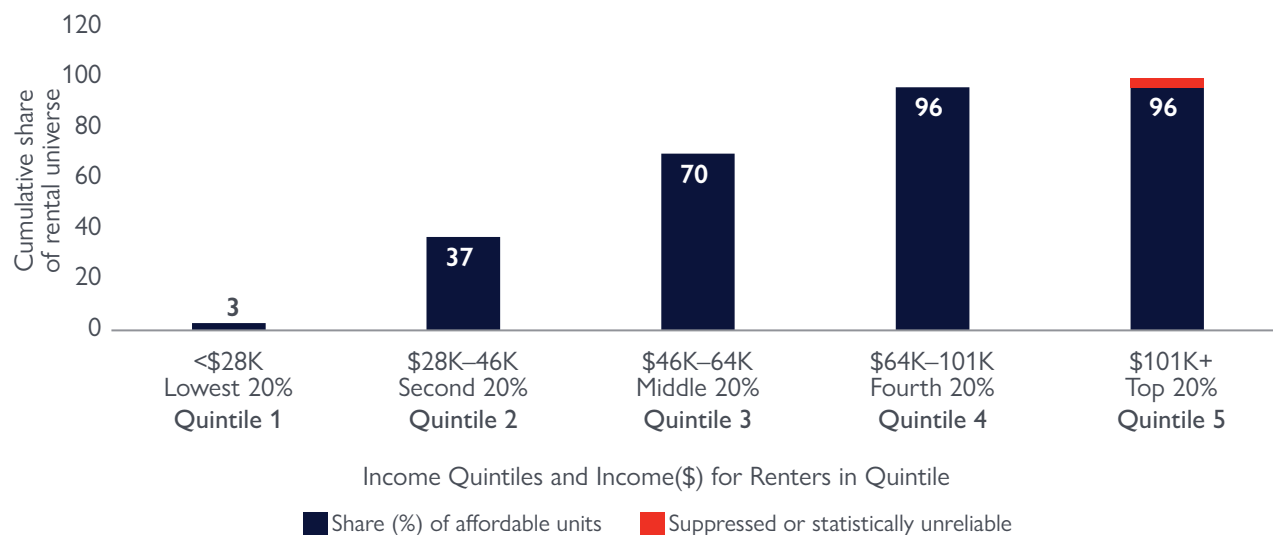
The increase in average rent was highest in Dartmouth North, at 12.7% (table 1.1.5). This area had the lowest overall average rent in the city (\$1,040) (table 1.1.2).

## Rental affordability remains a challenge for low-income households

According to CMHC's calculations (table 3.1.8), only 3% of the rental universe is affordable to renter households in the lowest 20% of the income distribution (yearly income less than \$28,000) (figure 2). There is increased competition from higher-income households for the few units affordable to low-income households. Units affordable to low-income households have vacancy rates between 0.6% and 0.8%. Units that are affordable to the top 2 income quintiles have vacancy rates of 1.5% and 2.3%. The affordable rent range for the top 2 income quintiles was, respectively, \$1,600 to \$2,524, and over \$2,525.

<sup>1</sup> Rental units completed between the Rental Market Surveys, which includes the period from July 2021 to June 2022.

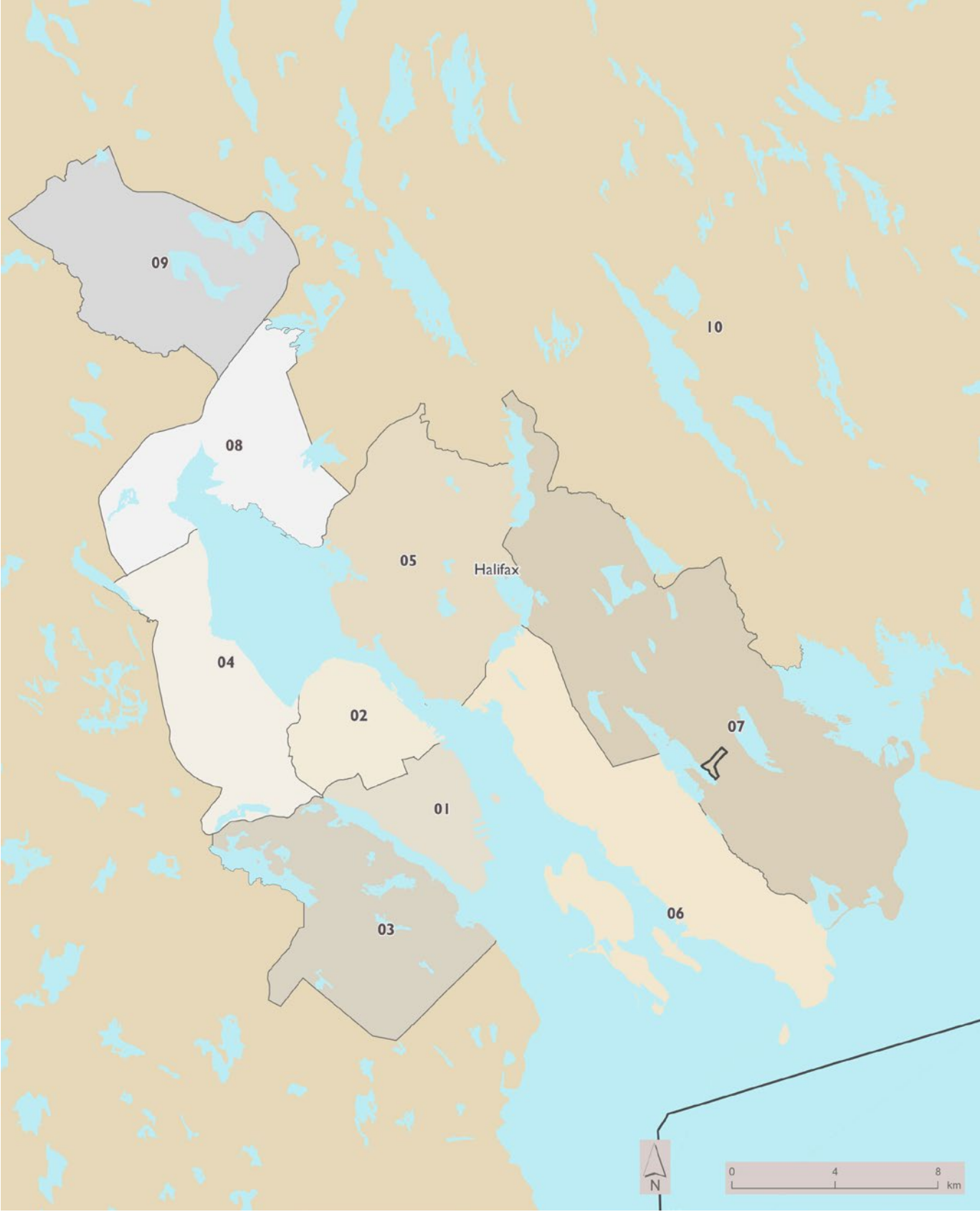
**Figure 2** Percent of rental units in Halifax affordable for each income quintile, 2022



Source: CMHC, Statistics Canada



Download the [Excel data table \(XLSX\)](#) for this market. Data tables for all markets are also available for download at [cmhc.ca/rental-market-report-data](https://cmhc.ca/rental-market-report-data).





## RMS Zone Descriptions — Halifax CMA

<b>Zone 1</b>	<b>Halifax Peninsula South</b> begins at Cornwallis Street, then along Cunard to Robie Street. From Robie the boundary runs south to Quinpool Road; along Quinpool to Connaught Avenue; north on Connaught to Chebucto Road to the North West Arm.
<b>Zone 2</b>	<b>Halifax Peninsula North</b> is the northern section of the Halifax Peninsula, separated from the mainland by Dutch Village Road and Joseph Howe Avenue.
<b>Zone 3</b>	<b>Halifax Mainland South</b> is the mainland area within the city of Halifax south of St. Margaret's Bay Road.
<b>Zone 4</b>	<b>Halifax Mainland North</b> is the mainland area within the city of Halifax boundaries north of St. Margaret's Bay Road.
<b>Zones 1-4</b>	<b>City of Halifax</b>
<b>Zones 5</b>	<b>Dartmouth North</b> is the part of Dartmouth north of Ochterloney Street, Lake Banook and Micmac Lake.
<b>Zones 6</b>	<b>Dartmouth South</b> is south of Ochterloney Street and Lake Banook and west of (outside) the Circumferential Highway, including Woodside as far as CFB Shearwater.
<b>Zone 7</b>	<b>Dartmouth East</b> is the area bounded by Micmac Lake and Lake Charles to the west, Highway 111, Halifax Harbour to Hartlen Point to the south, Cow Bay and Cole Harbour to the east and Ross Road, Lake Major Road, Lake Major and Spider Lake to the north.
<b>Zones 5-7</b>	<b>City of Dartmouth</b>
<b>Zone 8</b>	<b>Bedford</b> is the area bounded by Highway 102, the Sackville River and Kearney Lake to the west, continuing northeast to Rock Lake, south to Anderson Lake, southwest to Wrights Cove north of Pettipas Drive.
<b>Zone 9</b>	<b>Sackville</b> is the area bounded by Highway 102, North of Highway 101 & Margeson Drive northeast to Feely Lake, South along Windgate Drive to Windsor Junction Road then south to Highway 102.
<b>Zone 10</b>	<b>Remainder of CMA</b> is the remaining portion of HRM east of Ross Road and Lake Major Road, north of Wilson Lake Drive and Beaverbank-Windsor Junction Crossroad, west of Kearney Lake and Birch Cove Lakes and south of Long Lake and the community of Herring Cove.
<b>Zones 1-10</b>	<b>Halifax CMA</b>

# Appendix

## Technical Note

*Difference between Percentage Change of Average Rents (Existing and New Structures) AND Percentage Change of Average Rents from Fixed Sample (Existing Structures Only):*

**Percentage Change of Average Rents (New and Existing Structures):** The increase/decrease obtained from the calculation of percentage change of average rents between two years (example: \$500 in the previous year vs. \$550 in current survey represents an increase of 10 percent) is impacted by changes in the composition of the rental universe (e.g. the inclusion of newly built luxury rental buildings in the survey, rental units renovated/upgraded or changing tenants could put upward pressure on average rents in comparison to the previous year) as well as by the rent level movement (e.g. increase/decrease in the level of rents that landlords charge their tenants).

**Percentage Change of Average Rents from Fixed Sample (Existing Structures Only):** This is a measure that estimates the rent level movement. The estimate is based on structures that were common to the survey sample for both the previous year and the current Rental Market Surveys. However, some composition effects still remain e.g. rental units renovated/upgraded or changing tenants because the survey does not collect data to such level of details.

## Methodology for Rental Market Survey

Canada Mortgage and Housing Corporation (CMHC) conducts the **Rental Market Survey** (RMS) every year in October to estimate the relative strengths in the rental market. The survey is conducted on a sample basis in all urban areas with populations of 10,000 and more. The survey targets only privately initiated rental structures with at least three rental units, which have been on the market for at least three months. The survey collects market rent levels, turnover and vacancy unit data for all sampled structures.

The survey is conducted by a combination of telephone interviews and site visits, and information is obtained from the owner, manager, or building superintendent. The survey is conducted during the month of October, and the results reflect market conditions at that time.

CMHC is constantly reviewing the Universe of rental structures in the rental market Universe to ensure that it is as complete as possible. Every year, any newly completed rental structures with at least 3 rental units are added to the Universe. In addition to this, CMHC undertakes comprehensive reviews by comparing the Universe listing to other sources of data to ensure that the list of structures is as complete as possible.

CMHC's Rental Market Survey provides a snapshot of vacancy and turnover rates and average rents in both new and existing structures. There also exists a measure for the change in rent that is calculated based on existing structures only. The estimate is based on structures that were common to the survey sample for both the previous and the current Rental Market Surveys. The change in rent in existing structures is an estimate of the change in rent that the landlords charge and removes compositional effects on the rent level movement due to new buildings, conversions, and survey sample rotation. The estimate of percent change in rent is available in all Canada and Provincial Highlights publications, and also in the CMA reports. The rent levels in new and existing structures are also published. While the percent change in rents in existing structures published in the reports are statistically significant, changes in rents that one might calculate based on rent levels in new and existing structures may or may not be statistically significant.

## Methodology for Condominium Apartment Survey

Canada Mortgage and Housing Corporation (CMHC) conducts the Condominium Apartment Survey (CAS) in September to estimate the relative strengths in the condo apartment rental market. The CAS collects the number of units being rented out and the vacancy and rent levels of these units in the following CMAs: Calgary, Edmonton, Gatineau, Halifax, Hamilton, Kelowna, Kitchener, London, Montréal, Ottawa, Québec, Regina, Saskatoon, Toronto, Vancouver, Victoria and Winnipeg. The CAS is a census of all apartment condos with 3 units and over, with the exception of Montréal, where a sample of structures is surveyed. The CAS is conducted by telephone interviews and information is obtained from the property management company, condominium (strata) board, or building superintendent. If necessary, this data can be supplemented by site visits if no telephone contact is made.

## Rental Market Survey (Rms) and Condominium Apartment Survey (Cas) Data Reliability

CMHC does not publish an estimate (e.g. Vacancy Rates and Average Rents) if the reliability of the estimate is too low or the confidentiality rules are violated. The ability to publish an estimate is generally determined by its statistical reliability, which is measured using the coefficient of variation (CV). CV of an estimate is defined as the ratio of the standard deviation to the estimate and CV is generally expressed a percentage. For example, let the average rent for one bedroom apartments in a given CMA be  $\bar{x}$  and its standard deviation be  $\sigma_{\bar{x}}$ . Then the Coefficient of Variation is given by  $CV = \frac{\sigma_{\bar{x}}}{\bar{x}}$ .

### Reliability Codes for Proportions

CMHC uses CV, sampling fraction and universe size to determine the ability to publish proportions such as vacancy rates, availability rates and turnover rates. The following letter codes are used to indicate the level of reliability of proportions:

- a — Excellent
- b — Very good
- c — Good
- d — Fair (Use with Caution)
- \*\* — Poor — Suppressed
- ++ — Change in rent is not statistically significant. This means that the change in rent is not statistically different than zero (0).
- — No units exist in the universe for this category
- N/A — Not applicable

The following two tables indicate the level of reliability of proportions:

If the proportion is Zero (0) and sampling fraction is less than 100% then the following levels are assigned:

### Sampling Fraction (%) range

Structures in Universe	(0,20]*	(20,40]	(40,60]	(60,80]	(80,100)
3 – 10	Poor	Poor	Poor	Poor	Poor
11 – 20	Poor	Fair	Fair	Fair	Good
21 – 40	Poor	Fair	Fair	Good	Very Good
41 – 80	Poor	Fair	Good	Good	Very Good
81+	Poor	Good	Good	Very Good	Very Good

\*(0, 20] means sampling fraction is greater than 0% but less than or equal to 20%; others are similar.

Otherwise, the following table is used to determine the reliability level of proportions:

### Coefficient of Variation (CV) %

Vacancy Rate	0	(0,5]	(5,10]	(10,16.5]	(16.5,33.3]	(33.3,50]	50+
(0,0.75]	Excellent	Excellent	Excellent	Excellent	Excellent	V. Good	V. Good
(0.75,1.5]	Excellent	Excellent	Excellent	Excellent	Excellent	Fair	Poor
(1.5,3]	Excellent	Excellent	Excellent	V. Good	Good	Poor	Poor
(3,6]	Excellent	Excellent	V. Good	Good	Fair	Poor	Poor
(6,10]	Excellent	Excellent	V. Good	Good	Poor	Poor	Poor
(10,15]	Excellent	Excellent	Good	Fair	Poor	Poor	Poor
(15,30]	Excellent	Excellent	Fair	Poor	Poor	Poor	Poor
(30,100]	Excellent	Excellent	Poor	Poor	Poor	Poor	Poor

### Reliability Codes for Averages and Totals

CMHC uses the CV to determine the reliability level of the estimates of average rents and a CV cut-off of 10% for publication of totals and averages. It is felt that this level of reliability best balances the need for high quality data and not publishing unreliable data. CMHC assigns a level of reliability as follows (CV's are given in percentages):

- a — If the CV is greater than 0 and less than or equal to 2.5 then the level of reliability is **Excellent**.
- b — If the CV is greater than 2.5 and less than or equal to 5 then the level of reliability is **Very Good**.
- c — If the CV is greater than 5 and less than or equal to 7.5 then the level of reliability is **Good**.
- d — If the CV is greater than 7.5 and less than or equal to 10 then the level of reliability is **Fair**.
- \*\* — If the CV is greater than 10 then the level of reliability is **Poor**. (Do Not Publish)

### Arrows indicate Statistically Significant Changes

Use caution when comparing statistics from one year to the next. Even if there is a year over year change, it is not necessarily a statistically significant change. When applicable, tables in this report include indicators to help interpret changes:

- ↑ indicates the year-over-year change is a statistically significant increase.
- ↓ indicates the year-over-year change is a statistically significant decrease.
- indicates that the effective sample does not allow one to interpret any year-over-year change as being statistically significant.
- Δ indicates that the change is statistically significant.

## Definitions

**Rent:** The rent refers to the actual amount tenants pay for their unit. No adjustments are made for the inclusion or exclusion of amenities and services such as heat, hydro, parking, and hot water. For available and vacant units, the rent is the amount the owner is asking for the unit. Since 2022, the RMS also measures rents for 2-bedroom units with and without tenant turnover (Table 6.0 – Canada). Also, the difference between these two rent measures is available for units in the same structure (Table 6.1 – Canada). It should be noted that the average rents reported in this publication provide a sound indication of the amounts paid by unit size and geographical sector. Utilities such as heating, electricity and hot water may or may not be included in the rent.

**Rental Apartment Structure:** Any building containing three or more rental units, of which at least one unit is not ground oriented. Owner-occupied units are not included in the rental building unit count.

**Rental Row (Townhouse) Structure:** Any building containing three or more rental units, all of which are ground oriented with vertical divisions. Owner-occupied units are not included in the rental building unit count. These row units in some centres are commonly referred to as townhouses.

**Vacancy:** A unit is considered vacant if, at the time of the survey, it is physically unoccupied and available for immediate rental.

**Turnover:** A unit is counted as being turned over if it was occupied by a new tenant moved in during the past 12 months. A unit can be counted as being turned over more than once in a 12 month period.

**Income:** Prior to the 2022 RMS income quintiles were developed by inflating Census 2016 based income quintiles to the relevant year's dollars (using the national CPI). As of the RMS 2022, income quintiles are developed by growing Census 2016 based income quintiles to the relevant year's levels by using changes in the provincial median weekly wage. This approach better reflects growth in incomes in most provinces, while the CPI approach would frequently understate affordability by understating increases in incomes.

## Definitions of Census Areas referred to in this publication are as follows:

A census metropolitan area (CMA) or a census agglomeration (CA) is formed by one or more adjacent municipalities centred on a large urban area (known as the urban core). The census population count of the urban core is at least 10,000 to form a census agglomeration and at least 50,000 to form a census metropolitan area. To be included in the CMA or CA, other adjacent municipalities must have a high degree of integration with the central urban area, as measured by commuting flows derived from census place of work data. CMAs and CAs contain whole municipalities or Census Subdivisions.

October 2021 and October 2022 data is based on Statistics Canada's 2016 Census area definitions.

## Acknowledgement

The Rental Market Survey and the Condominium Apartment Survey could not have been conducted without the cooperation of the rental property owners, managers, building superintendents and household members throughout Canada. CMHC acknowledges their hard work and assistance in providing timely and accurate information. As a result of their contribution CMHC is able to provide information that benefits the entire housing industry.

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## Alternative text and data for figures

### Canada Overview

Figure 1: Canada, vacancy rate for all bedroom types, purpose-built rental apartments (%)

Year	Vacancy rate	Average vacancy rate (1990–2022)
1990	3.5	3.2
1991	4.4	3.2
1992	4.8	3.2
1993	4.9	3.2
1994	4.7	3.2
1995	4.5	3.2
1996	4.5	3.2
1997	4.5	3.2
1998	4.0	3.2
1999	3.2	3.2
2000	2.2	3.2
2001	1.7	3.2
2002	2.1	3.2
2003	2.6	3.2
2004	2.9	3.2
2005	2.8	3.2
2006	2.7	3.2
2007	2.6	3.2
2008	2.3	3.2
2009	3.0	3.2
2010	2.9	3.2
2011	2.5	3.2
2012	2.8	3.2
2013	2.9	3.2
2014	3.0	3.2
2015	3.5	3.2
2016	3.7	3.2
2017	3.0	3.2
2018	2.4	3.2
2019	2.2	3.2
2020	3.2	3.2
2021	3.1	3.2
2022	1.9	3.2

Source: CMHC

Canada total includes all centres of 10,000+ population.

Figure 2: Strong growth in supply was outpaced by stronger growth in demand in most centres, for purpose-built rental apartments in 2022

	Change in Universe (%)	Change in Occupied Units (%)
Vancouver	3.3	3.6
Victoria	5.0	4.6
Edmonton	4.0	7.4
Calgary	8.0	10.7
Saskatoon	4.1	5.6
Regina	-0.1	4.1
Winnipeg	3.5	6.0
Hamilton	0.1	1.1
Greater Sudbury	-0.1	-0.6
Kitchener-Cambridge-Waterloo	1.4	2.2
Belleville	-2.2	-2.9
Peterborough	2.8	2.7
Windsor	-0.2	1.6
St.Catharines-Niagara	1.7	0.8
London	1.2	1.4
Kingston	2.8	3.0
Toronto	2.2	5.4
Ottawa	6.6	8.0
Gatineau	6.4	6.7
Québec	4.1	5.2
Montréal	1.4	2.4
Halifax	2.5	2.5
CANADA	2.6	3.8

Source: CMHC

Canada total includes all centres of 10,000+ population

Figure 3: Rent growth surged across the country for 2-bedroom purpose-built apartments, including Vancouver and Toronto

	October 2021	October 2022
Vancouver	2.4	5.7
Victoria	3.1	6.7
Edmonton	-0.5	1.6
Calgary	++	6.0
Saskatoon	0.5	3.4
Regina	++	3.3
Winnipeg	2.8	1.5
Hamilton	3.7	5.3
Greater Sudbury	8.4	**
Kitchener-Cambridge-Waterloo	3.2	7.2
Belleville	++	**
Peterborough	**	5.4
Windsor	5.7	3.9
St.Catharines-Niagara	5.7	6.3
London	3.1	5.8
Kingston	2.9	4.9
Toronto	1.3	6.5
Ottawa	1.3	4.8
Gatineau	6.7	9.1
Québec	2.1	3.3
Montréal	4.0	5.4
Halifax	4.8	9.3
CANADA	3.0	5.6

Source: CMHC

Canada total includes all centres of 10,000+ population

\*\* — Data Suppressed;

++ — Change in rent is not statistically significant. This means that the change in rent is not statistically different than zero (0).

## Vancouver

Figure 1: Average rents of vacant and occupied apartments, all bedroom types, Vancouver CMA (\$)

Year	Average Rent	
	Vacant Units	Occupied Units
2014	\$995	\$1,100
2015	\$1,131	\$1,144
2016	\$1,299	\$1,223
2017	\$1,435	\$1,296
2018	\$1,578	\$1,383
2019	\$1,771	\$1,466
2020	\$1,820	\$1,499
2021	\$1,681	\$1,535
2022	\$2,373	\$1,658

Source: CMHC



Figure 2: Components of change in supply of rental condominium apartments, Vancouver CMA

Year	Number of existing units converted to rental	Number of newly added units rented in same year	Net change in supply of rental units
2013	1,230	1,466	2,696
2014	-1,637	2,011	374
2015	2,935	2,040	4,975
2016	-2,796	4,312	1,516
2017	474	1,367	1,841
2018	-2,992	1,911	-1,081
2019	8,824	2,294	11,118
2020	3,631	3,506	7,137
2021	-426	2,976	2,550
2022	3,296	4,554	7,850

Source: CMHC

## Victoria

Figure 1: Despite slow-down in rental construction, rental stock expanded thanks to fewer renovations, demolitions and conversions

Year	Newly completed units, purpose-built-rental apartments	Net change to the rental stock, purpose-built-rental apartments
2012	180	208
2013	204	12
2014	494	359
2015	276	350
2016	477	94
2017	986	545
2018	901	682
2019	1,284	583
2020	1,719	1,379
2021	1,869	661
2022	1,384	1,411

Source: CMHC

Figure 2: Part-time employment gains drove the job market in 2022

Year	Cumulative monthly change of the number of full-time employments	Cumulative monthly change of the number of part-time employments	Unemployment rate, monthly average
2016	3,800	3,000	5%
2017	5,500	2,100	4%
2018	1,000	-2,800	4%
2019	2,400	3,900	3%
2020	-2,700	-5,200	8%
2021	5,900	1,600	5%
2022	200	7,500	4%

Source: Statistics Canada

Note: The 2022 data includes the period between January 2022 and November 2022.

## Edmonton

Figure 1: Alberta net-migration by type and Edmonton annual growth in rental occupancy (historical)

Year	Net-Interprovincial Migration (LHS)	Net-International Migration (LHS)	Change in Occupancy (RHS)
1990	5,593	15,500	
1991	8,983	8,325	-469
1992	2,983	7,437	-1,782
1993	-1,181	8,043	-2,784
1994	-1,630	8,903	-2,814
1995	-556	9,391	-1,412
1996	7,656	8,951	1,498
1997	26,282	8,139	1,658
1998	43,089	5,895	1,662
1999	25,191	7,461	-23
2000	22,674	8,368	660
2001	20,457	12,805	41
2002	26,235	14,165	376

2003	11,903	11,125	62
2004	10,606	12,853	-1,543
2005	34,423	16,142	551
2006	45,795	21,189	1,653
2007	33,809	30,471	-3,841
2008	15,317	36,332	-2,949
2009	13,184	39,010	-1,565
2010	-3,271	24,828	-286
2011	8,443	19,644	-69
2012	27,652	36,913	580
2013	38,598	46,004	1,075
2014	35,382	44,030	1,327
2015	21,594	15,855	726
2016	-15,108	41,304	679
2017	-15,559	30,748	2,296
2018	-3,247	33,543	2,698
2019	-2,032	39,761	1,049
2020	-2,377	32,839	414
2021	-9,458	17,668	3,367
2022	21,660	59,998	5,163

Source: CMHC; Statistics Canada

Figure 2: Monthly rent and carrying cost of ownership, Edmonton CMA

Year	Average Rent — Purpose-built	Average Rent — Condo	Carrying Cost — Median Condo	5% Down Payment — Median Condo (right axis)	Own vs Rent (Purpose-built) Gap
2012	\$965	\$1,186	\$1,493	\$10,554	\$528
2013	\$1,028	\$1,146	\$1,572	\$10,835	\$544
2014	\$1,103	\$1,158	\$1,555	\$11,123	\$452
2015	\$1,137	\$1,348	\$1,540	\$11,278	\$403
2016	\$1,113	\$1,310	\$1,466	\$10,880	\$353
2017	\$1,101	\$1,265	\$1,485	\$10,632	\$384
2018	\$1,131	\$1,321	\$1,429	\$9,973	\$298
2019	\$1,144	\$1,262	\$1,299	\$9,493	\$155
2020	\$1,153	\$1,283	\$1,181	\$8,903	\$28
2021	\$1,158	\$1,290	\$1,237	\$9,168	\$96
2022	\$1,194	\$1,272	\$1,433	\$8,811	\$239

Source: CMHC, Canadian Real Estate Association (CREA), Tangerine, CMHC Calculations

Note: Calculations for the carrying cost of condo ownership assume a 25-yr amortization, discounted 5-year mortgage rate and takes into consideration monthly property taxes, strata fees, CMHC MLI premiums.

## Calgary

Figure 1: Inner city resurges in occupancy, but Northeast leads in growth

Zone	Estimated Change in Occupancy
Zone 1 — Downtown	614
Zone 2 — Beltline	561
Zone 3 — North Hill	384
Zone 4 — Southwest	332
Zone 5 — Southeast	456
Zone 6 — Northwest	559
Zone 7 — Northeast	749
Zone 8 — Chinook	323
Zone 9 — Fish Creek	441
Zone 10 — Other Centres	130
Calgary CMA	4,539

Source: CMHC

Figure 2: Same-sample rent increases tend to be greater when vacancy rate below 3%

Year	Same-Sample Rent Change	Vacancy Rate
1991	3.1	3.7
1992	0	5.5
1993	-1.4	5.9
1994	0	5.1
1995	0	3.6
1996	2.4	1.5
1997	7.5	0.5
1998	14.0	0.6
1999	2.2	2.8
2000	1.2	1.3
2001	6.6	1.2
2002	2.5	2.9
2003	0	4.4
2004	0	4.3
2005	1.2	1.6
2006	18.3	0.5
2007	15.4	1.5
2008	4.7	2.1
2009	-3.7	5.3
2010	-2.6	3.6
2011	1.8	1.9

Year	Same-Sample Rent Change	Vacancy Rate
2012	6.1	1.3
2013	7.9	1.0
2014	6.4	1.4
2015	0	5.3
2016	-7.6	7.0
2017	-1.6	6.3
2018	1.7	3.9
2019	1.7	3.9
2020	0	6.6
2021	0	5.1
2022	6.6	2.7

Source: CMHC

**Figure 3: Demand is high for more affordable units**

Household Income	Universe	Vacancy Rate	CMA Vacancy Rate
<\$36K (0%–20%)	2,427	2.6	2.7
\$36K–64K (20%–40%)	40,244	1.5	2.7
\$64K–86K (40%–60%)	7,450	5.7	2.7
\$86K–128K (60%–80%)	2,069	12.3	2.7
\$128K+	**	**	2.7
<b>Total</b>	<b>52,643</b>	<b>2.6</b>	<b>2.7</b>

Source: CMHC

Note: No units are considered unaffordable for the top 20% of earning households

## Saskatoon

**Figure 1: Lowest vacancy rate in northeast Saskatoon area**

Zone	2020	2021	2022
Central	5.1	5.0	5.3
South	5.4	2.9	2.1
Southeast	7.2	6.5	2.8
Northeast	4.6	3.3	1.3
North	5.7	4.8	3.0
Southwest	10.0	9.6	8.6
West	5.6	4.4	3.9
<b>Saskatoon CMA</b>	<b>5.9</b>	<b>4.8</b>	<b>3.4</b>

Source: CMHC

**Figure 2: Rental occupancy continued to outpace increases in supply in 2022**

Year	Rental apartment universe	
	Change in Occupancy (Units)	Change in Universe (Units)
2011	-209	-215
2012	352	361
2013	-11	2
2014	80	176
2015	-73	353
2016	-385	137
2017	358	291
2018	477	325
2019	442	79
2020	428	485
2021	710	576
2022	816	808

Source: CMHC

## Regina

**Figure 1: Vacancy rate declines as demand outpaces new supply**

Date	Vacancy Rates	Vacancy Rates, 5-YR MA
2012	0.90	0.70
2013	1.80	0.98
2014	2.90	1.44
2015	5.30	2.30
2016	5.40	3.26
2017	7.00	4.48
2018	7.70	5.66
2019	7.80	6.64
2020	7.40	7.06
2021	7.00	7.38
2022	3.20	6.62

Source: CMHC

Figure 2: International migrants support higher demand for rentals

Period	Immigrants	Interprovincial Migrants
1991 to 2000	2,670	10,045
2001 to 2010	9,090	10,175
2011 to 2015	12,835	9,610
2016 to 2021	14,915	6,630

Source: Statistics Canada

## Winnipeg

Figure 1: Purpose-built apartment vacancy rates decline across most CMA zones

CMA zones	Vacancy Rate		Changes in Vacancy rate
	October 2021	October 2022	
Fort Rouge	4.9	2.1	-2.8
Centennial	7.8	5.2	-2.6
Midland	8.1	3.8	-4.3
Lord Selkirk	4.3	4.8	0.5
St. James	3.7	1.5	-2.2
West Kildonan	6.4	5.1	-1.3
East Kildonan	3.1	1.4	-1.7
Transcona	4.0	1.1	-2.9
St. Boniface	3.7	2.4	-1.3
St. Vital	5.0	2.5	-2.5
Fort Garry	4.8	1.7	-3.1
Assiniboine Park	4.3	1.5	-2.8
Outlying Areas	1.0	2.9	1.9
Winnipeg CMA	5.1	2.7	-2.4

Source: CMHC

Figure 2: Growth in same-sample average rent trends downward in response to regulation and rental universe growth

Year	Same-Sample Average Rent	Rental Universe growth
2010	3.6	-1.6
2011	4.6	0.0
2012	3.8	0.5
2013	4.7	-0.4
2014	3.7	3.1

2015	3.6	2.6
2016	2.1	0.3
2017	3.9	3.3
2018	4.0	4.1
2019	3.5	1.5
2020	3.0	3.0
2021	2.6	4.7
2022	1.7	3.5

Source: CMHC

Figure 3: Households in lowest income quintile have limited rental options

Quintile	Income	Share of rental universe	Vacancy rate
Q1	< \$27K	4.2	2.6
Q2	\$27K–45K	45.6	2.5
Q3	\$45K–64K	85.7	2.5
Q4	\$64K–88K	98.1	4.3
Q5	\$88K+	100.0	7.7

Sources: CMHC, Statistics Canada.

## Hamilton

Figure 1: Number of temporary residents in Ontario on a study permit (12-month period)

Period	Number of temporary residents
Oct 2018–Sept 2019	201,055
Oct 2019–Sept 2020	146,290
Oct 2020–Sept 2021	197,285
Oct 2021–Sept 2022	271,830

Source: Immigration Refugees and Citizenship Canada

Figure 2: Year-over-year change in Hamilton CMA full-time employment (%)

Date	Age Group	
	15–24	25–44
October 2020	-7.6	-2.6
October 2021	-3.8	-4.4
October 2022	5.7	13.1

Source: Statistics Canada (Labour Force Survey)

## Sudbury

Figure 1: Stronger population growth in tight market underscores need for more housing supply (persons, 000s)

Year	Annual Population Estimates
2012	140.8
2013	141.1
2014	140.9
2015	140.8
2016	141.2
2017	142.1
2018	143.8
2019	144.7
2020	145.6
2021	145.6
2022	146.1

Source: Statistics Canada

## Kitchener-Cambridge-Waterloo

Figure 1: Lowest vacancy rate in 20 years drives extraordinary rent growth

Year	Vacancy Rate (%)	Rent Growth Rate (%)
2000	0.8	5
2001	0.9	3.5
2002	2.2	3.9
2003	3.2	2.6
2004	3.5	1.8
2005	3.3	1.2
2006	3.4	1.5
2007	2.9	0.9
2008	1.9	1.2
2009	3.4	1.8
2010	2.6	1.7
2011	1.8	1.5
2012	2.6	3
2013	3	3.4
2014	2.4	1.7
2015	2.5	2.4
2016	2.3	2.9
2017	1.9	3.3
2018	3	5.5
2019	2	5
2020	2	3.9
2021	2	5.5
2022	1.2	7.2

Source: CMHC

Figure 2: Historically high rates of immigration and the return of students contribute to strong rental demand

### PR ADMISSIONS

Month	2018	2019	2020	2021	2022
January	285	210	385	475	825
February	630	485	835	840	1,635
March	945	870	1,095	1,220	2,420
April	1,245	1,225	1,195	1,760	3,130
May	1,585	1,670	1,350	2,270	3,705
June	1,945	2,095	1,680	2,965	4,405
July	2,320	2,630	1,835	3,690	5,080

Month	2018	2019	2020	2021	2022
August	2,595	3,075	1,960	4,560	5,610
September	2,985	3,525	2,180	5,530	6,400
October	3,320	3,975	2,465	6,560	-
November	3,630	4,350	2,780	7,750	-
December	3,955	4,575	3,040	8,865	-

## STUDY PERMITS

Month	2018	2019	2020	2021	2022
January	12,300	12,280	10,565	11,150	18,535
February	17,505	19,165	15,690	20,200	31,605
March	24,635	28,185	20,205	31,345	44,465
April	41,220	44,955	28,790	47,755	69,645
May	52,755	58,275	43,800	59,415	89,110
June	67,365	69,665	52,505	73,450	104,965
July	81,115	86,090	59,025	93,065	122,050
August	122,870	141,655	78,105	136,830	185,700
September	140,640	161,025	104,085	175,190	219,005
October	148,670	167,890	110,935	189,460	-
November	158,820	173,540	116,825	199,200	-
December	181,050	203,960	127,165	228,610	-

Source: IRCC Monthly Updates

## Belleville

Figure 1: Rent of vacant apartment units 15.6% higher than rent of occupied units, all bedroom types, Belleville CMA (\$)

Year	Average Rent	
	Vacant Units	Occupied Units
2017	981	968
2018	1,022	997
2019	1,157	1,065
2020	1,221	1,123
2021	1,410	1,150
2022	1,435	1,241

Source: CMHC

## Peterborough

Figure 1: Peterborough 2022 vacancy rate lowest among Ontario CMAs

Region	Vacancy Rate
Hamilton	1.9%
ONTARIO	1.8%
Windsor	1.8%
London	1.7%
Toronto	1.6%
Brantford	1.5%
Guelph	1.5%
Kitchener-Cambridge-Waterloo	1.2%
Kingston	1.2%
Peterborough	1.1%

Source: CMHC

Figure 2: Peterborough vacancy rate below its long-time average for past 7 years

Year	Peterborough — Historical Vacancy Rates by Bedroom Type 1990 to 2022 Apartment Units	
	Vacancy Rate, %	Average Vacancy Rate, %
1990	2.3	3.1
1991	2.7	3.1
1992	3.6	3.1
1993	4.9	3.1
1994	4.6	3.1
1995	3.3	3.1
1996	5.5	3.1
1997	5.8	3.1
1998	4.9	3.1
1999	4.4	3.1
2000	3.2	3.1
2001	3.7	3.1
2002	2.6	3.1
2003	1.4	3.1
2004	1.7	3.1
2005	2.8	3.1
2006	2.8	3.1
2007	2.8	3.1
2008	2.4	3.1
2009	6.0	3.1
2010	4.1	3.1
2011	3.5	3.1
2012	2.7	3.1
2013	4.8	3.1
2014	2.9	3.1
2015	3.7	3.1
2016	1.0	3.1
2017	1.1	3.1
2018	1.5	3.1
2019	2.1	3.1
2020	2.6	3.1
2021	1.0	3.1
2022	1.1	3.1

Source: CMHC

Figure 3: Rent of vacant apartment units 19% higher than rent of occupied units, all bedroom types, Peterborough CMA (\$)

Year	Vacant Units	Occupied Units
2018	1,025	1,027
2019	1,106	1,052
2020	1,318	1,119
2021	1,479	1,208
2022	1,481	1,242

Source: CMHC

## Windsor

Figure 1: Total vacancy rate at historic low

Year	Private Apartment Vacancy Rate
2002	3.9
2003	4.4
2004	8.8
2005	10.1
2006	10.4
2007	12.9
2008	14.5
2009	13
2010	10.9
2011	8.3
2012	7.2
2013	6.1
2014	4.5
2015	3.8
2016	2.8
2017	2.4
2018	2.9
2019	2.8
2020	3.5
2021	3.4
2022	1.8

Source: CMHC



## St. Catharines-Niagara

Figure 1: Apartment completions at 30-year high

Year	Rental	Condo
1992	220	192
1993	390	22
1994	0	0
1995	141	127
1996	18	50
1997	3	16
1998	8	96
1999	40	0
2000	0	90
2001	75	0
2002	22	34
2003	4	4
2004	4	0
2005	12	4
2006	105	0
2007	40	0
2008	56	22
2009	0	3
2010	120	72
2011	0	12
2012	82	0
2013	140	39
2014	191	20
2015	6	28
2016	92	44
2017	166	42
2018	61	19
2019	108	33
2020	124	88
2021	313	33
2022	321	462

Source: CMHC

Completions over the 12 months period between July 1 and June 30.

Figure 2: Full-time employment growth supports renter household formation

Age	2021 Year-to-Date*	2022 Year-to-Date*	Percentage
15–24	11,867	16,300	37.4%
25–44	69,200	81,200	17.3%
45–64	68,367	68,433	0.1%
65 and over	5,933	8,600	44.9%

Source: Statistics Canada Labour Force Survey

\*Year-to-Date refers to January to September.

## London

Figure 1: Higher average rent increase in turned-over units, London CMA

Unit Type	Percentage Change
Overall Average	5.8
Units that Did Not Turn Over	2.1
Turned Over Units	25.7

Source: CMHC

Figure 2: Limited affordable housing options for lowest-income households, London CMA

Renter Household Income Range	Number of Affordable Units in the Universe Per 10 Households
Less Than \$28K	1.5
\$28K–40K	12.7

Source: CMHC

Figure 3: London's condominium market had smaller share of overall rental market in 2022

Year	Share
2015	5.6%
2016	5.6%
2017	4.9%
2018	4.4%
2019	5.3%
2020	5.3%
2021	6.3%
2022	5.8%

Source: CMHC

## Kingston

Figure 1: Kingston 2022 vacancy rate one of the lowest in Ontario

Region	Vacancy Rate
Hamilton	1.9%
ONTARIO	1.8%
Windsor	1.8%
London	1.7%
Toronto	1.6%
Brantford	1.5%
Guelph	1.5%
Kitchener-Cambridge-Waterloo	1.2%
Kingston	1.2%
Peterborough	1.1%

Source: CMHC

Figure 2: Higher number of permanent resident admissions to Kingston CMA in the first nine months of 2022

Quarter	2018	2019	2020	2021	Q1-Q3, 2022
Q1	150	120	115	120	250
Q2	120	160	75	200	240
Q3	140	200	70	275	275
Q4	165	110	110	375	-

Source: IRCC, September 30, 2022

Figure 3: Average rent of turnover two-bedroom apartments increased in 2022

Year	Average Rent of Non-turnover Units	Average Rent of Turnover Units
2021	1,360	1,505
2022	1,402	1,612

Source: CMHC

## Toronto

Figure 1: Monthly rent and carrying cost of ownership, GTA

Year	Average Rent — Purpose-built	Average Rent — Condo	Carrying Cost — Average Condo*	Own vs Rent (Purpose-built) Gap
2013	\$1,126	\$1,664	\$2,307	\$1,181
2014	\$1,158	\$1,706	\$2,301	\$1,143
2015	\$1,196	\$1,749	\$2,360	\$1,164
2016	\$1,229	\$1,883	\$2,505	\$1,276
2017	\$1,296	\$2,078	\$3,107	\$1,811
2018	\$1,359	\$2,221	\$3,413	\$2,054
2019	\$1,452	\$2,305	\$3,386	\$1,934
2020	\$1,523	\$2,319	\$3,435	\$1,912
2021	\$1,556	\$2,292	\$3,618	\$2,062
2022	\$1,653	\$2,535	\$4,704	\$3,051

Sources: CMHC, TRREB. CMHC calculations

\*Carrying costs for a condominium are calculated on the average MLS® price, a 5% down payment, the discounted five-year fixed mortgage rate, and a 25-year amortization period. They include condominium fees, property taxes, and mortgage loan insurance.

**Figure 2: Rental apartment completions (units), Toronto CMA**

Year	Rental apartment completions (units), Toronto CMA
2013	2,302
2014	296
2015	1,390
2016	2,303
2017	1,370
2018	3,128
2019	3,372
2020	3,390
2021	4,282
2022 YTD*	2,995

Source: CMHC

\*Year-to-date (YTD) reflects data from January-to-October.

**Figure 3: Condominium apartment investor share (%), GTA**

Year	Condominium apartment investor share (%), GTA
2004	19.6
2009	20
2013	25.7
2014	28.9
2015	30.1
2016	32.6
2017	32.7
2018	33.1
2019	33.5
2020	33.4
2021	34.7
2022	36.2

Source: CMHC

## Ottawa

**Figure 1: Study permit holders planning to study in Ontario**

Year	Total
2015	21,673
	18,756
	29,861
	23,017
2016	31,683
	31,266
	31,052
	35,437
2017	32,369
	32,735
	44,282
	45,185
2018	43,780
	51,240
	42,747
	45,140
2019	49,929
	49,807
	53,282
	48,084
2020	35,932
	37,954
	29,936
	26,155
2021	55,350
	48,900
	59,349
	61,241
2022	78,152
	70,469
	66,722

Source: Immigration, Refugees and Citizenship Canada

Note: Seasonally adjusted quarterly data.

**Figure 2: Proportion of 25-to-44-year-old households that are renter households (%)**

Year	Percentage
1991	51
1996	49
2001	47
2006	39
2011	39
2016	44
2021	46

Source: Statistics Canada (1991 to 2021 censuses and 2011 National Household Survey)

## Gatineau

**Figure 1: Proportion of 25-to-44-year-old households that are renter households (%)**

Year	Percentage
1991	41
1996	41
2001	41
2006	34
2011	34
2016	39
2021	43

Source: Statistics Canada (1991 to 2021 censuses and 2011 National Household Survey)

**Figure 2: Conventional rental unit completions**

Year	Rental Units
2011	280
2012	394
2013	269
2014	536
2015	208
2016	475
2017	504
2018	774
2019	1,219
2020	1,691
2021	1,262
2022	2,095

Source: CMHC

Note: Years from October to September.

## Québec

**Figure 1: Percentage (%) of households under age 35 that are renter households — Québec CMA**

Year	Percentage (%) of renter households among people under age 35 — Montréal CMA
2001	69.3
2006	65.3
2011	60.0
2016	62.9
2021	65.7

Source: Statistics Canada (2001 to 2021 censuses and 2011 National Household Survey)

**Figure 2: Rental housing units completed\* in the Québec CMA**

Year	Conventional rental unit completions
2011–2016	1,178
2017	2,718
2018	2,462
2019	2,509
2020	3,129
2021	3,634
2022	4,567

Source: CMHC

\* Data from July to June, for example, from July 2021 to June 2022 for the 2022 period. Data excludes units in seniors' homes.

## Montréal

Figure 1: Significant rebound in net migration\* to Québec in 2022

Year	Net migration* to the province of Québec
2014	29,167
2015	20,271
2016	41,489
2017	56,426
2018	83,405
2019	85,263
2020	61,276
2021	13,550
2022	82,924

Source: Statistics Canada

\*From July of the previous year to June of the current year.

Figure 2: The proportion (%) of households under age 35 that are renter households continues to rise in the Montréal CMA

Period	Proportion (%) of renter households under age 35 in the Montréal CMA
2001	73.0
2006	69.1
2011	66.0
2016	67.9
2021	69.5

Sources: Statistics Canada and CMHC (calculations)

## Halifax

Figure 1: Halifax, percent change in same-sample average rents, 2002 to 2022

Year	Average Rent Change(%)	Average Rent Change (%) (1990–2022)
2002	2.4	2.5
2003	2.9	2.5
2004	2.2	2.5
2005	2.1	2.5
2006	2.6	2.5
2007	2.0	2.5
2008	2.0	2.5
2009	2.8	2.5
2010	3.0	2.5
2011	2.0	2.5
2012	2.6	2.5
2013	1.6	2.5
2014	1.7	2.5
2015	2.1	2.5
2016	1.8	2.5
2017	2.3	2.5
2018	2.1	2.5
2019	3.8	2.5
2020	4.1	2.5
2021	5.1	2.5
2022	8.9	2.5

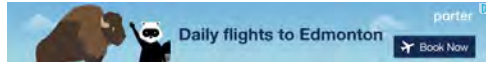
Source: CMHC

Figure 1: Percent of rental units in Halifax affordable for each income quintile, 2022

Income Quintile	Quintile Description	Income (\$) of renters in Quintile	Share(%) of affordable units	Suppressed or statistically unreliable
Quintile 1	Lowest 20%	<\$28K	3	-
Quintile 2	Second 20%	\$28K–46K	37	-
Quintile 3	Middle 20%	\$46K–64K	70	-
Quintile 4	Fourth 20%	\$64K–101K	96	-
Quintile 5	Top 20%	\$101K+	96	4

Source: CMHC, Statistics Canada

**TAB 16**



WINDSOR News

# Windsor councillor to pitch ADU incentive program



**Rich Gorton**  
CTV Windsor News Reporter  
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The province has set an ambitious target of building 1.5 million homes in the next decade and that includes 13,000 homes in Windsor alone.

A Windsor city councillor believes one way to help achieve that target is by giving homeowners incentives to build additional dwelling units (ADUs).

"That is a very ambitious target. So we need to look at all of the different tools that we could potentially have available to us in order for those to be able to meet those targets," said Ward 9 Coun. Kieran McKenzie.

At the next council meeting on Monday, Feb. 13, McKenzie plans to ask a council question for city staff to investigate an ADU community improvement plan

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He wants staff to explore all the various tools, including forgivable loans, incremental tax grants and other incentives the city could provide in a CIP-type program to give residents financial help to build mother-in-law suites, basement rentals and detached tiny homes.

"This is just another one of those tools that the city can be a partner in trying to incentivize the development that are going to come forward from other proponents," said McKenzie.

It's an idea local realtor Rhys Trenhaile has been championing for years.

"Let's get the Windsor people involved. Let's get 10,000 Windsorites that own 10,000 homes to build ADUs," Trenhaile told CTV previously. "Let's reward them by giving them a big chunk of their tax payer dollars back to do that."

Coun. McKenzie says the case to get more ADU's built is an easy one.

For starters, building in established neighbourhoods utilizes existing infrastructure so instead of building out, people are building additional dwelling spaces where roads, sewers and utilities already exist.

McKenzie says it also potentially puts residents to work, putting less strain on the existing skilled labour pool.

"The ADU is another tool that we can use to increase the housing stock while at the same time, not putting as much additional pressure on the labour side of the construction industry," he said.

Anyone curious about additional dwelling units now has access to a free online tool that helps users see the potential for detached additional dwelling units.

ADUSearch allows homeowners to look up their address and see if their yard meets municipal zoning and bylaw requirements for a detached ADU — or tiny home.

ADU Search is now available to 30 municipalities across the country, including in Windsor, Essex and Amherstburg.

"Is my property suitable? Can I build on my lot?" said Sarah Cipkar, the project co-lead for ADU Search. "We really help homeowners take that first step in the journey."

The federal government provided the ADUSearch.ca team with a \$2.2 million grant from the Government of Canada and Canadian Mortgage Housing Corporation's Housing Supply Challenge to develop the software and roll it out to municipalities across the county.

Thirty Canadian municipalities have since been mapped and they've discovered nearly half of the 2.2 million lots are eligible for detached additional dwelling units.

"It's about empowering residents to be part of the solution. This is about bringing residents into the fight and empowering them to be part of the solution," said Windsor-Tecumseh MP Irek Kusmierczyk, who said innovation is needed to tackle the housing crisis.

During a media event Friday, Cipkar told reporters the idea of an ADU CIP is a potential solution other municipalities are already investigating.

"Municipalities can play a role in providing those forgivable loans. And I think there's some innovation that can definitely happen," she said.

If the majority of council agrees with McKenzie's council question, a report will come back in due time for consideration.

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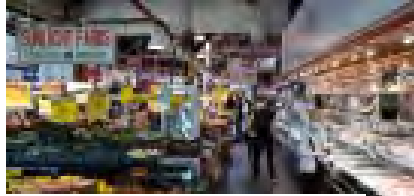


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