

ENABLING HOME OWNERSHIP BY STREAMLINING MULTI-UNIT RESIDENTIAL BUILDINGS STRATIFICATION AND CO-OWNERSHIP IN ONTARIO

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EXECUTIVE SUMMARY

In recent years, Ontario has experienced a decline in housing affordability, particularly for first-time homebuyers. The province has implemented various measures to enhance affordability and boost supply, including policies that permit the construction of four or more units on a single residential lot by right. In response, people are increasingly buying single-family homes together and transforming them into multiple units, with each family owning a separate unit on the property (co-ownership). However, due to existing bylaws and policies, this process of co-owning multiple units on a single lot remains lengthy, complex, and fraught with risk, necessitating either ad-hoc co-ownership agreements to define rights and obligations or the formation of a corporation or condominium corporation.

In Ontario, there are three forms of co-ownership, each with its own challenges:

Individual co-ownership (Tenants-in-Common): Shared ownership of property title and mortgage means that if one co-owner defaults, the others are affected. There are also restrictions on selling the property.

Corporation: A corporate mortgage is more complex and often incurs higher interest rates, making it less advantageous.

Condominium: Establishing a condominium requires substantial fees and is less practical for a small number of units (e.g., 3-4 units in multiplex conversions).

Additionally, financing presents a significant barrier to co-ownership, exacerbated by the reluctance of mortgage insurers to insure co-owned properties.

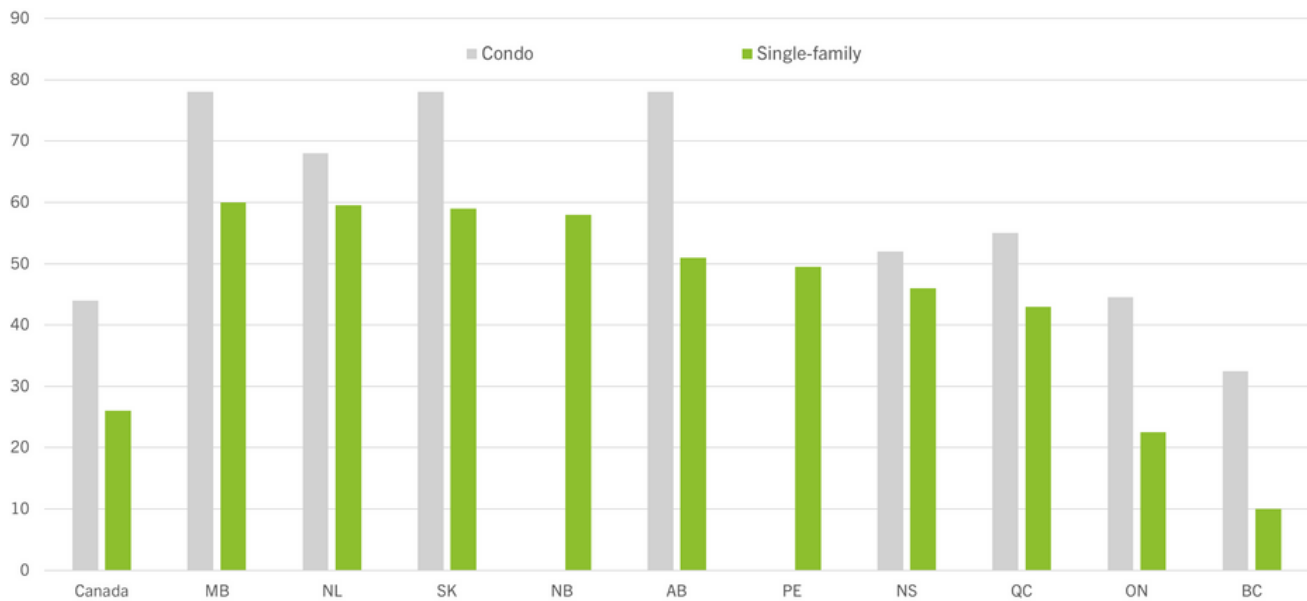
To enhance the affordability and popularity of co-ownership, several policy changes could be considered. These include developing legal templates, standard purchasing agreements, and resolution mechanisms to minimize cost and risk. The province could enact legislation to simplify and reduce the cost of dividing a residence into multiple properties. Reducing application fees for condominiums in multiplex conversions is another potential measure. Different orders of government should also pilot innovative financial models to facilitate co-ownership.

THE NEED FOR CO-OWNERSHIP

The need for innovation around co-ownership stems from both the housing supply and affordability challenges. The Ontario government has set a goal to build 1.5 million homes by 2031. However, the projected housing starts fall short of the targets established by the Minister of Municipal Affairs and Housing. Factors impacting housing affordability include the limited supply of residential units relative to rising demand, and protracted development and ownership processes that delay the creation of new units. Additionally, housing prices are increasing much more rapidly than incomes, rendering home ownership increasingly unattainable for average-income earners, as illustrated in Figure 1. These challenges are particularly acute in expensive urban neighbourhoods, which have not only the capacity to build more units on underutilized parcels, but also a high rate of overhoused households, including seniors who prefer to age in place.ⁱ

MANY HOUSEHOLDS ARE PRICED OUT OF THE MARKET, ESPECIALLY IN B.C. AND ONTARIO

Figure 1: Share of households with sufficient income to buy a home under current conditions, %ⁱⁱ



Source: RPS, Bank of Canada, Statistics Canada, RBC Economics

CHALLENGES WITH CO-OWNERSHIP IN ONTARIO

Facilitating multiplex co-ownership offers significant economic, social, and environmental benefits. Economically, it stimulates the local construction and real estate sectors, and provides more affordable housing options, potentially reducing the financial strain on average-income earners. Socially, it promotes a sense of community and can lead to more diverse, resilient, and inclusive neighbourhoods, as people from various socio-economic backgrounds find affordable housing options. Environmentally, multiplex units are often more resource-efficient than larger developments, leading to a reduced carbon footprint and less urban sprawl. Despite these benefits, co-ownership remains hard to achieve in Ontario.

PROBLEMS WITH CURRENT CO-OWNERSHIP POLICIES IN ONTARIO

Currently, co-ownership in Ontario is possible in three forms:

1. Co-ownership by a group of individuals: This includes joint tenancy and tenancy-in-common. Our focus is on tenancy-in-common, as joint tenancy typically involves inheritance rights and is used among closely related family members. In tenancy-in-common, an ad hoc co-ownership agreement usually governs the relationship, rights, and obligations between individuals, with all co-owners listed on the title and sharing a single mortgage. In this type of co-ownership, challenges arise in selling or transferring property. There is shared liability for the mortgage, meaning if one person defaults, the other co-owners must cover the defaulted obligations and payments.

2. Corporate ownership: This can take the form of a corporation or a cooperative corporation, where each member owns shares, and the mortgage is held by the corporation. Similar to individual co-ownership, a co-ownership agreement is advisable to outline the relationship, rights, and obligations within the corporation. A corporate mortgage is more expensive than an individual one. Additionally, establishing a corporation is complex and incurs high taxes.

3. Condominium corporation: In this model, a building is divided into separate units. Each co-owner possesses their own unit and a share of the common amenities. Establishing a condominium corporation is costly and might not be feasible for the scale of 3-4 units.

ADDITIONAL ISSUES

Mortgage default insurance: In Ontario, three mortgage insurers — CMHC, Sagen, and Canada Guaranty — approach co-owned property insurance differently, creating confusion in the market.

Unstandardized agreements: The lack of standardized co-ownership agreements leads to higher costs due to additional legal fees for drafting these agreements, which is also time-consuming. Moreover, poorly drafted agreements can pose risks, particularly in dispute situations.

POTENTIAL IMPACT OF CO-OWNERSHIP IN ONTARIO

Multiplex co-ownership has the potential to quickly expand housing options and provide access to affordable units, contrasting with the lengthy construction process of high-rise condominiums. Co-ownership could quickly enable many households to buy residential units in Ontario (Figures 2-5). If we take Toronto as an example, by allowing two co-owners to own a house and divide it into two units, an additional 56,023 households, constituting 5% of Toronto households, would have access to affordable units. If the number of co-owners is raised to three, then that number increases to 266,223 households, or an additional 23% of Toronto households. The impact would be even greater in Ottawa, a lower-cost market.

TORONTO - NUMBER OF HOUSEHOLDS THAT CAN AFFORD TO BUY A HOUSE

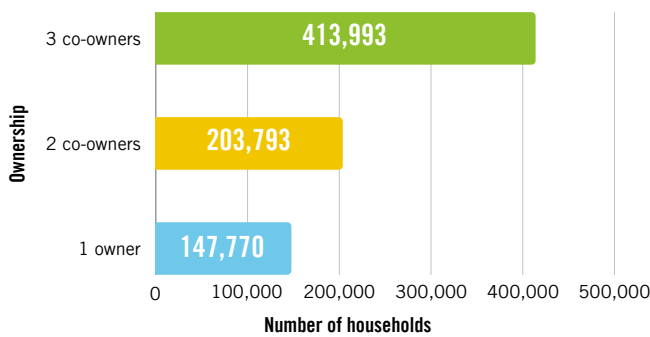


Figure 2: Co-ownership impact on the number of households that can access ownership of affordable residential units in Toronto.

% OF TORONTO HOUSEHOLDS THAT CAN AFFORD TO BUY A HOUSE

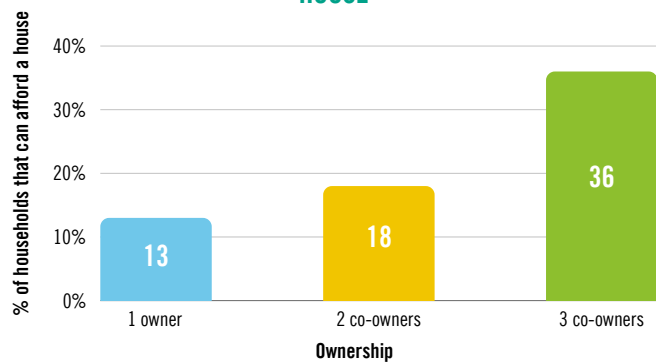


Figure 3: Co-ownership impact on the percentage of households that can access ownership of affordable residential units in Toronto.

OTTAWA - NUMBER OF HOUSEHOLDS THAT CAN AFFORD TO BUY A HOUSE

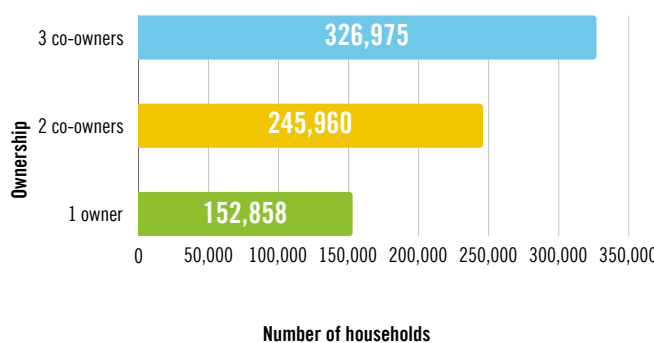


Figure 4: Co-ownership impact on the number of households that can access ownership of affordable residential units in Ottawa.

% OF OTTAWA HOUSEHOLDS THAT CAN AFFORD TO BUY A HOUSE

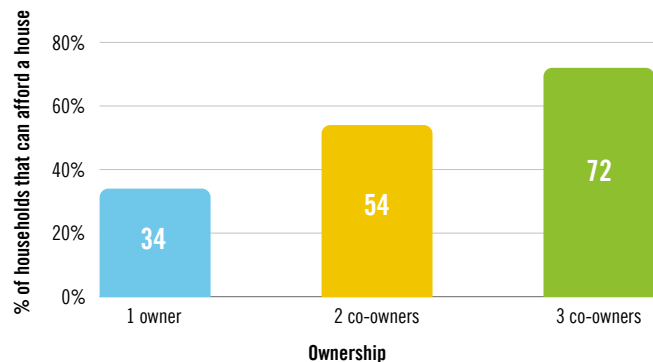


Figure 5: Co-ownership impact on the percentage of households that can access ownership of affordable residential units in Ottawa.

RECOMMENDATIONS

To facilitate this change and overcome the barriers to co-ownership, several steps need to be taken:

Reductions in the cost and time required to establish a multiplex condominium corporation

To make the creation of multiplex condominium corporations more efficient and cost-effective, regulation should distinguish them from larger condominium buildings. Specifically, this entails reducing the fees associated with forming a condominium corporation for multiplexes, and expediting the process for their establishment.

Legal structures for reduced risk

Implement legal structures that minimize risk for groups of individuals wishing to co-own properties. For example, allow the use of divided mortgages, where each individual is responsible only for their portion of the mortgage, without sharing the liability of their co-owners. This approach would mitigate individual risks while protecting lenders' rights.

Standardized co-ownership agreements

Currently, creating co-ownership agreements is merely a recommendation and hinges on the co-owners' ability to access competent legal services. This situation can pose risks, particularly if the agreements are poorly constructed. Developing a standardized, provincial template for co-ownership agreements that can be customized by co-owners will help mitigate these risks and ensure clarity in their rights and responsibilities.

Standard purchasing agreements and legal templates

Establishing standard purchasing agreements and legal templates can significantly reduce risk, time, and cost for co-owners, thereby encouraging more people to opt for co-ownership.

Resolution mechanisms for disputes

Given that co-owning with others might sometimes lead to disputes, establishing clear and efficient resolution mechanisms is crucial. These should be designed to handle conflicts effectively and equitably.

New financial models

The federal and provincial governments should create pilot programs that address challenges of accessing capital for the renovations often needed for co-ownership. These might include forgivable loan programs, renovation loans, or incentive programs for construction funding provided by private lenders.ⁱⁱⁱ In addition, to devising supportive regulations of mortgage default insurance by CMHC.

Education and raising awareness

To increase uptake and to create more units, it is imperative to educate the public, homeowners, small developers, and all other stakeholders about the available co-ownership options and mechanisms. A public awareness campaign could include accessible forms of knowledge mobilization like videos, websites, and podcasts, as well as staffed information booths at festivals and fairs.

NOTES

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- ii. Hogue, R. (2023). RBC Economics & Thought Leadership: Focus on Canadian Housing: Housing Trends and Affordability. Royal Bank of Canada. <https://thoughtleadership.rbc.com/wp-content/uploads/RBC-Housing-Trends-and-Affordability-December-2023.pdf>
- iii. Green, R. K., Metcalf, B., Garcia, D. A., & Valchuis, E. (n.d.). ADU Construction Financing: Opportunities to Expand Access for Homeowners. Turner Center for Housing Innovation - UC Berkeley, USC Lusk - Center for Real Estate. <https://turnercenter.berkeley.edu/wp-content/uploads/2022/07/ADU-Paper-FINAL-July-7th.pdf>

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