



4.7.

MANAGEMENT OF THE INCLUSION OF AFFORDABLE HOUSING

MARCH 19, 2019

SUMMARY OF THE AUDIT

OBJECTIVE

Ensure that the current *Strategy for the Inclusion of Affordable Housing (City Strategy)* and the related local strategies are applied, in order to achieve the objectives established by the authorities.

RESULTS

In addition to these results, we have formulated various recommendations for business units.

The details of these recommendations and our conclusion are outlined in our audit report, presented in the following pages.

Note that the business units have had the opportunity to formulate their comments, which appear after the audit report recommendations.

The *City Strategy* was adopted in 2005 and modified in 2015 by the executive committee. Since 2012, eight boroughs have also adopted local strategies for the inclusion of affordable housing. In 2018, the municipal administration announced its *2018–2021 Strategy to Develop 12,000 Affordable Social Housing Units*. Based on our work, we believe that improvements should be made considering the following key issues:

- The local strategies are different from the *City Strategy*, especially in terms of the type of projects, the application thresholds, the contribution rates for social housing and affordable private housing and the financial contribution rates, which creates confusion for the promoters;
- Co-operation agreements have been concluded between the Direction de l'habitation and just seven boroughs;
- Construction projects subject to the *City Strategy* were not communicated promptly enough to the Direction de l'habitation for it to negotiate and come to agreements with the promoters concerning the inclusion of affordable housing and the guarantee clauses required to secure the target land;
- For some construction projects subject to the *City Strategy*, regulatory amendments were granted by one of the three boroughs audited before receiving confirmation of an agreement to include affordable housing signed by the promoter and the required guarantees;
- The process of obtaining financial guarantees for the inclusion of affordable housing does not always protect the Ville de Montréal when promoters fail to uphold their commitments;
- A small proportion of the financial contributions paid into the Contribution Fund since 2012, has been used;
- A full report demonstrating the real results of the *City Strategy* and the local strategies since their adoption has not been carried out, and no accountability mechanisms have been put in place for the *2018–2021 Strategy to Develop 12,000 Affordable Social Housing Units* for the actual creation of affordable housing, in order to allow informed decisions to be made.

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LIST OF ACRONYMS

SCAOPI

specific construction, alteration
or occupancy

1. BACKGROUND

In 2005, to implement the Ville de Montréal (the City) affordable housing and inclusion objectives announced in the Montréal Master Plan¹, the executive committee adopted the *Strategy for the Inclusion of Affordable Housing*² (*City Strategy*), which sought to promote:

- social diversity, by encouraging the development of a diverse range of housing in large residential construction sites, to meet the needs of households in different income brackets;
- support for the production of affordable housing, by facilitating the construction of social and community housing and stimulating the construction of affordable properties.

The strategy entailed over two dozen actions, divided into seven lines of intervention.³ The objective was to include 15% social and community housing⁴ and 15% affordable private housing⁵ in residential projects of 200 dwellings or more requiring major regulatory amendments. The strategy's goal was for the social and community housing and affordable private housing to be included within the site of the residential project, by preference. It is important to note that the legal context at the time did not allow for inclusion to be required by regulatory means, so an incentive approach was adopted.

Because of the complexity of certain development projects and their incompatibility with the inclusion of social and community housing and affordable private housing, the coordinators agreed to accept a financial contribution from promoters for the social and community housing component (15%) as one way to comply with the strategy. In March 2012, the executive committee created a Contribution Fund for the Inclusion of Affordable Housing in new residential projects. This fund was created as a transitional measure while awaiting the adoption of a by-law that would be put forward under new powers that were to be conferred on the municipalities allowing them to require inclusion on the part of promoters.

Since some boroughs had adopted strategies or local practices that differed from the *City Strategy*, resulting in certain challenges, the executive committee amended the *City Strategy* in December 2015. The strategy's objectives remained unchanged: 15% for

¹ The Montreal Master Plan was adopted by the city council on November 23, 2004.

² Affordable housing: includes social and community housing as well as affordable private housing.

³ Seven lines of intervention: (1) Optimize housing subsidy programs; (2) Make use of municipal land; (3) Build support among large public landowners; (4) Exploit the full potential of regulatory and planning tools; (5) Adapt the City's services; (6) Pursue research, development and communications activities; (7) Monitor the strategy.

⁴ Social and community housing is a form of affordable housing related to two government programs (AccèsLogis and Logement abordable Québec – social and community component) through projects led by housing cooperatives, City-controlled corporations and not-for-profit organizations. It targets very low- and low-income households (less than \$35,000). Source: *Strategy for the Inclusion of Affordable Housing*, adopted in 2005.

⁵ Affordable private housing: The rent or monthly mortgage (including property taxes and heating costs) does not exceed a given household's capacity to pay, that is 30% of its gross monthly income. It targets modest-income families (between \$35,000 and approximately \$55,000). Source: *Strategy for the Inclusion of Affordable Housing*, adopted in 2005.

social and community housing and 15% for affordable private housing. The amendments included a new application threshold, targeting residential projects of 100 units or more. The financial contribution rate paid to the Contribution Fund was also increased to 20% when it was neither desirable nor appropriate to include social or community housing either on- or off-site.

Since 2012, some boroughs⁶ have approved local affordable housing inclusion policies and others have amended their local strategies. Local practices still differ from the *City Strategy* as amended by the executive committee. Despite everything, according to the data provided by the Direction de l'habitation, since its adoption in 2005, the *City Strategy* has generated a potential of 6,291 social housing units, 5,710 affordable private housing units and contributions of \$19.8 million (as of November 16, 2018). These numbers are drawn from commitments made by the promoters under the "incentive" strategy.

On December 8, 2016, the Government of Quebec and the City signed a framework agreement called the "*Montreal Reflex Framework Agreement on their respective commitments arising from the recognition of the special status of the metropolis*". Under this agreement, the Société d'habitation du Québec transferred the responsibilities and budgets for housing development to the City, so it could pursue and enhance its interventions, especially with regard to the development of social and community housing. The first action to be implemented was an overhaul of the AccèsLogis Québec program, to make it an assistance program for the construction of cooperative and not-for-profit housing better suited to the City's situation.

In June 2017, the Government of Quebec also adopted an amendment to the *Act respecting land use planning and development*⁷ allowing municipalities, if their urban plan provided for this option, to subject residential construction permits to the signature of an agreement on the social, affordable and family housing supply. The City is currently developing a draft by-law on the inclusion of affordable, social and family housing and an amendment of its Master Plan to add related policies. The by-law will be mandatory and it will apply more broadly than the *City Strategy* currently in effect, as it will apply to all residential construction permits⁸. The inclusion of affordable housing in a residential project may be replaced by a payment in cash or the transfer of a property to the municipality for an affordable, social or family housing program. Based on the time line announced by the Direction de l'habitation, the amendment of the Master Plan and the by-law should be adopted by the city council by the end of 2019.

⁶ The boroughs of Ahuntsic–Cartierville, Mercier–Hochelaga-Maisonneuve, Lachine, Le Plateau-Mont-Royal, Rosemont–La Petite-Patrie, Le Sud-Ouest, Verdun and Villeray–Saint-Michel–Parc-Extension.

⁷ Through *Bill 122 – An Act mainly to recognize that municipalities are local governments and to increase their autonomy and powers*.

⁸ Including full rights projects: projects in compliance with applicable urban planning by-laws (e.g., zoning, construction, subdivision) and that do not require an exception or additional approval under a discretionary urban planning by-law.

On December 14, 2017, the urban agglomeration council adopted the *By-law amending the By-law concerning subsidies for the development of non-profit cooperative housing (new program)* (02-102), bringing in an AccèsLogis Québec program adapted to suit the agglomeration's territory. This program became the new AccèsLogis Montréal program⁹.

For the City, these recent housing interventions should contribute to the implementation of several municipal policies and action plans, including the *2018–2021 Strategy to Develop 12,000 Affordable Social Housing Units*. To achieve this goal, the *2018–2021 Strategy to Develop 12,000 Affordable Social Housing Units* provides for a set of measures that include the continuation of the current *City Strategy* and the adoption of the new by-law to oversee and enforce the inclusion of social, affordable or family housing.

With regard to the responsibilities related to managing the inclusion of social and community house and affordable private housing, it is important to point out the following:

- Under the *Act respecting the exercise of certain municipal powers in certain urban agglomerations*¹⁰, the urban agglomeration is responsible for social housing (including community housing). Under the terms of this Act, as a central municipality, the City has jurisdiction in its own territory and in the territory of any other related municipality. Within the City, this responsibility is assumed through the Direction de l'habitation, which is part of the Service de la mise en valeur du territoire;
- The management of affordable private housing is under the jurisdiction of the city council by virtue of section 84 of the *Charter of Ville de Montréal, Metropolis of Québec*¹¹ (the *Charter*). This responsibility is also assumed by the Direction de l'habitation;
- Under section 89 of the Charter, the city council may, by enacting a by-law and despite any by-law adopted by a borough council, authorize a project related to a residential, commercial or industrial establishment in the business district¹² or, if it is located outside the business district, a commercial or industrial project, with a floor area greater than 15,000 m² or related to housing intended for people requiring assistance, protection, care or lodging;
- Under the *Charter*, the city's borough councils have jurisdictions, powers and obligations related to urban planning. They also exercise the City's jurisdictions related to zoning and subdivision, as provided under the *Act respecting land use planning and development*;
- The boroughs are responsible for issuing permits. By virtue of the By-law concerning the delegation of city council powers to borough councils, they also apply construction by-laws. In this regard, sections 120 and 121 of the *Act respecting land use planning and development* set out the rules for issuing construction permits.

⁹ Entry into force on April 23, 2018.

¹⁰ CQLR, chapter E-20.001, chapter II, article 18.

¹¹ CQLR, chapter C-11.4.

¹² The business district is defined in this section of the *Charter*.

2. PURPOSE AND SCOPE OF THE AUDIT

Pursuant to the *Cities and Towns Act*, we completed a performance audit mission on the management of the inclusion of affordable housing. We performed this mission in accordance with the Canadian Standard on Assurance Engagement (CSAE) 3001 described in the CPA Canada Handbook – Assurance, and other Canadian public sector certification standards issued by the CPA Canada Auditing and Assurance Standards Board, supported by CPA Canada.

The objective of the audit was to ensure that the current *City Strategy* and the related local strategies are applied, in order to achieve the objectives established by the authorities.

The role of the Auditor General of the Ville de Montréal is to provide a conclusion regarding the objective of the audit. To do so, we collected a sufficient amount of relevant evidence on which to base our conclusion and to obtain a reasonable level of assurance. Our assessment is based on criteria we have deemed valid for the purposes of this audit. They are presented in Appendix 5.1.

The Auditor General of the Ville de Montréal applies the *Canadian Standard on Quality Control* (CSQC) 1 of the CPA Canada Handbook – Assurance and, consequently, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with ethical guidelines, professional standards and applicable legal and regulatory requirements. The Auditor General also complies with regulations on independence and other ethical guidelines of the *Code of Ethics of Chartered Professional Accountants*, which is governed by fundamental principles of integrity, professional competence, diligence, confidentiality and professional conduct.

Our audit work focused on the application of the *City Strategy* since the amendments adopted by the executive committee on December 9, 2015. It also examined the application of affordable housing strategies (local strategies) adopted by the boroughs. Our audit work focused on the period from December 2015 to October 31, 2018. However, for some aspects, data prior to these years were also considered. Most of the audit work was carried out between September 2018 and January 2019, but we also took into consideration information given to us until February 2019.

This work was performed primarily with the following business units:

- Direction de l'habitation
- Mercier–Hochelaga-Maisonneuve borough;
- Montréal-Nord borough;
- Le Sud-Ouest borough.

It is important to note that between the completion of our audit work and the publication of this report, the City reorganized some City departments. Given that our findings are limited

to the period preceding this reorganization, the names of departments at that time are used in this report. However, our recommendations are intended for departments based on this reorganization. Table 1 shows the connections between the old and new departments involved in this audit. Other departments, divisions or services targeted by this audit but not mentioned in this table had not been reorganized on January 1, 2019.

TABLE 1 – EQUIVALENT DEPARTMENTS IN THE 2018 ORGANIZATION AND THE 2019 ORGANIZATION

2018 ORGANIZATION	2019 ORGANIZATION
Service de la mise en valeur du territoire Direction de l'habitation	Service de l'habitation
Service des communications	Service de l'expérience citoyenne et des communications

On completing our work, we presented a draft audit report to the managers of each audited business unit for discussion purposes. The final report was then forwarded to the deputy director-general, Service de l'habitation and each of the business units involved in the audit in order to obtain action plans and implementation timelines. A copy of the final report was also submitted to the deputy director-general of the Service aux citoyens, the deputy director-general of the Qualité de vie, director of the Service de la concertation des arrondissements and the directors of the boroughs not directly targeted by the audit, to allow them to implement the recommendations when the situation so requires.

3. AUDIT RESULTS

3.1. COMMUNICATION OF THE STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING AND THE LOCAL STRATEGIES

3.1.A. BACKGROUND AND FINDINGS

In general, the application of the *City Strategy* is intimately linked to its communication to promoters and the main City stakeholders. The objectives must be clearly stated, and the parameters must be communicated and explained so that all parties can contribute to their achievement.

As soon as the *City Strategy* was adopted by the executive committee in 2005, its major objectives were clearly stated: to maintain social diversity and support the production of affordable housing. The targets were to encourage the construction of 30% affordable

housing in residential projects of 200 units or more which required a major regulatory amendment. This percentage was divided into 5% social and community housing and 15% affordable private housing. The policy was to prioritize the creation of affordable housing in residential projects subject to the by-law, in order to achieve the targets. When the strategy was adopted, the Service de la mise en valeur du territoire et du patrimoine at the time was given the mandate to implement and enforce the *City Strategy*.

In 2015, the executive committee adopted amendments to the *City Strategy* to specify the terms of management for the various parameters. The major objectives of the *City Strategy* remained the same, as did the targets, but it then applied to residential construction projects of 100 units or more (or with 9,000 m² or more in gross residential floor area) and that required a regulatory amendment related to density, height or usage. Other amendments addressed the calculation of the inclusion rate for social and community housing, the inclusion rate for affordable private housing, the financial contributions and the guarantees. Table 2 presents the main differences between these two versions of the *City Strategy*.

TABLE 2 – COMPARISON BETWEEN THE 2005 STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING AND THE 2015 AMENDMENTS

STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING – 2005	STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING – 2015 AMENDMENTS
INCLUSION RATE FOR SOCIAL AND COMMUNITY HOUSING	
<p>On-site: 15% of units (by area) of the total residential project.</p> <p>Off-site: 17.6% of units (by area) of the total residential project.</p>	<p>On-site: 15% of the increase in gross residential floor area resulting from the regulatory amendment, for the entire project.</p> <p>Off-site: 17.6% of the increase in gross residential floor area resulting from the regulatory amendment, for the entire project.</p>
INCLUSION RATE FOR AFFORDABLE PRIVATE HOUSING	
15% affordable units in the private project.	15% of the total number of private units resulting from the regulatory amendment.
FINANCIAL CONTRIBUTION	
<p>Calculation parameters 15% of the number of units in the total residential project.</p> <p>Difference between the market value of the building lot/unit and \$12,000^[A].</p> <p>**Requires an assessment of the fair market value of the lots in the project's sector (case by case).</p>	<p>Calculation parameters 20% of the increase in gross residential floor area resulting from the regulatory amendment, for the entire project.</p> <p>Difference between the market value of the building lot/unit and \$12,000^[A].</p> <p>**Requires a market value of lots that is predetermined by the market sector (the values must be updated with every new real estate assessment roll).</p>
GUARANTEE – SOCIAL AND COMMUNITY HOUSING	
	Based on the calculation of the financial contribution.
GUARANTEE – AFFORDABLE PRIVATE HOUSING	
\$10,000/affordable private housing unit to be built.	Predetermined value per market sector (ranging between \$5,000/unit and \$20,000/unit).

^[A] Price of viable lot in the AccèsLogis program.

At the time the amendments to the *City Strategy* were adopted, a communications plan was developed and disseminated by the City's Service des communications.

Between 2012 and 2018, boroughs publicly supported the *City Strategy* and even adopted policies that went even further. As they were policies, the boroughs had the jurisdiction to issue them. At the time of our audit, eight boroughs had adopted local strategies. An examination of these strategies reveals differences in terms of the type of projects subject to the policies, the application thresholds (number of housing units), contribution rates for the social component and the affordable component and financial contribution rates.

More specifically, for the Mercier–Hochelaga-Maisonneuve and Le Sud-Ouest boroughs, the adoption of local strategies was justified by the presence of social and community housing pressure groups. These two boroughs were the first to adopt local strategies, in 2012.

For these two boroughs, we have presented, in Appendix 5.2, a comparison between the local strategies (in effect during the audited period) and the *City Strategy*. First, we note that the local strategies for both boroughs have evolved over time and that they are also different from each other. For both boroughs, application thresholds (in terms of number of units) of fewer than 100 units are planned. For projects of over 100 units, the parameters are applied differently from the *City Strategy*. When the Direction de l'habitation is involved in projects of 100 units or more in either of these boroughs, it designates them as "*Ville plus*." We note, however, that the *Ville plus* concept is different for each borough. For example, the *City Strategy* stipulates a social housing inclusion rate of 15%, compared to Le Sud-Ouest borough, where the rate is 20% or 25% (depending on whether the building lot is on- or off-site). For the Mercier–Hochelaga-Maisonneuve borough, the rate is 20%, but only for projects of over 150 units. Differences are also observed in the financial contribution rate. This situation creates confusion for the promoters and unfairness among the boroughs and promoters, as well as annoyance. This situation also damages the City's reputation. Also, as the City adopted an incentive approach due to the legal context, it makes the negotiations more difficult. For the purposes of our audit report, we compared the *City Strategy* with the local strategies of these two boroughs, although we also observed differences with other boroughs that have adopted such strategies. Since affordable housing is a priority for the municipal administration, we are of the opinion that the Direction générale should make provisions to encourage the use of standard affordable housing practices for all business units. The possible provisions include the by-law that may soon be approved by the city council, but since that outcome will only be known in a few months, other measures could be considered, such as the possibility of making it a strategic operation under section 57.1 of the Charter.

57.1. The authority of the director general of the City is exercised over officers or employees whose job or work is connected with the powers of a borough council only when they are carrying out a function that is under the authority of the city council or the executive committee or is connected with a strategic operation.

With regard to the Montréal-Nord borough, the *City Strategy* was not applied because the construction projects requiring by-law amendments either did not have the number of units required to be subject to it or were full right projects. Unlike the Mercier–Hochelaga-Maisonneuve and Le Sud-Ouest boroughs, the Montréal-Nord borough has no local strategy. A 2016–2025 strategic plan, adopted by the borough council in January 2017, describes a large residential development project (over 100 units) that may include social housing but does not make reference to the *City Strategy*. This does not send a clear message about upholding the City’s policies about the inclusion of social housing. We are of the opinion that the borough should ensure it upholds all the parameters of the *City Strategy*.

With regard to the strategies in effect at the time of our audit, we assessed the extent to which they were disseminated and communicated to promoters (current and potential) and to the stakeholders involved in the process.

For the *City Strategy*, we ascertained that the original 2005 version and the document that presents the 2015 amendments are available on the Direction de l’habitation website. We note, however, that these documents are not easy for users to understand and that they leave room for interpretation. According to the information we obtained, meetings with the boroughs were held around 2015, but since then there have been no information sessions to explain the terms of the application of the *City Strategy*. Our work revealed that a guide on the *City Strategy* was prepared in 2018 by the Direction de l’habitation but not shared with the boroughs, due to the new by-law that is to be adopted. We believe that while waiting for this by-law to come into effect, it would be appropriate to implement training and information mechanisms for the application of the *City Strategy* (or Ville plus) to encourage full understanding and appropriate interpretation by the resources involved at the borough level.

With regard to the local inclusion strategies of the boroughs Mercier–Hochelaga-Maisonneuve and Sud-Ouest, we note that they were adopted in 2012 by their borough councils and then updated in 2018 and 2016, respectively. For the Mercier–Hochelaga-Maisonneuve borough, a public presentation was made. For Le Sud-Ouest borough, an explanatory document is given to promoters when they approach the borough. We also note, however, for both boroughs, that the strategies are not available for consultation on their websites. While awaiting the outcome of the by-law, we believe they should be posted on the boroughs’ websites.

With regard to the communication of the parameters of the *City Strategy* and the local strategies, the borough is the initial gateway for a promoter. When a promoter presents a residential construction project that is subject to one of these strategies, the major lines of the strategy should be explained. If the project is subject to the *City Strategy* and there is a request for regulatory amendments, the current process requires the Direction de l’habitation to be involved in explaining the various inclusion scenarios and begin negotiations leading to the conclusion of an inclusion agreement.

In our audit work, we assessed whether the projects subject to the *City Strategy* were communicated in a timely manner to the Direction de l’habitation. To do this, we examined

four projects carried out in the Mercier–Hochelaga-Maisonneuve borough and eight in the Sud-Ouest borough. For Mercier–Hochelaga-Maisonneuve borough, our work shows that the inclusion scenarios had already been discussed and decided between the borough and the promoter before involving the Direction de l'habitation. This approach means that the borough may have negotiated certain aspects of the strategy with the promoters and that the Direction de l'habitation then faced with the fact that making the negotiations more difficult. For Le Sud-Ouest borough, the people we met with confirmed that they explain the local strategy for all projects that meet thresholds from 8 units to over 100 units, whether or not they are full right projects. Our work did not allow us to definitively conclude, however, that the strategy (City or local) was explained to the promoters before the Direction de l'habitation was involved.

It is important to note at this stage that the Direction de l'habitation has concluded co-operation agreements with seven boroughs¹³, including Le Sud-Ouest borough. Through these agreements, the parties undertake to cooperate, based on their areas of jurisdiction, to conclude and manage inclusion agreements for projects authorized or carried out, in compliance with the *City Strategy* or local strategy. In the agreements, the parties make commitments concerning their respective roles and responsibilities, including explaining the strategy based on the scenarios provided.

We believe that this is a good practice and that such agreements should be concluded with all boroughs, since all parties are contributing to the achievement of the affordable housing objectives.

RECOMMENDATIONS

3.1.B. We recommend that the Direction générale make provisions facilitate the implementation of the *Strategy for the Inclusion of Affordable Housing* to encourage the use of standard practices by all business units and to establish fairness for promoters and, above all, greater consistency across the territory of the City.

3.1.C. We recommend that the Service de l'habitation provide an application guide for the *Strategy for the Inclusion of Affordable Housing* and periodically hold information sessions on that Strategy in order to standardize the users' understanding and interpretation and raise awareness of the importance of their contribution to the achievement of the affordable housing objectives.

¹³ The boroughs of Ahuntsic-Cartierville, Côte-des-Neiges–Notre-Dame-de-Grâce, Le Plateau-Mont-Royal, Saint-Léonard, Le Sud-Ouest, Ville-Marie and Villeray–Saint-Michel–Parc-Extension.

- 3.1.D.** We recommend that, depending on the outcome of the pending by-law, the Mercier–Hochelaga-Maisonneuve and Le Sud-Ouest boroughs post their local affordable housing strategies on their websites, to ensure greater transparency of the by-law amendment process.
- 3.1.E.** We recommend that the Montréal-Nord borough apply the *Strategy for the Inclusion of Affordable Housing* to uphold the policies of the municipal administration.
- 3.1.F.** We recommend that the Service de l'habitation take the measures required to conclude co-operation agreements with all boroughs, specifying the responsibilities of each in connection to the conclusion and management of affordable housing inclusion agreements, in order to contribute to the achievement of the City's objectives.

BUSINESS UNITS' RESPONSES

- 3.1.B.** ***Direction générale***
[TRANSLATION] To facilitate the implementation of the Inclusion Strategy, promote the use of consistent practices, ensure fairness to proponents and greater consistency in implementing the Inclusion Strategy throughout the Ville de Montréal, the Direction générale will mandate the Service de l'habitation, in conjunction with the Service de la concertation des arrondissements, to draft a guideline for all boroughs. This guideline will clearly describe the responsibilities of the Service de l'habitation and the boroughs in implementing the Inclusion Strategy and will emphasize the importance of complying with the requirements of the Strategy in order to meet the Ville de Montréal's inclusion objectives. The Direction générale will ensure that this guideline is distributed. (Planned completion: November 2019)
- 3.1.C.** ***Service de l'habitation***
[TRANSLATION] The Service de l'habitation has prepared a guide on implementing the Inclusion Strategy. The guide will be updated and posted on the Ville de Montréal's Internet site, on the page dealing with the Inclusion Strategy following its revision pursuant to the adoption of the by-law on improving the supply of social, affordable and family housing. The guide will also be emailed to the directors of all the borough's Directions de l'aménagement urbain et des services aux entreprises. Inclusion training will be presented at one of the Directions de l'aménagement urbain et des services aux entreprises' monthly meetings. (Planned completion: November 2019)

3.1.D. Mercier–Hochelaga-Maisonneuve borough

[TRANSLATION] The Direction de l'aménagement urbain et des services aux entreprises will ensure that the table outlining the objectives of the local inclusion strategy for social and affordable housing is posted on the Mercier-Hochelaga-Maisonneuve borough's website to make it easier to access. (Planned completion: May 2019)

Le Sud-Ouest borough

[TRANSLATION] The original 2012 local strategy as well as the revised 2016 strategy were already online under the "Toutes les publications / Affaires et économie" tab. (Planned completion: completed)

3.1.E. Montréal-Nord borough

[TRANSLATION] Perform a comparative analysis of the various local strategies of neighbouring boroughs in conjunction with the Service de l'habitation. (Planned completion: September 2019)

Identify potential requalification sites, particularly near the Henri-Bourassa, Pie IX and Industriel boulevards and in the Albert-Hudon area. (Planned completion: September 2019)

Ensure that Montréal-Nord borough's local strategy is consistent with the policy directions of the future inclusion by-law and during the transition period preceding its implementation. (Planned completion: December 2019)

Define the acceptable threshold for projects that will be covered by the local inclusion strategy. (Planned completion: December 2019)

Involve local stakeholders—through the home pride committee, which includes the main community real estate technical support groups as well as organizations participating in social and affordable housing projects—in developing the local strategy. (Planned completion: ongoing)

Present the policy directions to the whole community and partners during a Priorité Habitation meeting. (Planned completion: March 2020)

Adopt the Montréal-Nord local inclusion strategy. (Planned completion: June 2020)

3.1.F. Service de l'habitation

1 - Temporary measure:

[TRANSLATION] Several steps must be completed to enter into a collaboration agreement with a borough, including the presentation of the collaboration agreement, its submission to elected representatives, feedback, amendments and finally the signing of the agreement. It takes an average of six months or more to complete these steps. The Inclusion Strategy will soon become an inclusion by-law. To accelerate the dissemination of information to the various administrative and political levels in boroughs, the Service de l'habitation is calling for a guideline to be sent to the boroughs. It will summarize individual responsibilities and the importance of meeting the minimum requirements of the Strategy in order to help achieve the city's inclusion objectives. The Service de l'habitation will ask the Direction générale to send this guideline to the boroughs. (Planned completion: May 2019)

2 - Permanent measure:

The coming into force and implementation of the by-law will clearly establish individual responsibilities. (Planned completion: March 2021 after the by-law comes into force)

3.2. NEGOTIATION AND SIGNATURE OF AFFORDABLE HOUSING INCLUSION AGREEMENTS

3.2.1. STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING

3.2.1.A. BACKGROUND AND FINDINGS

The projects subject to the *City Strategy* are those that, to be completed, require amendments to by-laws concerning density, height or usage. Since the *City Strategy* uses an incentive approach, the City must make efforts with promoters to get them to include affordable housing in their residential projects.

The current legal setting does not oblige promoters to build affordable housing in their residential projects. The boroughs, as we have just shown, can therefore adopt regulatory amendments without having this lead to an inclusion agreement. This approach does not support the City's policy to create affordable housing, however, and it therefore compromises the achievement of the targets.

There are several mechanisms by which City authorities can adopt regulatory amendments:

- a municipal by-law adopted by the city council, under section 89, paragraph 3 of the *Charter*:
 - This article stipulates that the City council may, by by-law, enable the carrying out of a project, notwithstanding any by-law adopted by a borough council, where the project relates to a residential, commercial or industrial establishment situated in the business district, or if situated outside the business district, a commercial or industrial establishment the floor area of which is greater than 15,000 m².
- an amendment to the City's Master Plan through the adoption of a *Plan particulier d'urbanisme* by the city council;
- adoption by a borough council of a particular plan to construct, modify or occupy a building (SCAOPI):
 - This mechanism allows a project to be carried out in certain circumstances even if it does not comply with the borough's urban planning by-laws, with regard to area, height of the building, number of units or zoning, for example. A SCAOPI application must be completed by the owner or its mandatary. This application is analyzed and recommended to the borough council by the urban planning advisory committee. A first draft resolution is adopted by the borough council. After that, the project is subjected to a public consultation, leading to the adoption of a second draft resolution by the borough council. The project may be subject to referendum approval. After this procedure, the borough council proceeds with the final adoption of the SCAOPI.

Other incentives may be added to a residential project that includes affordable housing. For example, an exception may be granted for the size of the parking area or the percentage of green space required. Also, depending on the size of the project, the City may, under current by-laws, reimburse the promoter for the cost of infrastructures (on presentation of supporting documents) and offer relief on the park fees related to the social and community housing component.

Once the preliminary explanations about the *City Strategy* (or *Ville plus*) are provided to the promoter by the borough, the negotiations with the Direction de l'habitation take place in parallel with the regulatory amendment process. The starting point for the negotiations is to explain to the promoter that the regulatory amendments that promoter wants will be granted on a discretionary basis. The regulatory amendments that the City or the borough grants to promoters are opportunities for them to develop residential housing at a lower cost. After the regulatory amendments are adopted, the market value of the land increases, especially if a change of use is granted. It is important, therefore, for the process to also be beneficial for the City, by securing a serious commitment from the promoter to participate in the City's affordable housing inclusion effort. The adoption of amendments should be preceded by a signed inclusion agreement and guarantees from the promoter to uphold its commitments.

For our audit, we selected projects subject to the *City Strategy* (100 units or more or an area of over 9,000 m²) and located in the Mercier–Hochelaga-Maisonneuve and Le Sud-Ouest boroughs. Our sample included 12 residential projects, 4 in Mercier–Hochelaga-Maisonneuve borough and 8 in Le Sud-Ouest borough. In this section, we examined 3 aspects: the negotiation of various forms of commitment outlined in the *City Strategy*, the negotiation of the clauses of the inclusion agreements and the signature of inclusion agreements or development agreements. The detailed results of our work are described in each section, followed by recommendations.

NEGOTIATION OF VARIOUS FORMS OF COMMITMENT OUTLINED IN THE *CITY STRATEGY*

The negotiations with the promoter relate to affordable housing inclusion opportunities, based on various forms of commitment outlined in the *City Strategy*:

SOCIAL AND COMMUNITY HOUSING

ON-SITE LOT

The Direction de l'habitation and the promoter examine the possibility of isolating a lot within the project that could contain the area required under the *City Strategy* (or Ville plus) to construct a building containing social and community housing. The types of commitment discussed include:

- the sale of a lot to the City, to be used for social and community housing, based on the calculation of the sale price set out in the *City Strategy*. The lot must be ready to build, connected to infrastructures and decontaminated;
- the construction of a turnkey project by the promoter on that same lot and its subsequent sale to a community organization designated by the City.

OFF-SITE LOT

If there is no on-site lot of sufficient size or if that scenario is undesirable or inappropriate, the Direction de l'habitation determines with the promoter whether an off-site lot (other location in the sector) is available for the same types of commitment described in the previous point.

Whether the lot is on- or off-site, whether it is the sale of the lot or a turnkey construction, more in-depth analyses must be carried out to assess the feasibility and potential viability of the social and community project. At this stage, the Direction de l'habitation resources responsible for the AccèsLogis program may get involved to offer their expertise.

FINANCIAL CONTRIBUTION

This option is retained if the sale of a lot or a turnkey construction on- or off-site is neither desirable nor appropriate for the promoter.

AFFORDABLE PRIVATE HOUSING

The Direction de l'habitation enters into discussions with the promoter for the construction of affordable private housing within the residential project, based on the parameters in the *City Strategy* (or *Ville plus*).

The purpose of the *City Strategy* is to put means in place for the City to achieve its objectives for the creation of social and community housing and affordable private housing. The negotiations with the promoters must be oriented toward this, in compliance with the parameters set out in the *City Strategy*.

In our audit, we looked for evidence that the various forms of commitment described above were discussed with the promoters before concluding an affordable housing inclusion agreement. For social and community housing, the commitment entails the sale of a lot, a turnkey construction or a financial contribution. For affordable private housing, the discussions focus on the total number of private units and the number of affordable private units.

To conduct our analysis of the residential projects included within the scope of this mission, we obtained emails and different versions of affordable housing inclusion agreements attesting to meetings or exchanges with the promoters.

These documents do not, however, allow us to assess the efforts made to encourage the promoters' commitment to the creation of social and community housing. We are of the opinion that the various forms of commitment negotiated by the Direction de l'habitation with the promoters should be more fully documented. Likewise, we believe that when negotiations with promoters result in a financial contribution, the documentation should state why the sale of a lot or the construction of a turnkey building was not retained. Financial contribution should not be the preferred option, as it delays the construction of social and community housing.

NEGOTIATION OF THE CLAUSES IN THE INCLUSION AGREEMENTS

The outcome of the negotiations dictates the content of the clauses in the inclusion agreements or the development agreements¹⁴ concluded with the City. The inclusion agreements (or development agreements) contain clauses concerning the promoters' commitments and guarantee clauses related to those commitments.

1. Promoters' commitments – Social and community housing

The promoters' commitments relate to the level of inclusion required, based on the parameters of the *City Strategy* (or *Ville plus*) and the form in which the promoters will carry out the social and community inclusion. The forms of inclusion are described below:

- The promoter transfers a lot to the City or to an organization designated by the City. The clauses generally state:
 - the maximum price for acquiring the lot (set based on the organizations' capacity to pay, according to the AccèsLogis program, or \$12,000/unit);
 - a timeline for acquiring the lot.
- The promoter builds the social and community housing in turnkey mode. The clauses generally state:
 - a deadline for the promoter to sign an agreement with an organization;
 - the sale of the lot to the City or an organization it designates if the promoter exceeds the deadline or no longer wants to construct the social and community housing in turnkey mode;
 - if the lot is sold, the same approach applies as for the sale of the lot described above.
- The promoter makes a financial contribution. The clauses state the details of the calculation, including the total gross residential floor area, the percentage of the contribution and the difference between the market value and the organizations' capacity to pay, based on the AccèsLogis program.

2. Promoters' commitments – Affordable private housing

The inclusion agreement (or development agreement) states the number of affordable private housing units and the possibility of distributing them within the project, based on the promoter's preferences.

¹⁴ Major projects require development agreements between the City and the promoters. These agreements are contractual documents that include specific clauses about the various aspects of the development, such as the inclusion of affordable housing.

3. Financial guarantees for the commitments – Social and community housing

The type of guarantee required differs depending on the promoter's commitment, that is, selling a lot, building social and community housing units in turnkey mode or making a financial contribution when inclusion is not possible.

If the promoter sells a lot or builds turnkey social and community housing, a guarantee clause may stipulate:

- a first mortgage (in the amount corresponding to the calculation of the financial contribution);
- a letter of financial guarantee (in the amount corresponding to the calculation of the financial contribution);

For some time, the Direction de l'habitation has been trying to obtain, when possible, a first mortgage instead of a financial guarantee when the promoter undertakes to transfer a lot or build turnkey social and community housing for the designated social lot. In this way, the City can secure the lot in case the promoter defaults.

The inclusion agreement also establishes the timeline for obtaining the guarantee (usually 10 days before the adoption of the regulatory amendments).

The agreement also states that the promoters' obligations for the sale of the land or the construction of the turnkey social and community housing are terminated and the guarantees are released when:

- the promoter concludes the agreement with an organization and the definitive commitment of the subsidies under the AccèsLogis program is confirmed;
- the lot is sold to the City or an organization;
- the City decides not to acquire the lot;
- the regulatory amendments for the project are not adopted.

If the promoter makes a financial contribution, a clause states the time when the guarantee must be obtained (normally 10 days before the adoption of the regulatory amendments) and also when it must be paid.

4. Financial guarantees for the commitments – Affordable private housing

There is a single guarantee clause for affordable private housing, which specifies that it is a letter of financial guarantee normally required when the promoter applies for a private housing permit. The clause states that the formula for establishing the guarantee is based on the inclusion rate required under the parameters of the *City Strategy* (or *Ville plus*) and a fixed amount per unit.

In our work, we examined the affordable housing inclusion agreements and the *City Strategy* (or *Ville plus*) development agreements for the selected projects, to ensure that

the main clauses mentioned here are included and that calculations and amounts are appropriate. Our findings are as follows:

1. Promoters' commitments – Social and community housing

- All the affordable housing inclusion agreements contain clauses stating the commitments from the promoters concerning social and community housing;
- For almost all the affordable housing inclusion agreements—11 of the 12 projects—the calculations and the amounts of the commitments for the social component are appropriate.

One exception was noted for a project in the Mercier–Hochelaga-Maisonneuve borough (208 units) for which we were unable to corroborate the social surface area used to establish the sale price of the lot.

2. Promoters' commitments – Affordable private housing

- Almost all the affordable housing inclusion agreements—11 of the 12—contain clauses outlining the promoters' commitments.

One exception was noted for a project in the Mercier–Hochelaga-Maisonneuve borough (208 units) that had no clause concerning affordable private housing. The fact that this clause is missing means the agreement does not comply with the parameters of the *City Strategy*.

- All the inclusion agreements, other than the exception mentioned above, contain appropriate calculations for the number of affordable private housing units.

3. Financial guarantees – Social and community housing

Over half of the inclusion agreements—7 of the 12—contain financial guarantee clauses for social and community housing. In these agreements, the calculations are appropriate except for one project in the Mercier–Hochelaga-Maisonneuve borough (208 units) for which the calculation of the guarantee does not comply with the parameters of the *City Strategy* and is consequently insufficient. For this project, we also noted the following derogation:

- The lot to be used for the turnkey construction of social and community housing is guaranteed by a financial guarantee, not a first mortgage, which does not secure the lot for the City. At the time of our work, the lot had been sold to a third party without informing the borough or the Direction de l'habitation. Although a financial guarantee was required, the amount was not sufficient to acquire another lot of the same size. Furthermore, the agreement provides for the payment of the financial guarantee at the time of the permit application for the first phase, not before the adoption of the regulatory amendments;

The derogations concerning the five agreements without guarantee clauses are as follows:

- For four inclusion agreements (1,239 units) related to a development agreement in Le Sud-Ouest borough, the promoter was asked to make financial contributions on the signature of the agreements. No financial agreement was originally provided for this development agreement. At the time of our audit, the Direction de l'habitation was unable to provide evidence that it has been involved in the discussions surrounding the establishment of the development agreement and, by extension, the guarantee clause. If there are subsequent phases, the City will have no recourse if the promoter defaults;
- For another project in Le Sud-Ouest borough (825 units):
 - The development agreement contains no guarantee for social and community housing units. According to the information we obtained, during the negotiations, discussions concerning a guarantee clause took place between the Direction de l'habitation and Le Sud-Ouest borough, but we were unable to obtain evidence of these discussions. The Direction de l'habitation is negotiating with the promoter again about the possibility of providing turnkey social housing. We feel that an attempt should be made, during the negotiations, to obtain a first mortgage in order to secure the lots in case the promoter defaults.

4. Financial guarantees – Affordable private housing

Almost all the inclusion agreements—10 out of 12 projects—contain clauses concerning financial guarantees for affordable private housing. We observed these two exceptions:

- For a project in the Mercier–Hochelaga-Maisonneuve borough (208 units), the inclusion agreement contains no guarantee clause for affordable private housing as there was no commitment in this regard;
- For a project in Le Sud-Ouest borough (825 units), the development agreement contains no guarantee for affordable private housing.

The Direction de l'habitation is negotiating with the promoter again, and we believe that it should negotiate a guarantee for the affordable private housing component.

SIGNATURE OF INCLUSION AGREEMENTS OR DEVELOPMENT AGREEMENTS

Since September 13, 2017, inclusion agreements have been signed by the director of the Direction de l'habitation, after the delegation of powers (CE17 1634) adopted under the By-law amending the *By-law concerning the delegation of powers to officers and employees* (RCE 02-004).

Previously, the inclusion agreements for affordable housing were just signed by the promoter, making them unilateral. The delegation of powers to the Direction de l'habitation

has made the inclusion agreements bilateral. Bear in mind that the *City Strategy* was adopted by the executive committee.

Also, before September 13, 2017, when affordable housing inclusion clauses were included in the development agreements, they were approved by the authority to which the construction project reported.

In our work, we examined the inclusion agreements or development agreements to ensure that they had been signed by the appropriate authorities and that the regulatory amendments had been adopted after the signature of the agreement. We also ascertained whether the regulatory amendments had been subject to approval by the appropriate authorities.

As a result of our investigation, we can conclude that:

- all the inclusion agreements or development agreements were signed by the appropriate parties;
- all the regulatory amendments were approved by the appropriate authorities;
- all the regulatory amendments led to affordable housing inclusion agreements;
- all the regulatory amendments were adopted after the inclusion agreements or development agreements were signed.

In conclusion, with regard to the negotiation and signature of the agreements:

When agreements are concluded that do not comply with the *City Strategy* parameters and regulatory amendments are granted, this creates an unfair situation for the promoters who do comply. We are of the opinion that when such situations occur, these inclusion agreements are not in the best interests of the City.

The development agreements we examined did not always have guarantee clauses related to the inclusion of affordable housing. The lack of guarantee clauses deprives the City of leverage against those promoters if they fail to uphold their commitments, weakening the capacity of the City's inclusion strategy and policies to achieve its targets.

Commitments to social projects, in which the promoter undertakes to sell a lot or construct turnkey social housing units, do not always have adequate guarantees. The option of obtaining a first mortgage was not always considered, where possible. In the absence of adequate guarantees, the City is unable to secure the lots if the promoter does not live up to its obligations.

RECOMMENDATIONS

- 3.2.1.B.** We recommend that the Service de l'habitation document its discussions with the promoters concerning the various commitment scenarios for the social component, including the reasons leading to financial contributions, to demonstrate the efforts made to achieve the affordable housing targets.
- 3.2.1.C.** We recommend that the Service de l'habitation, the Mercier–Hochelaga-Maisonneuve borough and the Sud-Ouest borough ensure that construction projects that are subject to the *Strategy for the Inclusion of Affordable Housing* comply with the established parameters, in order to avoid unfairness among the promoters.
- 3.2.1.D.** We recommend that the Service de l'habitation and the Mercier–Hochelaga-Maisonneuve borough document the calculations and amounts supporting the promoters' commitments for the social and community component, in order to demonstrate that the parameters of the *Strategy for the Inclusion of Affordable Housing* have been applied.
- 3.2.1.E.** We recommend, on one hand, that the Service de l'habitation negotiate a first mortgage, preferably, for social projects in which the promoter's commitment is to transfer a lot or construct turnkey units and, on the other, that it recommend to the boroughs to adopt this same approach, to ensure a sufficient guarantee.
- 3.2.1.F.** We recommend that, for future development agreements, the Service de l'habitation record evidence that the parameters of the *Strategy for the Inclusion of Affordable Housing* have been discussed with the business units involved, in order to keep a record of the decisions made concerning construction projects for the sake of accountability, should it be required.

BUSINESS UNITS' RESPONSES

3.2.1.B. **Service de l'habitation**

[TRANSLATION] A standard fact sheet will now be attached to all files. It will contain the following information:

- *Contribution calculation table;*
- *Project statistics;*
- *Explanatory note on the calculation of contributions, as required;*
- *Note explaining the choice of type of social housing contribution requested from the proponent;*
- *Note explaining the choice of the type of social housing guarantee requested from the proponent;*
- *If there is a development agreement, a note confirming that the requirements of the Inclusion Strategy were discussed with the borough. (Planned completion: June 2019)*

3.2.1.C. **Service de l'habitation**

[TRANSLATION] The Service de l'habitation will ask the Direction générale to send all boroughs a guideline to inform them on this subject (point 3.1.F. of this report). (Planned completion: November 2019)

Mercier–Hochelaga-Maisonneuve borough

[TRANSLATION] The borough's local social and affordable housing inclusion strategy has more ambitious inclusion objectives than those of the Affordable Housing Inclusion Strategy currently being implemented by the City's Service de l'habitation. The borough will ensure that its local strategy will be consistent with the new objectives of the Inclusion Strategy, which will be extended in the proposed by-law on providing affordable social and family housing, for which a notice of motion is scheduled for the June 17 municipal council meeting. (Planned completion: July 2019)

Le Sud-Ouest borough

[TRANSLATION] This recommendation refers to financial guarantees. For projects involving a financial contribution, the creation of social housing or affordable housing, financial guarantees will be required in accordance with the requirements established by the Service de l'habitation. However, the borough wishes to state that the Service de l'habitation's collaboration and support will be needed to monitor the guarantees. (Planned completion: April 2019)

3.2.1.D.**Service de l'habitation**

[TRANSLATION] A standard fact sheet will now be attached to all files. It will include a contribution calculation table and project statistics. (Planned completion: June 2019)

Mercier–Hochelaga-Maisonneuve borough

[TRANSLATION] All financial contributions from proponents to the Inclusion Strategy's Inclusion Fund for projects that require regulatory amendments to use, height or density, subject to the adoption of a particular urban planning project, specific construction project, modification project or building occupancy project are covered by an inclusion agreement (commitments related to the local social and affordable housing inclusion strategy in new residential projects). Inclusion agreements specify all calculations of social and community housing commitments as well as private affordable housing commitments. After the contribution amounts have been collected, a copy of the agreements is sent to the Service de l'habitation. Documentation supporting the calculation will be kept on file. (Planned completion: March 2019)

3.2.1.E.**Service de l'habitation**

[TRANSLATION] A standard fact sheet will now be attached to all files. It will include a note explaining the choice of the type of guarantee requested from the proponent. (Planned completion: June 2019)

This recommendation will be sent to the boroughs via training on the Inclusion Strategy which will be presented to the Directions de l'aménagement urbain et des services aux entreprises. (Planned completion: November 2019)

3.2.1.F.**Service de l'habitation**

[TRANSLATION] A standard fact sheet will now be attached to all files. When development agreements negotiated by the boroughs contain requirements for the inclusion of social and affordable housing, the fact sheet will include a note explaining that the requirements of the Inclusion Strategy were discussed with the borough. (Planned completion: June 2019)

3.2.2. LOCAL STRATEGY**3.2.2.A. BACKGROUND AND FINDINGS**

For the purposes of our audit, only Le Sud-Ouest borough authorized projects subject to its local strategy. It should be noted that for the audited period, the Mercier–Hochelaga-Maisonneuve borough had a single project subject to its local strategy, but as it was in the planning phase, we did not examine it.

For Le Sud-Ouest borough, our sample for projects subject to the local strategy consisted of three residential projects, two that benefited from regulatory amendments and one full rights project.

For our work on the projects subject to the local strategy, we wanted assurance that the main steps under the responsibility of the borough, by virtue of the collaboration agreement signed with the Direction de l'habitation, had been appropriately applied.

The Direction de l'habitation is less involved in projects subject to Le Sud-Ouest borough's local strategy than in those subject to the *City Strategy*. There is a collaboration agreement in effect between the borough and the Direction de l'habitation which sets out the actions the borough must carry out, not just for the Direction de l'habitation but within the borough itself.

The details of the main parameters for Le Sud-Ouest borough's local strategy can be found in Appendix 5.2.

NEGOTIATION OF VARIOUS FORMS OF COMMITMENT

Once the first explanations are provided by the borough, it continues the discussions with the promoter to assess whether the residential project has the potential to include social and community housing¹⁵. As happens with the *City Strategy* or *Ville plus*, it is explained to the promoter that there is an incentive—the possible adoption of regulatory amendments—and that a social commitment is requested in return. Since the local strategy applies at lower thresholds than the *City Strategy* (from 8 to 99 units), it often leads to financial contributions, because it is harder to meet the AccèsLogis feasibility and viability criteria.

If a residential project has enough units or a sufficient lot size to be able to include social and community housing, however, the borough gets the Direction de l'habitation involved as soon as possible. It must be involved because of the subsidies that will come from the AccèsLogis program.

The borough and the promoter also discuss the construction of affordable private housing units in the residential project, based on the local strategy parameters presented in Appendix 5.2.

Projects for which the promoter requests a regulatory amendment are carried out using a SCAOPI application, described in point 3.2.1. As happens with the *City Strategy*, the inclusion agreement and the financial guarantees (social and community component) must be signed before the final adoption of the regulatory amendments.

¹⁵ Minimum threshold according to By-law 02-102, adopted by the urban agglomeration council on December 14, 2017: a minimum of 30 units for a building with no elevator and a minimum of 50 for a building with an elevator.

The borough plays a bigger role in the negotiations for projects subject to the local inclusion strategy.

According to the borough, for full rights residential projects, the local strategy is harder to apply because the promoter is not applying for any regulatory amendments. During the negotiations, the borough explains its local strategy to the promoter and tries to get a financial contribution. If the promoter agrees, it produces a letter stating that its financial contribution must be used to create social and community housing. According to the information we obtained, it is unlikely that a full rights project will lead to an inclusion agreement, so no commitment to affordable private housing will be obtained.

In our audit work, we asked for documents demonstrating that the various types of commitments for affordable housing had been discussed by the borough and the promoters.

We conclude that the documents obtained for the two projects we analyzed do not allow us to assess the efforts made by the borough to encourage the promoters to support the creation of social and community housing. For one project, the discussions were underway at the time of our audit.

We did observe, however, that:

- for one project (82 units) that benefited from regulatory amendments and for which an inclusion agreement was concluded with the promoter, there is an explanatory letter to the borough justifying the promoter's decision not to transfer a lot due to profitability issues and technical feasibility;

We note that there is no documentation of the negotiations on the borough's part to find solutions to encourage the promoter to make a commitment for the social component;

- for one full rights project (271 units) (not subject to the *City Strategy*), a letter of commitment was signed by the promoter confirming the amount of the financial contribution that will be made. The letter specifies that the project is subject to the local inclusion strategy. It also states that it is neither desirable nor appropriate to include social housing units. A financial contribution was obtained;

We have no evidence explaining why social inclusion is neither desirable nor appropriate to justify the payment of a financial contribution.

We also note that the 2012 local strategy applied to full rights projects, while the local strategy adopted in 2016 makes no mention of the matter. The letter of commitment from the promoter sends a mixed message. This situation raises confusion with promoters and creates a vagueness leading to the negotiation of voluntary contributions. We are of the opinion that the local strategy as it applies to this type of project should be clarified.

- for one project (353 units) that benefited from regulatory amendments adopted in 2011, no inclusion agreement has been signed as of yet. At the time of our audit, discussions were underway between the borough and the promoter, but it is not possible to determine what type of commitment the promoter will make. The Direction de l'habitation learned about this project after the amendments had been adopted without any commitments on the part of the promoter:
 - although the project is subject to the *City Strategy*, the Direction de l'habitation and the borough identify it as being subject to the local strategy;
 - in the absence of an inclusion agreement, the Direction de l'habitation has no leverage with the promoter to make commitments, which compromises the achievement of the affordable housing objectives.

The various types of commitments discussed by the borough with the promoters should be more thoroughly documented. Likewise, we feel that when negotiations with promoters lead to a financial contribution, the reasons the promoter did not make any commitment to the social components should be documented. The financial contribution is not the best option, as it delays the construction of the social and community housing.

NEGOTIATION OF CLAUSES IN INCLUSION AGREEMENTS

1. Commitments – Social, community and affordable private housing

The clauses concerning the inclusion of social and community housing and affordable private housing are the same as those described for the *City Strategy* in point 3.2.1.

2. Financial guarantees – Social, community and affordable private housing

The types of guarantees required for the affordable housing commitments are basically the same as those described for the *City Strategy* in point 3.2.1. The difference is in the receipt and follow-up of the financial guarantees, as it is the borough that is responsible.

During our audit work, we analyzed the affordable housing inclusion agreements related to the local strategy to ensure that they included the main clauses and that the calculations and amounts were appropriate. We analyzed only two projects, because one project still does not have an inclusion agreement, as mentioned earlier in this section under the "Negotiations" heading. Our work led us to the following findings:

1. Promoters' commitments – Social and community housing

We did not find any exceptions. Only the 82-unit project applies, and the agreement contains a clause stating the promoters' commitments to social and community housing;

For the 82- and 271-unit projects, the calculation and amounts for the social component are appropriate.

2. Promoters' commitments – Affordable private housing

We did not find any exceptions. Only the 82-unit project applies, and the agreement contains a clause stating the commitments.

SIGNATURE OF INCLUSION AGREEMENTS OR DEVELOPMENT AGREEMENTS

With regard to the signature of inclusion agreements, it is the borough that is in charge of this step. If it has questions or needs advice on how to draft them, the Direction de l'habitation offers its support as required.

The affordable housing inclusion agreements based on the local strategy are signed by the promoter. The regulatory amendments are adopted by the borough council.

In our work, we examined the inclusion agreements to ensure that they were signed by the borough and the promoter and that the regulatory amendments were adopted after the signature of the agreement. We also ascertained whether the regulatory amendments had been subjected to the approval of the borough council. The results of our work are as follows:

- For the 82-unit project, the inclusion agreement was signed by the promoter. For the 271-unit project (full rights), the promoter signed a letter confirming that it would pay the amount of the financial contribution. The 353-unit project is not yet subject to an inclusion agreement;
- The two projects that received regulatory amendments, that is, the 82-unit and 353-unit projects, were adopted by the borough council;
- One of the two projects has not yet led to an inclusion agreement but has benefited from regulatory amendments:
 - For one project (353 units) that benefited from regulatory amendments adopted in 2011, an inclusion agreement has yet to be signed. We are of the opinion that the borough should not have adopted the regulatory amendments without concluding an inclusion agreement containing commitments on the promoter's part. This situation does not comply with the collaboration agreement signed with the Direction de l'habitation.

RECOMMENDATIONS

- 3.2.2.B. We recommend that Le Sud-Ouest borough document its discussions with promoters with regard to the various commitment scenarios for the social component, including the reasons leading to financial contributions, in order to demonstrate the efforts made to achieve the affordable housing targets.**

3.2.2.C. We recommend that Le Sud-Ouest borough comply with the collaboration agreement concluded with the Service de l'habitation by reporting projects for which regulatory amendments are under study and by only adopting regulatory amendments for which an inclusion agreement has been signed by the promoter to support the achievement of the affordable housing objectives.

3.2.2.D. We recommend that Le Sud-Ouest borough add clarifications to its local affordable housing inclusion strategy concerning whether or not it applies to full rights construction projects, to achieve fairness and greater transparency for the promoters.

BUSINESS UNITS' RESPONSES

3.2.2.B. **Le Sud-Ouest borough**
[TRANSLATION] We generally retain emails between the proponent and the Service de l'habitation documenting the various scenarios of inclusion or financial compensation considered for the target project.

From now on, we will also write a report describing the discussions and agreements reached on implementing the strategy, which will be shared with all parties involved. (Planned completion: April 2019)

3.2.2.C. **Le Sud-Ouest borough**
[TRANSLATION] Since the collaboration agreement was signed on March 20, 2017, all projects requiring a regulatory amendment are discussed with the Service de l'habitation at the very first meetings with the proponent.

The case raised in the recommendation is the sole project among all Le Sud-Ouest borough's noncompliant projects that were adopted prior to the signing of an agreement with the proponent regarding the Inclusion Strategy. It was a particular case where projects were split that led to complications in the adoption process. (Planned completion: completed)

3.2.2.D. **Le Sud-Ouest borough**
[TRANSLATION] Keep communicating the requirements of our strategy to the proponents during project discussion meetings, namely:

- 1. contribution required for projects needing a regulatory amendment based on the specifications of our local (fewer than 100 units) or City (100 units or more);*
- 2. voluntary contribution for projects that do not require regulatory changes.*

Follow this approach until the adoption of the new inclusion by-law, which will be initiated in June 2019 and come into force on January 1, 2021. If the adoption and coming into force of the by-law are delayed, the borough will provide details in its local strategy reference document. (Planned completion: December 2019)

3.2.3. INCLUSION AGREEMENT TRACKING FILE

3.2.3.A. BACKGROUND AND FINDINGS

An Excel file listing the projects subject to the *City Strategy* and the local strategies is maintained by a manager at the Direction de l'habitation. This file provides the name of the project and the parameters set out in the inclusion agreements (e.g., the total number of units and the total area, the number of social and affordable private units, the type of inclusion and the guarantees).

The file has been in use since October 2018, and it is updated continuously as soon as new projects are brought to the attention of the Direction de l'habitation by the boroughs.

As part of our task, we wanted to ensure that the file obtained from the Direction de l'habitation provided all the appropriate information about all the projects. For the boroughs included in the scope of this mandate, we compared the projects in the Direction de l'habitation file and those reported by the boroughs.

We found that the projects listed by the Direction de l'habitation corresponded to those reported by the boroughs included in this mission.

This exercise revealed, however, that the classification of inclusion projects based on the type of inclusion strategy does not always reflect the parameters in effect. Projects subject to the *City Strategy* were classified as coming under a local strategy. According to the information we obtained, this may happen when the *City Strategy* parameters are not met when the inclusion agreement is concluded. These projects are identified as having to be managed by the borough rather than the Direction de l'habitation. The file does not provide explanations of why the project did not meet the *City Strategy* parameters. The result is that the agreement tracking file does not provide an accurate portrait of the classification of inclusion projects, which will eventually skew the data analysis and the resulting management reports. We believe that for greater transparency, the agreement tracking file should state the *City Strategy* parameters that were not met and the reasons justifying the situation.

RECOMMENDATION

3.2.3.B. We recommend that the Service de l'habitation document the projects that do not meet the parameters of the *Strategy for the Inclusion of Affordable Housing*, in order to provide full information when the management and accountability reports are produced.

BUSINESS UNIT'S RESPONSE

3.2.3.B. *Service de l'habitation*
 [TRANSLATION] The "Tableau d'information générale" monitoring file will now include an explanatory note describing why an Inclusion Strategy project does not meet the requirements of the strategy.
 (Planned completion: June 2019)

3.3. MONITORING OF AFFORDABLE HOUSING INCLUSION AGREEMENTS

3.3.1. STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING (CITY STRATEGY)

Once the inclusion agreements are concluded with the promoters, they must be monitored by the City or the boroughs, as the case may be, in order to execute the guarantee mechanisms in a timely manner if the promoters do not fulfil their commitments.

The follow-up is carried out by the Direction de l'habitation for residential projects subject to the *City Strategy* (or Ville plus) and by the borough for other residential projects subject to the local strategies.

3.3.1.A. BACKGROUND AND FINDINGS

PROCUREMENT OF GUARANTEES

As mentioned in section 3.2, guarantees must be obtained for affordable housing.

1. Social and community housing

Under the inclusion agreements, these guarantees are required 10 days before regulatory amendments are adopted. These guarantees normally take the following forms:

- For a lot transfer or the turnkey construction of social housing units, one of the two following guarantees is required:
 - First mortgage;
 - Letter of financial guarantee;
- If the promoter makes a financial contribution, a certified cheque, bank draft or financial guarantee to the City from a recognized financial institution is required.

In our work, we assessed whether the guarantees were obtained from the promoters within the agreed time. Recall that our sample for this mission is 12 projects, 4 for the Mercier–Hochelaga-Maisonneuve borough and 8 for Le Sud-Ouest borough.

For almost all the projects examined—11 of the 12 projects—the guarantees were obtained within the agreed time. The only exception is as follows:

- For one project in Le Sud-Ouest borough (714 units), the promoter changed its commitment under the development agreement, making a financial contribution rather than transferring lots to the City or an organization for the subsequent phases. An inclusion agreement was concluded between the promoter and the Direction de l'habitation to reflect this change in the promoter's commitments. For this inclusion agreement, based on four phases, the financial contribution was received by the deadline mentioned in the agreement.

We did note, however, that for two of the four phases in the inclusion agreement, the construction permits were issued before the promoter gave its financial contribution to the Direction de l'habitation. The outcome was that the City did not have an adequate guarantee to ensure the promoter upheld its commitments for these two phases.

2. Affordable private housing

Under the inclusion agreements, the guarantee is normally requested from the promoter when it applies for a construction permit. The guarantee is in the form of a financial guarantee in favour of the City with a recognized financial institution.

When the promoter applies for the permit, the borough must check whether it relates to a lot that is subject to an inclusion agreement. The Direction de l'habitation asks the borough to inform it when a permit application is filed in order to check whether the promoter gave its financial contribution. If the promoter has not given its financial contribution, the Direction de l'habitation contacts it to make the deposit. According to the information we obtained, a construction permit cannot be delivered without getting the guarantee, since it is a commitment stipulated in the inclusion agreement.

In our work, we assessed whether the guarantees were obtained from the promoters within the agreed time.

Of the projects examined, there were six for which no construction permit application had been made, so we did not assess these projects, as the financial guarantees were not yet payable.

For the six other projects (all in Le Sud-Ouest borough), the construction permits had been issued for four of them, and for the other two, the applications had been submitted and were under analysis. For a low proportion of these projects (two out of six), the guarantees were obtained within the agreed time.

The four exceptions are as follows:

- For one project in Le Sud-Ouest borough (714 units), we discovered that the construction permit had been issued before the agreements were signed and the guarantees obtained.

For two phases of this project, no guarantee had been obtained at the time the permits were issued:

- Although an analysis of the compliance of the affordable units shows that the promoter built more affordable private units than required, the City was not protected in the event of a default on the part of the promoter.
- For one project in Le Sud-Ouest borough (94 units), the promoter provided the financial guarantee at the same time that the agreement was signed. A construction permit was issued, however, about two weeks before the agreement was signed:
 - We are of the opinion that the borough should not have issued the construction permit before the agreement was concluded and the guarantee obtained.
- For two projects in Le Sud-Ouest borough (one of 153 units and one of 118):
 - We found that the financial guarantees had not been given by the promoters when they applied for their respective construction permits. According to the information we obtained, the validation step for the affordable private housing, which was to be carried out by the borough, had not been done.

We are of the opinion that the efficacy of the follow-up carried out by the Direction de l'habitation on the procurement of this type of guarantee depends on good communications with all the boroughs. The procurement of guarantees by the Direction de l'habitation depends on several manual steps carried out by the Direction and by the borough and requires everyone to cooperate. We believe it would be appropriate to set up automated mechanisms so the Direction de l'habitation can be informed promptly when construction permit applications are filed for projects that include affordable private housing units, to guarantee that these units are built.

PAYMENTS OF FINANCIAL CONTRIBUTIONS

The inclusion agreements state a time at which the financial contributions must be paid by the promoter, when this is the option selected for the social component. The payment of the financial contribution is required shortly after the adoption of the regulatory amendments. Recall that there are no financial contributions for affordable private housing.

In our audit work, we compared the deadline in the inclusion agreements with the dates on the certified cheques or bank drafts received from the promoters, to assess whether this deadline was met. We found that the deadline in the inclusion agreements for the payment of the financial contributions was met for all projects.

MONITORING THE PROVISIONS CONCERNING SOCIAL AND COMMUNITY HOUSING PROJECTS

The Direction de l'habitation follows up when the agreement stipulates that the promoter will build social and community housing.

For turnkey construction, the Direction de l'habitation keeps track of the deadline in the inclusion agreement for the promoter to conclude an agreement with an organization designated by the City. The City or an organization may also acquire a lot when the agreement so stipulates or when the promoter informs the City that it will not build turnkey housing units. In both cases, a deadline for acquiring the lot is stated in the agreement.

For a turnkey project or the sale of a lot, the first mortgage is cancelled when the conditions set out in the inclusion agreement occur (see section 3.2.). This also requires a follow-up.

We examined the inclusion agreements that involved commitments for the social and community component to determine the deadlines for concluding turnkey construction or lot sale agreements. We made certain that follow-up was carried out in accordance with the provisions.

In our sample, 4 of the 12 projects included such provisions. For 2 projects, the inclusion agreements provided for the sale of lots, and for the 2 others, the inclusion agreements provided for the construction of social and community housing. Half of the projects examined—2 of the 4—were not compliant and the exceptions are as follows:

- For one project in the Mercier-Hochelaga-Maisonneuve borough (208 units), the deadline in the agreement for the turnkey construction of social and community housing units has not been reached, but we learned that the lot was sold without the knowledge of the Direction de l'habitation or the borough, as mentioned above in section 3.2. In this situation, the City will be subject to a legal dispute if it wants to take possession of the lot. A guarantee was supposed to have been provided by the promoter when it applied for the permit for the first phase. At the time of our work, the issue of the permit was under study and the guarantee had not been received.

- For one project in Le Sud-Ouest borough (714 units), the City acquired a lot, but the sale was concluded eight months after the deadline. The Direction de l'habitation is unable to provide explanations for this delay.

Although the Direction de l'habitation now intends to take steps earlier to acquire lots, it must clearly define when these steps will begin, to secure lots for social and community housing projects.

MONITORING THE VALIDITY OF THE FINANCIAL GUARANTEES

1. Social and community housing

Financial guarantees must be required for the financial contribution and are not kept for long, since the payment is made shortly after the signature of the inclusion agreement.

The follow-up required for letters of financial guarantee is mainly related to the affordable private housing component below.

2. Affordable private housing

The Direction de l'habitation follows up on the progress of the projects to ensure it has valid financial guarantees. It uses a system in which the expiry of the guarantees is recorded. Alerts are programmed before the expiry of the guarantees' validity so they can be renewed if the project is still underway or if the Direction de l'habitation has not finished checking the affordable private housing units built.

If affordable private housing units are built, the Direction de l'habitation carries out the required inspections to ensure that the affordable units meet the compliance criteria set out in the inclusion agreement. The Direction de l'habitation will execute the letter of financial guarantee on affordable housing units that are non-compliant.

In our audit work, we asked to see the financial guarantees for the projects underway or finished, to ensure that the City had valid guarantees.

After examining the financial guarantees, we can conclude that the Direction de l'habitation has valid guarantees for projects underway and that for the completed projects, the actions taken by it were appropriate (releasing or executing the guarantees).

RECOMMENDATION

3.3.1.B. We recommend that the Service de l'habitation review the process of obtaining financial guarantees for social, community and affordable private housing for projects subject to the *Strategy for the Inclusion of Affordable Housing* in order to protect the City in the event promoters do not fulfil their commitments.

BUSINESS UNIT'S RESPONSE

3.3.1.B. Service de l'habitation
[TRANSLATION] An IT tool is required for managing commitments and guarantees related to the Inclusion Strategy. It has already been requested by the Service des technologies de l'information. However, given that the by-law on improving the supply of social, affordable and family housing will be adopted by the end of 2019, another prioritization request will be sent to the Service des technologies de l'information. (Planned completion: June 2019 notice of motion regarding the by-law)

3.3.2 LOCAL STRATEGY

3.3.2.A BACKGROUND AND FINDINGS

The process described for the *City Strategy* also applies for the local strategies, except that it is the borough that is responsible for obtaining and following up on the guarantees.

With the 82- and 271-unit projects (full rights), we did not find any exceptions related to the social and community component.

For the affordable private component, only the 82-unit project applied and no exceptions were found.

3.4. CONTRIBUTION FUND FOR THE INCLUSION OF AFFORDABLE HOUSING IN NEW RESIDENTIAL PROJECTS

3.4.A. BACKGROUND AND FINDINGS

Originally, the *City Strategy*, adopted in 2005, favoured "on-site inclusion" or, if that was not possible, "off-site inclusion" of affordable housing units. After the strategy was in effect for a few years, application difficulties arose for some development projects that were incompatible with on-site inclusion or when off-site inclusion was not possible. These situations led the parties to negotiate the payment of financial contributions to comply with the *City Strategy*. In 2011, the city manager at the time asked the Direction de l'habitation to undertake a general reflection on the situation. After its work, the decision to create an inclusion contribution fund was adopted by the executive committee on March 14, 2012. At that time, the fund was to have been temporary while awaiting the adoption of amendments to the *Act respecting land use planning and development*, including the creation of a regulatory fund.

Two accounts were created in the fund framework, one strictly for social and community housing (an agglomeration account) and one strictly for affordable private or family hou-

sing (a City account). Separate accounting was kept by each borough to reflect the source of the funds.

When the fund was created, the terms of endowment and use of the fund were as follows:

Endowment of the Fund

- Social and community housing:
 - The contributions come from negotiations under the strategy, including projects resulting from local strategies;
 - Every contribution is accompanied by a letter of commitment (an inclusion agreement) from the donor confirming that it is for the sole purpose of constructing social and community housing.
- Affordable private or family housing:
 - The contributions come from bank letters of guarantee, provided by the promoters under development agreements (or inclusion agreements) for the construction of affordable private or family housing units, which are cashed in when the promoters do not fulfil the conditions.

Use of the Fund

- Social and community housing:
 - By priority, to purchase properties (lots or buildings), specifically required for the development of new social and community housing projects;
 - Secondly, to complete the financing package for projects in development.
- Affordable private or family housing:
 - By priority, to purchase properties (lots or buildings), specifically required for the development of new affordable private or family housing units;
 - To finance subsidies for affordable private or family housing projects.

Other management conditions were also stipulated:

- For every use of the fund, a decision-making file was prepared by the Direction de l'habitation setting out all the details of the project receiving the funds;
- The borough from which the contribution was drawn was invited to participate in the file. Since the decision-making process was simplified (in 2015), the participators in the decision-making files have become "stakeholders," meaning they have read-only access to the decision-making files and the opportunity to contact the person in charge.
- The use of the fund must be approved on the basis of the rules for the delegation of powers;

- The contributions from one borough may be used in another borough if both boroughs in question agree on the decision-making file;
- The executive committee and the boroughs are periodically informed about the contributions received, the amounts used and the general status of the fund.

In this audit, we examined the amount of the sums paid into the fund and the sums used since its creation. We also assessed the efficacy of the controls in place to ensure that the endowment and use of the funds comply with the terms and conditions for the projects in the selected boroughs.

First, using Table 3 below, we can show that for the social and community housing component, the financial contributions received amounted to \$18,978,585 for the period from January 1, 2012, to December 31, 2018, plus \$858,500 for bank guarantees cashed in for a project in the Côte-des-Neiges–Notre-Dame-de-Grâce borough. For the same period, the sum of \$3,199,451 was used, representing 16% of the funds collected. We also note that projects in 10 boroughs generated financial contributions.

**TABLE 3 – CONTRIBUTION FUND FOR THE INCLUSION OF AFFORDABLE HOUSING
IN NEW RESIDENTIAL PROJECTS
SUMMARY OF FINANCIAL CONTRIBUTIONS PAID
AND USED, BY YEAR (FROM 2012 TO 2018)**

	COMPONENT – SOCIAL AND COMMUNITY HOUSING					COMPONENT – AFFORDABLE PRIVATE HOUSING				
	FINANCIAL CONTRIBUTIONS RECEIVED (A)	NUMBER OF BOROUGHs	BANK GUARANTEES CASHED IN (B)	USE OF FUNDS PAID OR COMMITTED ^(A) (C)	CUMULATIVE BALANCE (A+B-C)	BANK GUARANTEES CASHED IN	NUMBER OF BOROUGHs	USE OF FUNDS PAID OR COMMITTED	CUMULATIVE BALANCE	
2012	\$286,000	2	\$0	\$0	\$286,000	\$0		\$0	\$0	
2013	\$1,331,750	5	\$0	\$0	\$1,617,750	\$0		\$0	\$0	
2014	\$2,743,870	7	\$0	\$175,000	\$4,186,620	\$260,000	1	\$0	\$260,000	
2015	\$922,000	7	\$0	\$577,020	\$4,531,600	\$0		\$0	\$260,000	
2016	\$3,472,123	9	\$0	\$1,670,000	\$6,333,723	\$0		\$0	\$260,000	
2017	\$3,843,924	10	\$858,500	\$0	\$11,036,147	\$480,000	2	\$0	\$740,000	
2018	\$6,378,918	10	\$0	\$777,431	\$16,637,634	\$400,000	2	\$0	\$1,140,000	
TOTAL	\$18,978,585		\$858,500	\$3,199,451	\$16,637,634	\$1,140,000		\$0	\$1,140,000	

^(A) Amounts paid or reserved on the approval of the urban agglomeration council.

Source: Contribution Fund for the Inclusion of Affordable Housing, reports submitted to the city council and the urban agglomeration council (2012 to 2018).

Specifically for the Mercier–Hochelaga-Maisonneuve and Le Sud-Ouest boroughs, Tables 4 and 5 below present the financial contributions paid and used each year.

**TABLE 4 – MERCIER–HOCHELAGA-MAISONNEUVE BOROUGH
SUMMARY OF FINANCIAL CONTRIBUTIONS PAID
AND USED, BY YEAR (FROM 2012 TO 2018)**

	COMPONENT – SOCIAL AND COMMUNITY HOUSING				VOLET - LOGEMENT ABORDABLE PRIVÉ		
	FINANCIAL CONTRIBUTIONS (A)	USE OF FUNDS PAID OR COMMITTED ^[A] (B)	BANK GUARANTEES CASHED IN (C)	CUMULATIVE BALANCE (A-B+C)	BANK GUARANTEES CASHED IN	USE OF FUNDS PAID OR COMMITTED	CUMULATIVE BALANCE
2012	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2013	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2014	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2015	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2016	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2017	\$42,000	\$0	\$0	\$42,000	\$0	\$0	\$0
2018	\$1,064,500	\$200,000	\$0	\$906,500	\$0	\$0	\$0
TOTAL	\$1,106,500	\$200,000	\$0	\$906,500	\$0	\$0	\$0

^[A] Amounts paid or reserved on the approval of the urban agglomeration council.

Source: Contribution Fund for the Inclusion of Affordable Housing, reports submitted to the urban agglomeration council (2012 to 2018).

**TABLE 5 – LE SUD-OUEST BOROUGH
SUMMARY OF FINANCIAL CONTRIBUTIONS PAID
AND USED, BY YEAR (FROM 2012 TO 2018)**

	COMPONENT – SOCIAL AND COMMUNITY HOUSING				COMPONENT – AFFORDABLE PRIVATE HOUSING		
	FINANCIAL CONTRIBUTIONS (A)	USE OF FUNDS PAID OR COMMITTED ^[A] (B)	BANK GUARANTEES CASHED IN (C)	CUMULATIVE BALANCE (A-B+C)	BANK GUARANTEES CASHED IN	USE OF FUNDS PAID OR COMMITTED	CUMULATIVE BALANCE
2012	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2013	\$187,500	\$0	\$0	\$187,500	\$0	\$0	\$0
2014	\$337,500	\$0	\$0	\$525,000	\$0	\$0	\$0
2015	\$0	\$348,520	\$0	\$176,480	\$0	\$0	\$0
2016	\$1,831,146	\$0	\$0	\$2,007,626	\$0	\$0	\$0
2017	\$840,000	\$0	\$0	\$2,847,626	\$480,000	\$0	\$480,000
2018	\$3,889,175	\$577,431	\$0	\$6,159,370	\$400,000	\$0	\$880,000
TOTAL	\$7,085,321	\$925,951	\$0	\$6,159,370	\$880,000	\$0	\$880,000

^[A] Amounts paid or reserved on the approval of the urban agglomeration council.

Source: Contribution Fund for the Inclusion of Affordable Housing, reports submitted to the urban agglomeration council (2012 to 2018).

For the selected projects in the Mercier–Hochelaga-Maisonneuve and Le Sud-Ouest boroughs, we checked whether the contributions stipulated in the inclusion agreements for the social and community housing component were cashed in and recorded in the Contribution Fund. We concluded that the control mechanisms in place are sufficient, as we found no errors.

For the two selected boroughs we also ascertained whether the funds were used in compliance with the management conditions in effect. Our work reveals that every time the fund was used, a decision-making file was prepared by the Direction de l'habitation providing details about how the money was to be used. Based on the information provided in these decision-making summaries, the type of payment complied with the terms established when the Contribution Fund was created. For these two boroughs, the funds were used for the following purposes:

- For the Mercier–Hochelaga-Maisonneuve borough, the sum of \$200,000 was reserved on the approval of the urban agglomeration council concerning the payment of a special subsidy to complete the financing package for a project in development under the terms of the AccèsLogis program. This type of payment meets the terms established when the Contribution Fund was created.
- In the case of Le Sud-Ouest borough, the sum of \$577,431 was paid on the approval of the urban agglomeration council for the acquisition by expropriation or any other means of a property for the construction of a social and community housing project. This type of payment meets the terms established when the Contribution Fund was created.

For the affordable private housing component, we found that the sums cashed in amounted to \$1,140,000 for the period from January 1, 2012, to December 31, 2018, and concerned two boroughs. For Le Sud-Ouest borough, bank guarantees were cashed in because the promoters did not produce the units stipulated in the commitments they had made. This happened with 2 projects and in relation to 88 units stipulated in the inclusion agreements. We found that for this period, the sums cashed in were not used.

It is true that our audit work revealed that the use of the funds met the terms established when the Contribution Fund was created, since the terms were worded quite broadly. In light of the fact that the payment of financial contributions has become a widespread practice since the adoption of the amendments to the *City Strategy* (in 2015) and the adoption of the local strategies by the boroughs, however, we are of the opinion that a reflection should be undertaken on the reasons why these sums are not used for social housing. We believe that it would be appropriate to plan the use of the money based on social housing opportunities (e.g., to find lots, demolish old buildings) and needs, rather than to meet occasional needs. Although the amount is not high at the moment, a reflection should also be undertaken on the optimal use of the funds earmarked for affordable private housing.

RECOMMENDATION

- 3.4.B. We recommend that the Service de l'habitation undertake a reflection on the reasons why so little of the money paid into the Contribution Fund for the Inclusion of Affordable Housing in New Residential Projects is used and to reflect separately for the social and community housing component and the affordable private housing component, in order to support the achievement of the City's objectives with regard to supporting the production of affordable housing and maintaining social diversity.**

BUSINESS UNIT'S RESPONSE

3.4.B. *Service de l'habitation*

[TRANSLATION] This discussion has been initiated on developing the by-law to improve the supply of social, affordable and family housing and will be made public when a notice of motion is filed. There are plans to pool the fund. (Planned completion: June 17, 2019, filing of the notice of a motion regarding the by-law)

An analysis of the use of amounts from the Inclusion Strategy will be produced for the strategy report (see 3.5 B.). The Office de consultation publique de Montréal will make this information available to the public at information sessions. (Planned completion: September 2019)

3.5. ACCOUNTABILITY

3.5.A. BACKGROUND AND FINDINGS

When a business unit implements orientations approved by the authorities, it must monitor their progress, evaluate them periodically and report the results. Accountability mechanisms must be put in place within the structure, so that informed decisions can be made at the right time.

As we mentioned in the introduction, the *City Strategy* was adopted in 2005 in order to contribute to the objectives set out in the City's urban plan adopted in 2004. According to that plan, the City was to produce 60,000 to 75,000 new housing units over a 10-year period (from 2004 to 2014), 30% of which would be affordable. That meant 18,000 to 22,500 affordable housing units for that period.

In 2018, the municipal administration announced its *2018–2021 Strategy to Develop 12,000 Affordable Social Housing Units*, or 6,000 social housing units and 6,000 affordable housing units. To achieve this objective, the City put into place a set of programs and measures, including the pursuit of the current strategy and the adoption of a new by-law to govern and enforce the inclusion of social, affordable and family housing.

During our audit, we therefore examined whether periodic accountability reporting mechanisms were used to provide the people in charge with sufficient information on these priorities.

At the time of our work, the accountability reporting for the strategies (*City Strategy* and local strategies) consisted solely of the annual report for the Contribution Fund. We found that the Contribution Fund reports were submitted to the city council and the urban agglomeration council for the years 2012 to 2017. At the time of our audit, the report for 2018 had not yet been submitted to the urban agglomeration council.

Through our work, we found that the Direction de l'habitation is also able to produce a report on the inclusion agreements concluded or to be concluded. According to the information we obtained, the tool for producing this report was developed in fall 2018. At the end of December 2018, an initial report for 2018 was presented to the head of the division in charge and the director of the Direction de l'habitation. We noted that this report presents the results of the inclusion strategies (the *City Strategy* and the local strategies) specifically for 2018 and also the results since the beginning of the *City Strategy* (in 2005). It also outlines the strategies' contribution to the *2018–2021 Strategy to Develop 12,000 Affordable Social Housing Units*. The report outlines the social, community and affordable private housing potential for which commitments were made by promoters in relation to the total number of housing units in the target projects. More specifically, the following information is provided:

- Number of agreements concluded;
- Total number of housing units in the target projects;
- Number of social housing units planned;
- Social contributions received or to be received;
- Social bank guarantees cashed for default;
- Number of affordable private housing units planned;
- Affordable bank guarantees cashed for default.

Although the data presented in this report make it possible to assess the efforts made to conclude inclusion agreements, we note that they do not address the results in terms of housing units actually under construction and occupied. In our audit work, we asked for this data, but we discovered that the computer applications used by the Direction de l'habitation are unable to generate such reports for reasonable effort. We believe that this is essential and critical management information to establish an overall portrait, in order to monitor the achievement of the objectives set and provide accountability.

We are of the opinion that a complete, overall report presenting the results of the strategies (City and local), from the time of adoption, should be produced for the decision-makers, to allow them to assess the extent to which the inclusion objectives have been met to date. We believe that this overall report would also make it possible to assess the extent to which the efforts made by the Direction de l'habitation and the borough, in terms of negotiating and monitoring commitments, have contributed to the achievement of the strategies' objectives. If the results do not tally with the expected results, we believe it would be appropriate to remove the main obstacles blocking the application of the strategies.

Finally, as the inclusion of affordable housing is a priority for the city administration, we believe that permanent accountability mechanisms should be put in place to keep the Direction générale and the authorities informed about the results of the strategies (City and local), including housing units actually constructed.

RECOMMENDATIONS

- 3.5.B.** We recommend that the Service de l'habitation produce, for the Direction générale and the authorities, a complete report on the results of the *Strategy for the Inclusion of Affordable Housing* and the local strategies since their adoption stating the extent to which the inclusion objectives have been achieved, in order to allow for informed decision-making.
- 3.5.C.** We recommend that the Service de l'habitation establish periodic accountability mechanisms for the results of the *Strategy for the Inclusion of Affordable Housing* and the local strategies, including housing units actually under construction and occupied, in order to facilitate timely and informed decisions on the part of the Direction générale and the authorities, from the perspective of achieving the target objectives.

BUSINESS UNITS' RESPONSES

- 3.5.B.** **Service de l'habitation**
[TRANSLATION] A report on the Inclusion Strategy and local strategies is expected to be made public during planned consultations on the proposed inclusion by-law in the fall of 2019. (Planned completion: September 2019)
- 3.5.C.** **Service de l'habitation**
[TRANSLATION] Given that the by-law on improving the supply of social, affordable and family housing is scheduled to come into force at the beginning of 2021, the report provided for in recommendation 3.5.B. will be updated and submitted to the executive committee. (Planned completion: December 2020)
- However, to implement a reporting system for counting housing units actually started and occupied:*
- 1. a column must be added to an existing Oracle database. A formal request for this improvement was sent to the Service des technologies de l'information in January 2019. (Planned completion: January 2019)*
 - 2. As soon as the database is modified, the Service de l'habitation will be able to report on the results of the Affordable Housing Inclusion Strategy and local strategies, including social housing that is actually under construction and occupied. These results will be incorporated into monthly reports already produced by the Service de l'habitation. (Planned completion: reporting: as soon as the database has been modified)*

4. CONCLUSION

The *Strategy for the Inclusion of Affordable Housing (City Strategy)* was adopted by the executive committee in 2005. This strategy was to have facilitated the achievement of the City's affordable housing and inclusion objectives, as set out in the Montreal Master Plan adopted by the city council in 2004. Under this plan, the City was to support the construction of 60,000 to 75,000 housing units over a 10-year period (from 2004 to 2014), 30% of which would be affordable housing units. That meant 18,000 to 22,500 affordable housing units for that period. The strategy targeted the inclusion of affordable housing (social, community and affordable private) in residential construction projects of over 200 units. As the City did not have the regulatory power to impose the application of the *City Strategy*, it adopted an incentive approach.

In the first years, the inclusion of affordable housing in projects was not always possible, so financial contributions started to be allowed. Then, in 2012, the executive committee created a Financial Contribution Fund. In 2015, amendments were made to the *City Strategy* including application to residential construction projects of over 100 units that require regulatory amendments. In 2012, some boroughs also adopted local inclusion strategies, to strengthen the *City Strategy*.

More recently, in June 2017, the Government of Québec allowed all municipalities to subject the issue of residential construction permits to the conclusion of an agreement on the social, affordable and family housing offer. To use this new power, the City is currently developing a by-law.

After the signature of an agreement with the Government of Quebec in March 2018, the City was given the responsibility and budgets related to the development of housing in its territory, including social and community housing. One of the first issues the City addressed was the overhaul of the AccèsLogis program.

In 2018, buoyed by these new means, the City announced its *2018–2021 Strategy to Develop 12,000 Affordable Social Housing Units* for 6,000 social and community housing units and 6,000 affordable private housing units. To reach this target, a set of measures must be put in place, including the continuation of the *City Strategy* and the local strategies and the possible adoption of a new by-law.

Our audit work allowed us to conclude that the management practices could be improved to facilitate the achievement of the inclusion objectives set by the authorities, under both the *City Strategy* and the local strategies. At present, it is hard to gain a global overview and specifically determine the achievement of the affordable housing goals. To create conditions conducive to achieving these objectives, we recommend that the City:

- make provisions to facilitate the implementation of the *City Strategy* in order to ensure fairness among the promoters and greater consistency across the territory;
- conclude collaboration agreements between the Direction de l'habitation and all the boroughs;

- involve the Direction de l'habitation in the negotiation and conclusion of construction project development agreements when the *City Strategy* applies;
- enforce the collaboration agreements, especially concerning the need to inform the Direction de l'habitation in a timely manner when a residential construction project requires regulatory amendments;
- ensure that no regulatory amendments are adopted without first obtaining written confirmation that an inclusion agreement has been signed with the promoter;
- review the financial guarantee process, for the inclusion of both social and community housing and affordable private housing;
- undertake a general reflection on the reasons why the money paid into the Contribution Fund is not used and define a policy for the fund;
- produce a complete report on the application of the *City Strategy* and the local strategies since their adoption and put in place periodic accountability mechanisms on the results of these strategies to identify the number of affordable housing units actually built (social, community or affordable private).

The *City Strategy* and the local strategies respond to a policy of the municipal administration. Even though the City adopted an incentive approach to apply the *City Strategy* and the local strategies and even though a great deal of effort has been deployed, a global report establishing the level of achievement of the strategies' objectives must be produced to allow informed decisions to be made. We believe that the objectives of the *2018–2021 Strategy to Develop 12,000 Affordable Social Housing Units* are ambitious because they must be achieved in a short period. We are of the opinion that to achieve these objectives, the municipal administration must make provisions to facilitate the implementation of the *City Strategy* in order to provide uniformity across the City's entire territory.

5. APPENDICES

5.1. OBJECTIVE AND EVALUATION CRITERIA

OBJECTIVE

Ensure that the current *Strategy for the Inclusion of Affordable Housing (City Strategy)* and the related local strategies are applied, in order to achieve the objectives established by the authorities.

EVALUATION CRITERIA

- The type of projects targeted by the *City Strategy* and local strategies for the inclusion of affordable housing is clearly stated in communications with the promoters.
- The roles and responsibilities of all business units involved in the *City Strategy* and the local inclusion strategies are clearly defined and communicated to the participants.
- Incentive mechanisms are in place to encourage promoters to include social, community and affordable private housing units in their construction projects and conclude agreements with the City.
- Mechanisms are in place to enforce the commitments made by promoters in the inclusion agreements in terms of social, community and affordable private housing.
- When the inclusion of social and community housing is not possible, the promoters contribute financially to the Contribution Fund created to this end, in accordance with the established management conditions.
- The money in the *City Strategy* Contribution Fund is used in compliance with the established conditions.
- Accountability mechanisms are in place concerning the results of the *City Strategy* and local strategies.

5.2. COMPARISON OF THE STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING WITH THE LOCAL INCLUSION STRATEGIES FOR THE MERCIER–HOCHELAGA-MAISONNEUVE AND LE SUD-OUEST BOROUGH

MERCIER–HOCHELAGA-MAISONNEUVE BOROUGH			
	ACTION PLAN FOR THE INCLUSION OF SOCIAL HOUSING, APPLICABLE TO PROJECTS OF 48 UNITS OR MORE (MARCH 2012)	LOCAL STRATEGY FOR THE INCLUSION OF SOCIAL AND AFFORDABLE HOUSING IN NEW RESIDENTIAL PROJECTS (MAY 2018)	STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING (CITY STRATEGY) (AMENDED DECEMBER 9, 2015)
Thresholds	2 thresholds: <ul style="list-style-type: none"> • 48 to 100 units; • Over 100 units. 	2 thresholds: <ul style="list-style-type: none"> • 5 to 149 units; • Over 150 units. 	1 thresholds: <ul style="list-style-type: none"> • Over 100 units.
Type of projects	<ul style="list-style-type: none"> • Between 48 and 100 units: all residential construction projects; • Over 100 units: projects that require regulatory amendments or projects with at least 100 units across multiple sites. 	Projects that require regulatory amendments related to: <ul style="list-style-type: none"> • density; • height; • usage. 	Projects that require major regulatory amendments related to: <ul style="list-style-type: none"> • density; • height; • usage. and allow: <ul style="list-style-type: none"> • larger gross surface area; • higher allowable number of units.
Social and community inclusion rate	<ul style="list-style-type: none"> • Between 48 and 100 units: Record keeping • Over 100 units: 15% of the units in the project 	<ul style="list-style-type: none"> • 5 to 149 units: Financial contribution preferred • Over 150 units: 20% of units (increase in gross residential surface area for units of 90 m²). 	Over 100 units: <ul style="list-style-type: none"> • Lot allowing for 15% of the increase in gross residential surface area for units of 90 m².
Financial contribution	<ul style="list-style-type: none"> • 48 to 100 units: No contributions • Over 100 units: 17.6% of the total residential area for units of 90 m² ¹⁶ x (difference between the market value of the residential lots in the sector and \$12,000¹⁷). 	<ul style="list-style-type: none"> • 5 to 149 units: 20% contribution rate . • Over 150 units: 30% contribution rate. Rate applied to the increase in gross residential surface area for units of 90 m ² x (difference between the market value of the geographic sector and \$12,000).	Over 100 units: <ul style="list-style-type: none"> • 20% of the increase in the gross residential surface area for units of 90 m² x (difference between the market value of the geographic sector and \$12,000).
Affordable private housing inclusion rate	<ul style="list-style-type: none"> • Between 48 and 100 units: Record keeping. • Over 100 units: 15% of the units in the residential project. 	<ul style="list-style-type: none"> • For three thresholds: 20% of total units in the project (excluding social housing units). 	<ul style="list-style-type: none"> • 15% of total units in the project (excluding social housing units).
Inclusion of family housing	Encouraged	Encouraged	Encouraged

¹⁶ Equal to a two-bedroom unit.

¹⁷ Community organizations' capacity to pay, under the terms of the AccèsLogis program.

LE SUD-OUEST BOROUGH			
	ACTION PLAN FOR THE INCLUSION OF AFFORDABLE HOUSING IN RESIDENTIAL PROJECTS (JUNE 2012)	ACTION PLAN FOR THE INCLUSION OF AFFORDABLE HOUSING IN RESIDENTIAL PROJECTS IN LE SUD-OUEST BOROUGH (JUNE 2016)	STRATEGY FOR THE INCLUSION OF AFFORDABLE HOUSING STRATEGY (CITY STRATEGY) (AMENDED DECEMBER 9, 2015)
Thresholds	2 thresholds: <ul style="list-style-type: none"> • Fewer than 200 units; • Over 200 units. 	3 thresholds: <ul style="list-style-type: none"> • 8 to 49 units; • 50 to 99 units; • 100 or more. 	1 threshold: <ul style="list-style-type: none"> • Over 100 units.
Type of projects	<ul style="list-style-type: none"> • Fewer than 200 units and over 200 units <ul style="list-style-type: none"> – Project that requires regulatory amendments; – Full rights project; – Record keeping. 	Projects that require regulatory amendments related to: <ul style="list-style-type: none"> • density; • height; • usage. Discontinuation of record keeping. Silent on full rights projects.	Projects that require major regulatory amendments related to: <ul style="list-style-type: none"> • density; • height; • usage. and allow: <ul style="list-style-type: none"> • larger gross surface area; • higher allowable number of units.
Social and community inclusion rate	<ul style="list-style-type: none"> • Fewer than 200 units: <ul style="list-style-type: none"> – Social on site 10%; – Social off site 12.5%; 10% full rights. • Over 200 units: <ul style="list-style-type: none"> – Social on site 15%; – Social off site 17.6%; 15% full rights. 	<ul style="list-style-type: none"> • 8 to 49 units: <ul style="list-style-type: none"> – No requirements • 50 to 99 units: <ul style="list-style-type: none"> – On site 20%; – Off site 20%. • Over 100 units: <ul style="list-style-type: none"> – On site 20%; – Off site 25%. 	Over 100 units: <ul style="list-style-type: none"> • Lot allowing for 15% of the increase in gross residential surface area for units of 90m².
Financial contribution	<ul style="list-style-type: none"> • Fewer than 200 units: <ul style="list-style-type: none"> 15% of regulatory amendments; 10% full rights. • Over 200 units: <ul style="list-style-type: none"> 20% regulatory amendments; 15% full rights. 	<ul style="list-style-type: none"> • 8 to 49 units: <ul style="list-style-type: none"> 20% contribution rate. • 50 to 99 units: <ul style="list-style-type: none"> 30% contribution rate. • Over 100 units: <ul style="list-style-type: none"> 30% contribution rate. Rate applied on the entire gross residential surface area for units of 90 m ² x (difference between the market value of the geographic sector and \$12,000).	Over 100 units: <ul style="list-style-type: none"> • 20% of the increase in the gross residential surface area for units of 90 m² x (difference between the market value of the geographic sector and \$12,000).
Affordable private housing inclusion rate	<ul style="list-style-type: none"> • Fewer than 200 units: <ul style="list-style-type: none"> 10% • Over 200 units: <ul style="list-style-type: none"> 15% 	<ul style="list-style-type: none"> • 8 to 49 units: <ul style="list-style-type: none"> no requirements. • 50 to 99 units: <ul style="list-style-type: none"> 20% of all units in the project. • Over 100 units: <ul style="list-style-type: none"> 20% of all units in the project. 	<ul style="list-style-type: none"> • 15% of total units in the project (excluding social housing units).
Inclusion of family housing	Encouraged, and the borough can offer compensations.	Encouraged	Encouraged