

AFFORDABILITY AND CHOICE TODAY (A•C•T) STREAMLINED APPROVAL PROCESS PROJECT

Criteria for Garden Suite Regulations

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Oshawa, Ontario**

Prepared for:

Federation of Canadian Municipalities

Canadian Home Builders' Association

Canadian Housing and Renewal Association

Canada Mortgage and Housing Corporation

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FOREWORD

The project documented in this case study received funding assistance under the Affordability and Choice Today (A•C•T) Program. A•C•T is a joint initiative, managed by the Federation of Canadian Municipalities, the Canadian Home Builders' Association, and the Canadian Housing and Renewal Association, together with the funding agency Canada Mortgage and Housing Corporation. The A•C•T Program is administered by the Federation of Canadian Municipalities.

A•C•T, which was launched in January 1990, was designed to foster changes to planning and building regulations and residential development approval procedures in order to improve housing affordability, choice and quality.

Through A•C•T, grants are awarded to municipalities, private and non-profit builders and developers, planners and architects to undertake innovative regulatory reform initiatives in municipalities across Canada. Three types of projects are awarded grants under the A•C•T Program: Demonstration Projects, Streamlined Approval Process Projects, and Case Studies (of existing initiatives).

- *Demonstration Projects* involve the construction of innovative housing that demonstrates how modifications to planning and construction regulations can improve affordability, choice and quality.

- *Streamlined Approval Process Projects* involve the development of a method or an approach that reduces the time and effort needed to obtain approvals for housing projects.
- *Case Study* grants are awarded for the documentation of existing regulatory reform initiatives.

Change and innovation require the participation of all the players in the housing sector. A•C•T provides a unique opportunity for groups at the local level to work together to identify housing concerns, reach consensus on potential solutions, and implement action. Consequently, a key component of A•C•T-sponsored projects is the participation and cooperation of various players in the housing sector in all phases of each project, from development to realization.

All projects awarded a grant under the A•C•T Program are documented as case studies in order to share information on the initiatives and the benefits of regulatory reform with other Canadian communities. Each case study discusses the regulatory reform initiative, its goals and the lessons learned. Where appropriate, the cost savings resulting from modifications in various planning, development, and construction regulations are calculated and reported.

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PROJECT OVERVIEW

As the average lifespan of Canadians increases, and the proportion of the Canadian population over 65 years of age grows, many municipalities are addressing the need to develop practical housing alternatives for seniors.

One such alternative is garden suites—portable, self-contained dwellings that are temporarily located on the property of existing single-family homes. A garden suite is intended to provide temporary accommodation for one or two people, usually the retired parents, grandparents or guardians of the homeowners. This type of housing offers a number of advantages:

- Seniors can access support and companionship while maintaining an independent lifestyle.
- Seniors can use the equity in their current homes to enhance their incomes.
- The cost of housing seniors in garden suites can be much lower than the cost of institutional care.
- Seniors occupying large homes can be provided with a desirable alternative, making large homes available for families with children.

In November 1991, Harbour Management Services Limited (HMS) was awarded an A•C•T grant to develop criteria that would help municipalities in the Regional Municipality of Durham to create garden suite regulations. Representatives of the Regional Municipality of Durham and of two towns within the Region, Clarington and Whitby, worked with HMS on the project team.

Completed in June 1992, the criteria were developed in consultation with representatives of local government, industry, and seniors' groups. The criteria address issues related to:

- Occupancy
- Siting and installation
- The application and approval process

Municipalities in Ontario and in other parts of Canada can use the criteria as a basis for developing garden suite regulations that meet the specific needs of their own communities.

For More Information . . .

Several publications are available from Canada Mortgage and Housing Corporation that provide information on garden suites and other housing options for seniors and persons with disabilities:

- *The Complete Guide to Garden Suites*
- *A•C•T Case Study: Policies and Regulations for Seniors' Housing, City of Burlington*
- *A•C•T Case Study: Regulations for Garden Suites, Tantramar Planning District Commission'*
- *A•C•T Case Study: The Convertible House: A Flexible Alternative, Dovel Construction Ltd.*
- *The CMHC "Open" House Guidebook*
- *Housing Choices for Canadians with Disabilities*
- *Housing for People with Disabilities*
- *Housing Choices for Older Canadians*
- *Maintaining Seniors' Independence: A Guide to Home Adaptations*

Copies of these publications may be obtained from the Canadian Housing Information Centre, 700 Montreal Road, Ottawa, Ontario, K1A 0P7, Tel: (613) 748-2367, Fax: (613) 748-4069, TTY: (613) 748-2143.

Figure 1. Example of a Garden Suite: A Demonstration Unit in Fredericton, New Brunswick



Source: Canada Mortgage and Housing Corporation, The Complete Guide to Garden Suites, p. 6-11.

1.0 PROJECT DESCRIPTION

1.1 The Garden Suite: A Practical Alternative for Seniors

By 2001, Canada's male population over 65 years of age will be double that of 1971. The female population over 65 years of age will increase 2.5 times over the same period. One third of male seniors, and half of female seniors, will be over 75 years of age.¹

As the average lifespan of Canadians increases, and the proportion of the population over 65 years of age grows, many municipalities are facing the challenge of developing practical and economic housing alternatives for seniors. One alternative that seniors approve of is garden suites.

A garden suite is a portable, self-contained dwelling that is temporarily located on the property of an existing single-family home. It is intended to provide temporary accommodation for one or two people, usually the retired parents, grandparents or guardians of the homeowners. This type of housing offers a number of advantages:

- Seniors can access support and companionship while maintaining an independent lifestyle.
- Seniors can use the equity in their current homes to enhance their incomes.
- The cost of housing seniors in garden suites can be much lower than the cost of institutional care.

- Seniors occupying large homes can have the option of a desirable alternative, making large homes available for families with children.

Permitting garden suites, however, requires the development of regulations that will help to ensure that neighbourhood character, property values and function are maintained.

1.2 Planning for Garden Suites

In June 1991, the Regional Municipality of Durham, Ontario, adopted a new official plan which required the region's eight local municipalities to develop policies and regulations to permit garden suites. Guidelines were required that would help the municipalities to create consistent regulations, and streamlined application and approval procedures, that would maximize the benefits of garden suites and address any potential concerns.

Garden Suites Required

4.3.11—*In the preparation of area municipal official plans, Councils of the area municipalities shall ensure the inclusion of policies and designations to implement the intent of the Plan and the provisions of this section and the following:*

- f) policies which permit, subject to appropriate criteria and conditions, granny flats/garden suites as a temporary use through mechanisms such as temporary use by-laws and/or site plan control.*

*—excerpt from 1991 Official Plan
Regional Municipality of Durham*

¹ Figures provided by Harbour Management Services Ltd., extrapolated from Canada Mortgage and Housing Corporation data.

1.3 Project Objectives and Methodology

In November 1991, Harbour Management Services Ltd. (HMS), an Oshawa-based panelized building developer, was awarded an A•C•T grant to prepare criteria that would help the municipalities in Durham Region to develop garden suite regulations. The criteria would address:

- Occupancy
- Siting and installation
- The application and approval process

HMS established a project team that included representatives of the Regional Municipality of Durham and two area municipalities—the rural Town of Clarington, and the urban Town of Whitby.

The project team developed a set of draft criteria, which were distributed with a questionnaire to representatives of local government, the local housing industry, and seniors' groups within the region. The criteria were finalized in November 1992, based on the results of this consultation.

2.0 CRITERIA FOR GARDEN SUITE REGULATIONS

The project team's final report, *Criteria for Developing and Implementing Garden Suite Legislation*, presents guidelines related to occupancy, siting and installation, and the application and approval process.² Summarized in this section, the criteria may be useful to municipalities who are developing regulations for garden suites.

2.1 Occupancy Criteria

During the Ontario Ministry of Housing's Portable Living Units for Senior (PLUS) demonstration project, homeowners surveyed were found to be generally sympathetic and well disposed to the temporary placement of garden suites on adjacent properties, provided that occupancy was restricted to the parents of the neighbouring homeowners.

Limiting occupancy of garden suites to seniors or persons with disabilities could be regarded as discriminatory, and could be open to court challenge. However, federal and provincial legislation has been interpreted to allow laws, and special programs and activities, designed to overcome housing disadvantages resulting from age, race or disability, for example.

There is an apparent disparity between Section 6 of the Canadian Charter of Rights and Freedoms, which prohibits discrimination based on age, and Section 15(2) of the Charter, which permits the enactment of special programs designed to ameliorate the conditions of persons disadvantaged because of age or disability.³ It has been determined, however, that municipalities have considerable latitude under provincial planning and municipal acts to control use and occupancy—and do so in a variety of situations.⁴

Currently in Ontario, if consents are granted for the deployment of garden suites on a basis of restricted occupancy, municipalities and others may be in violation of Section 2 of the Ontario Human Rights Code.

This thrusts municipalities into a "Catch-22" predicament, causing them to be diffident about either permitting unrestricted occupancy of garden suites, which could encourage demands for second residential structures on single-family lots; or permitting garden suites on a restricted occupancy basis, which exposes them to litigation (and open-ended legal costs) if challenged on grounds of discrimination. Amending legislation must be introduced to correct this inadvertent anomaly.

*—Wilfred Gilberry
Harbour Management Services Ltd.*

² Harbour Management Services Ltd., (Oshawa: November 1992). Contact Harbour Management Services at P.O. Box 44024, Grandview Station, Oshawa, Ontario, L1H 8R5.

A copy of the project team's final report may be obtained from the Canadian Housing Information Centre, 700 Montreal Road, Ottawa, Ontario, K1A 0P7, Tel: (613) 748-2367, Fax: (613) 748-4069, TTY: (613) 748-2143.

³ *The Complete Guide to Garden Suites* discusses the legislation concerning garden suites in detail. Please refer to the sidebar in the project overview for information on obtaining copies of relevant reports.

⁴ The City of Vancouver's Secondary Suite Program includes occupancy criteria, as discussed in the A•C•T case study *The Convertible House: A Flexible Alternative*.

For those municipalities wishing to make garden suites available to address the specific housing needs of seniors or persons with disabilities, the project team suggested the following criteria:

- The owner(s) of the host residence and lot should live in one of the dwelling units on the lot.
- At least one occupant of the principal residence and at least one occupant of the garden suite should be related by blood, marriage, or adoption.
- There should be no more than two occupants in a garden suite.
- The occupant of the garden suite should be able to benefit from the informal care and support of his/her family.

2.2 Site and Installation Criteria

The installation of a garden suite alters the configuration of the lot of the host house and introduces new functional and aesthetic requirements with respect to adjacent properties. To fulfill these requirements, the project team developed criteria for:

- Unit size
- Lot coverage
- Unit placement
- Parking
- Garden suite design

Unit Size

Figure 2 presents the project team’s suggested unit size criteria.

Figure 2. Garden Suite Size Criteria

Minimum total floor area: one occupant	32.5 m ² (350 ft ²)
Minimum total floor area: two occupants	37.2 m ² (400 ft ²)
Maximum total floor area	83.6 m ² (900 ft ²)
Maximum height	4.9 m (16 ft.) or one storey

Lot Coverage

- The combined lot coverage of the garden suite and the principal residence should not exceed 33 percent, or the maximum permitted by zoning, whichever is greater.

Unit Placement

- The property should be large enough to accommodate the unit and offer reasonable amenity space and access to utility lines.
- Garden suites should only be permitted on lots where one single-family dwelling is located.

- The unit should be placed in a rear or, in particular circumstances, a side yard. The minimum rear yard setback should be that which applies locally to accessory buildings. The minimum side yard requirement for the zone in which the unit is located should apply.
- The unit should be placed so that its positioning optimizes the available open space.
- Access to the garden suite should be separate and direct.

Parking

- Parking should be available for the vehicle owned by the occupant(s) of the garden suite. Whether a parking space should be provided on-site or on-street should be determined on a case-by-case basis, taking into account street parking availability.

Garden Suite Design

The project team recommended the following provisions to enhance the ability of occupants to maintain an independent lifestyle and to preserve neighbourhood character:

- The presence of the garden suite should be easily perceptible to facilitate an emergency response by fire, police, ambulance, etc.
- Walkway access to the garden suite should be suitable for a wheelchair or stretcher.
- The unit layout should be designed to be barrier-free to ensure its long-term utility.

Barrier-Free Features

The project team recommended the following barrier-free design features for garden suites:

- *All doors, exterior and interior, should be at least .914 m (3 ft.) wide.*
- *All doors should have lever handles instead of door knobs.*
- *Carpets should have a low nap to aid movement for those who use walkers, canes, or wheelchairs.*
- *Bathroom walls should be reinforced to accommodate the attachment of grab bars.*
- *A 1.52 m (5 ft.) turning radius should be provided for in the bathroom for wheelchairs.*
- *Kitchen cabinets .76 m (30 in.) high will assist occupants confined to a wheelchair, as will controls on the front of the stove, and openings under the kitchen sink and bathroom vanity.*
- *Ramps should be used instead of steps to accommodate wheelchair access.*

- The appearance of the garden suite should be compatible with the neighbourhood in which it is installed.
- A garden suite is intended as a temporary dwelling, to be removed from the host property once it is no longer required. Therefore, the garden suite should be designed to be easily removeable.
- The foundation of the garden suite should be constructed of easily removable materials, such as timber cribs or cement block piers, so that the lot may be restored to its original use after removal, with minimal disruption.

During the PLUS demonstration project, a study was undertaken to determine the effect of garden suites on property values. Actual sales showed no effect on the value of properties adjoining or in close proximity to garden suite properties. Interviews with property owners indicated that garden suites for seniors were not viewed as having any impact on the value of neighbouring properties or the use and enjoyment of the property.

—The A•C•T project team

2.3 The Application and Approval Process

In addition to the criteria outlined above, the project team identified ways that the application and approval process could be streamlined for garden suite applicants, while allowing the municipality to address potential concerns. The tools and procedures suggested by the project team are outlined below.

Site Plan and Checklist

The project team suggested that examples of the type and extent of information required on site plans, and a checklist, could help homeowners at an early stage before they submit a formal application. These tools could help homeowners decide whether their property would be capable of accommodating a garden suite. Homeowners would also gain a better understanding of the requirements; they would be able to obtain a rough estimate of the costs involved (e.g. site preparation, foundations, service connection and landscaping costs), and time and money could be saved in avoiding unacceptable or incomplete applications. Figures 3 and 4

contain examples of a site plan and an approval checklist.

Agreement Between Homeowner and Municipality

The project team suggested that homeowners should enter into an agreement with the municipality that would confirm that:

- The applicant meets the occupancy criteria defined by the municipality.
- The applicant agrees that permission to install a garden suite may be revoked by the municipality if the conditions of approval are not satisfied.
- No structure should be erected that will hinder removal of the garden suite.
- The applicant will give notice in writing to the municipality when the garden suite is no longer occupied by the intended occupant(s).
- When the garden suite ceases to be occupied by the intended occupant(s), the owner of the host residence will be responsible for arranging to remove the garden suite from the lot, and restore the property to its original condition within 90 days of the date notice is given.
- The garden suite will be removed within 90 days of being vacated. If exceptional circumstances render removal within 90 days impractical, a further 90 days could be negotiated with the municipality.
- The applicant will provide a letter of guarantee, performance bond, or similar financial instrument (in an amount to be determined by the municipality),

payable to the municipality in the event that the applicant fails to arrange the removal of the garden suite within the specified timeframe. The cost of providing this letter of guarantee shall be borne by the applicant.

Affidavit

In order to remove the administrative burden of checking for continued compliance, the project team recommended that the homeowner submit an affidavit annually.

The affidavit would acknowledge that the garden suite is being used in a manner consistent with the conditions of approval, and that the garden suite houses the original occupants.

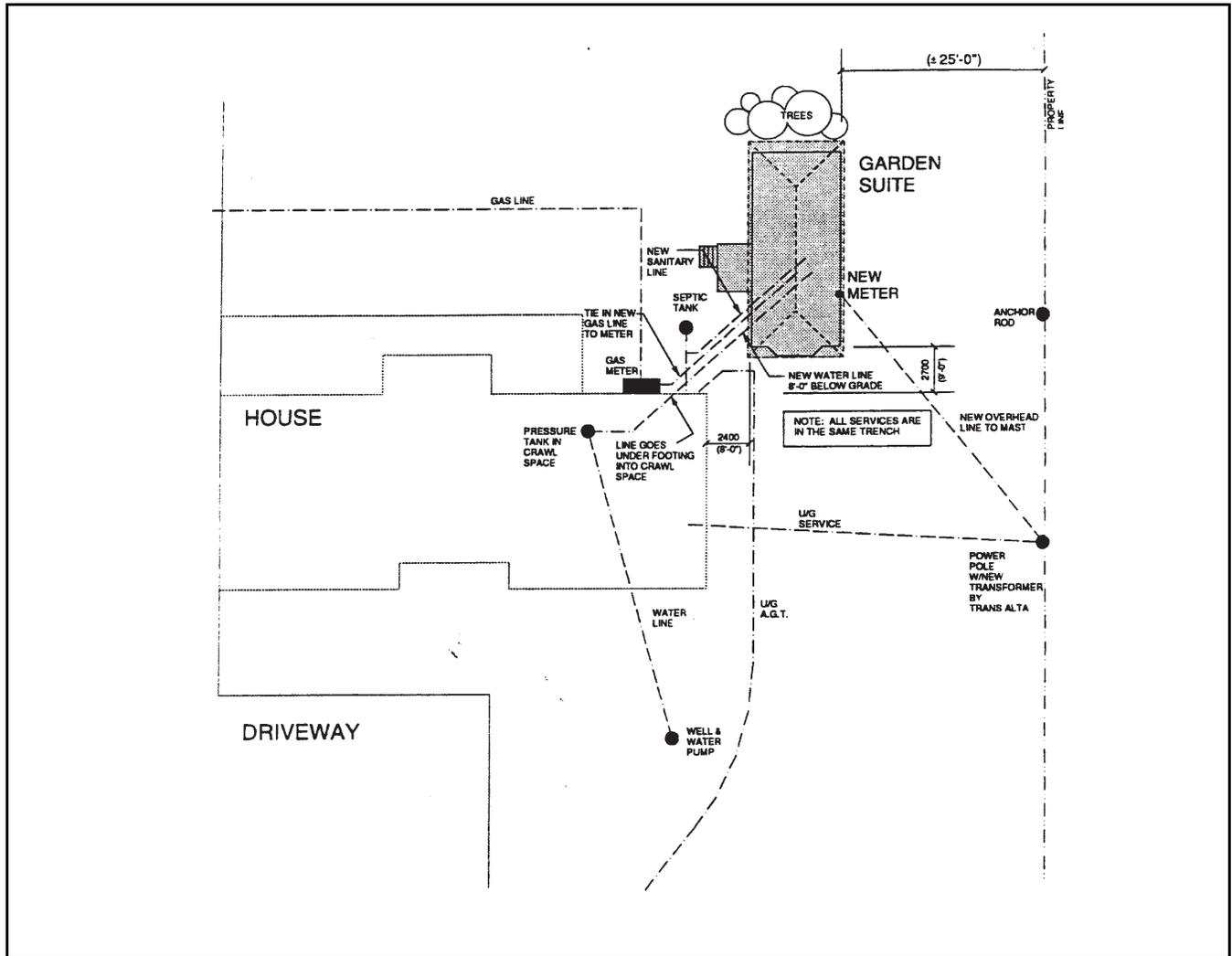
Application

The following information would be considered adequate to enable a speedy approval when applying to install a garden suite:

- Names and addresses of all owners on record of the host residence and property on which the garden suite is to be installed

- Name and address of intended occupant(s) of the garden suite
- Registered plan and lot number of lot
- Relationship of occupant(s) to owner(s) and agreement that occupant(s) will meet the conditions of occupancy
- Number of vehicles to be accommodated on the lot, including any that are owned by the garden suite resident
- Plan of lot showing:
 - Dimensions of garden suite and proposed location on the lot
 - Location of all structures on the lot
 - Location of all trees on the lot
 - Location of parking space(s)
 - Location of existing hydro, gas, water, cable television, telephone and sewer lines
- Elevations and a floor plan of the garden suite (refer to figure 5)
- Description of the water and sewage systems which will be used
- Description of foundation on which the garden suite will be placed

Figure 3. Example of a Site Plan: A Demonstration Unit in Parkland, Alberta



Source: Canada Mortgage and Housing Corporation, *The Complete Guide to Garden Suites*, p. 6-14.

Figure 4. Example of an Approval Checklist

MUNICIPAL GARDEN SUITE APPROVAL CHECK LIST	
OCCUPANT(S)	
<input type="checkbox"/> Are the occupants seniors or disabled?	
<input type="checkbox"/> Are the occupants in need of some support and care services which can be provided by the host family?	
HOST FAMILY	
<input type="checkbox"/> Is the host family the owner of the property for which the application has been submitted?	
<input type="checkbox"/> Does the host family live in the host dwelling?	
<input type="checkbox"/> Is the owner of the garden suite unit someone other than the host family/applicant?	
<input type="checkbox"/> Is the host family willing and able to provide the care and support services the garden suite occupants will require?	
LAND USE BY-LAW	
<input type="checkbox"/> Has a tea party or information session for the neighbours been held by the applicant?	
<input type="checkbox"/> Will local servicing capacity accommodate the unit?	
	<input type="checkbox"/> Does the development and accompanying site plan proposed for the garden suite unit comply with the definition and provisions of the land use by-law?
	<input type="checkbox"/> Definition
	<input type="checkbox"/> Setbacks
	<input type="checkbox"/> Site Grading
	<input type="checkbox"/> Parking
	<input type="checkbox"/> Walkways
	<input type="checkbox"/> Amenity space
	<input type="checkbox"/> Easements
	<input type="checkbox"/> Service Connections
	<input type="checkbox"/> Gas Line Setback
	<input type="checkbox"/> Are the soil conditions satisfactory to support the garden suite?
	<input type="checkbox"/> Are any restrictive covenants in effect which might prevent the placement of a garden suite unit?
	<input type="checkbox"/> Are special installation techniques required?
	<input type="checkbox"/> Are septic systems functioning adequately or are remedial measures required to accommodate additional flows from the garden suite?

Source: Canada Mortgage and Housing Corporation, The Complete Guide to Garden Suites, p. 3-15.

Figure 5. Example of a Floor Plan: The Demonstration Unit in Fredericton, New Brunswick

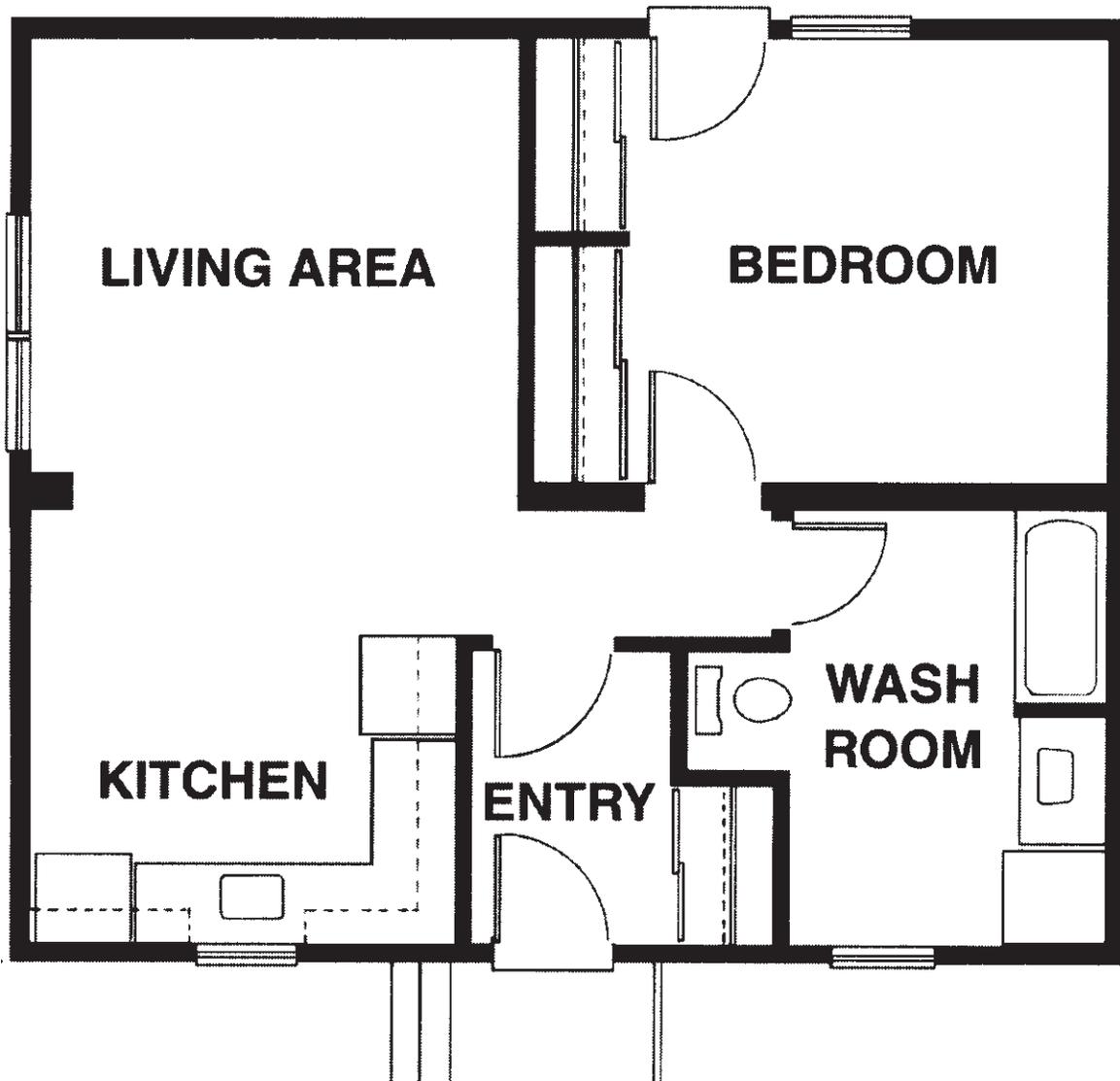


Figure 1 contains a photo of this demonstration unit.

Source: Canada Mortgage and Housing Corporation, The Complete Guide to Garden Suites, p. 6-11.

3.0 THE COMMUNITY AND THE KEY PLAYERS

3.1 Housing Seniors in Durham Region

In 1991, the Regional Municipality of Durham spent 38 percent of its annual budget on health and social programs. Eighteen percent of the amount was allocated to the three institutions housing seniors in Durham Region.⁵ Together with the Province of Ontario, the Region contributed a total of \$21,350,078⁶ toward the cost of accommodation and care for the 795 seniors living in institutions (less than one percent of the total regional population of 326,179). The cost of providing housing for seniors in institutions was nearly \$27,000 per person.

Permitting the installation of garden suites will provide an alternative to institutionalization for some seniors, and could help municipalities in Durham Region to control the cost of helping to house seniors.

Canada is second only to the Netherlands in having the highest rate of institutionalization of its elderly. In fact, already this rate is 50 percent higher than the corresponding rate in the U.S.

—The A•C•T Project Team

3.2 Harbour Management Services Ltd.

Harbour Management Services Ltd. is an affiliate of Garden Units Leasing Limited (GULL), a building and land development consulting company based in Oshawa, Ontario.

Beginning in 1989, HMS held consultations, briefings and video presentations with elected officials and planning staff to encourage the Regional Municipality of Durham to include garden suite provisions in its new official plan. As mentioned in section 1.2, the Region recognized the potential of garden suites, and the 1991 official plan required area municipalities to create policies and regulations for garden suites.

⁵ Demographic and financial information in this section was obtained from Harbour Management Services Ltd.

⁶ \$16,795,268 in provincial funding and \$4,555,750 in regional funding.

4.0 REGULATORY REFORM INITIATIVES AND IMPACT ON HOUSING COST, CHOICE AND QUALITY

In June 1992, the Ontario ministries of Municipal Affairs and Housing jointly released a consultation paper entitled *Apartments in Houses*, which contained draft legislation that would allow municipalities to permit garden suites. The draft legislation was modified and is contained in the Residents' Rights Bill (Bill 120), which passed into law in 1994.

Bill 120 allows municipalities to use site-specific temporary use by-laws to permit the installation of garden suites for tenancies of up to 10 years. The legislation also gives municipalities the authority to

define conditions on a case-by-case basis, in order to ensure the removal of the garden suite when the original occupant no longer needs it, for example.

Garden suites have significant potential to increase housing affordability and choice for seniors. The project team hopes that municipalities in Ontario and in other parts of Canada will use the criteria developed through A•C•T as a basis for creating garden suite regulations that meet the specific needs of their own communities.