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VIA Email

May 21, 2019

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The Honourable Steve Clark
Minister of Municipal Affairs and Housing
College Park
777 Bay Street, 17th Floor
Toronto, ON M5G 2E5

Dear Minister Clark:

Re: Bill 108: More Homes, More Choice Act, 2019
Our File No. 13627

Since 1972 Paradise Developments has spent over four decades developing communities and building homes across the Greater Toronto Area, ranging from Whitby in the east to Oakville in the west and everywhere in between. We have remained committed to our roots and over 13,000 exquisitely built homes stand testimony to our passion.

Before we put nails to wood and pen to paper, extensive research and planning goes into building every one of our homes and communities. Our master plan for each community carefully takes into account the location, access to amenities and developing a sense of place. We strive every day to provide better environments, contribute to better schools, and support the communities we develop and build in with a sense of social consciousness. Most of all, Paradise has a history of going above and beyond to work with municipalities and existing communities to ensure their concerns are heard and our communities are planned with their knowledge and input.

That said, over the last several months we have been delighted to see an increased focus to modify or eliminate problematic Provincial policies exacerbating the short housing supply that the Greater Toronto Area (and more broadly) the Province of Ontario is facing.

We are writing at this time for two reasons:

First – to thank the Government for taking leadership and correcting most of the profound errors that were introduced through the previous government's Bill 139. In the short time we have been operating under the Bill 139 regime, it has already revealed itself to be unfair and virtually unworkable. Bill 108 restores balance in the planning process and gives all stakeholders the tools to not only speed up the delivery of more housing, but also to ensure that the objectives of good planning are achieved. The Government is to

be commended for taking these steps before more damage was done to Ontario's planning process and housing supply.

The second purpose of this letter is to respectfully offer a few suggestions for further improving Bill 108. These suggestions are as follows:

i) Make the changes effective as soon as possible. We understand that the government is considering "transition rules" to move from Bill 139 to Bill 108. In our view, there was a reason the Government acted swiftly to introduce Bill 108: Bill 139 is simply unacceptable. The less time Bill 139 continues to operate in the province, the better. The Divisional Court's decision in the *Rail Deck* case (Craft et al. v. City of Toronto) highlights the challenges with the Bill 139 regime. We understand that the Local Planning Appeals Tribunal ("LPAT") has issued Notices of Postponement in numerous substantial cases awaiting the outcome from the *Rail Deck* stated case. The one advantage of this situation is that there have been relatively few matters that have been determined through the unfair Bill 139 process. If the Government acts swiftly, and if the transition provisions allow as many of those cases to proceed under Bill 108 as possible, the Government will limit the damage.

   If the Government chose a transition policy that preserved the Bill 139 process, making it applicable to the cases currently "in the mill", the profound inadequacy of that process may well lead many applicants to simply withdraw their appeals and applications. Reapplying under the new regime would be preferable to many, we expect, rather than enduring an unfair process. This would only serve to further delay the thousands of housing units that are currently caught up in the Bill 139 mess.

   For these reasons, we respectfully request that the Government make the new rules under Bill 108 effective as of the date of Royal Assent.

ii) Preserve the right of any person who has participated in the planning process to appeal the approval of a plan of subdivision and/or the conditions related to a plan of subdivision. Frankly, the proposal in Bill 108 to remove the right for any person who participated in the planning process to appeal a plan of subdivision and/or its conditions was a surprise. We appreciate that the Government had the best of intentions. Undoubtedly, the thinking was that limiting appeal rights should speed up the approval process where plans of subdivision conform with existing official plans and zoning bylaws. Unfortunately, we do not believe that this change will achieve the Government's objective.

   In the vast majority of cases, plans of subdivision are advanced at the same time as related Official Plan Amendments and Re-zoning Applications. Since "third party" appeals will still be available for the OPAs and ZBAs, the fact that the plan of subdivision alone cannot be appealed will not speed up the approval of the project if there is controversy associated with it. No progress can be made with a

plan of subdivision if it is dependent on an OPA or ZBA that remains under appeal. Worst still, by allowing 3rd party appeals of OPAs and ZBAs but preventing appeals of the plan of subdivision, the Tribunal (and the parties) may well be deprived of the very instrument that could be used to resolve any planning dispute on its merits. For instance, there may be technical issues that can be resolved through conditions of approval. Or a plan of subdivision could be modified to address compatibility issues that are the subject of the OPA and ZBA appeals. We also fear that there will be appeals of the OPA and ZBA that are better expressed through an appeal of the plan of subdivision. However, with the changes in Bill 108, that appeal route would no longer be available.

There are many "fine-grained" planning and compatibility issues that are resolved through a plan of subdivision and the conditions to that plan that could not be as easily addressed through the OPA and ZBA. Often adjoining landowners, intent on developing their properties, must be sure that the development proposals "mesh". These fine-grained conflicts are often resolved through negotiation and mediation after appeals have been filed in respect of one of the plans of subdivision. In other words, the "healthy tension" of an appeal often improves outcomes.

Finally, OPAs, ZBAs and plans of subdivision are almost always intimately connected. If, for instance, an appeal of a ZBA is resolved through the modification of the zoning, this will undoubtedly affect the draft plan. It is far more efficient to have all three instruments before the Tribunal so that all three can be modified at the same time and approved under one Tribunal Order. The alternative would be to seek modifications to a plan of subdivision that are required by the modified zoning – a process that could take many months.

In short, we respectfully request that the rights of 3rd parties to appeal plans of subdivision and conditions be retained in Section 51 of the Planning Act.

iii) Allow appeals of decisions by the Minister regarding Official Plans. We appreciate that the Government may have left the prohibition against appeals of OPs (approved by the Minister) for seemingly valid policy reasons. After all, if an OP has been vetted by the Minister's office, what value added could there be from an appeal to LPAT?

This logic may apply to broader policy issues that are of provincial importance. However, modern official plans are extremely detailed; dictating not just the matters of broad provincial policy but also the low-level details on a neighbourhood scale. Provincial staff will not have any expertise or experience with these intimate, local matters. They are also not required to hold transparent, public hearings to support a truly thorough review of local matters challenged by individuals, as the OMB did.

Nor do they have the time to fully explore the impact of these individual local issues across the Province. Review of local issues will not, therefore, be subject to the necessary evaluation and assessment.

Decisions by the Minister regarding official plans should generally be subject to the same appeal rights as other decisions regarding official plans.

It would be acceptable for the Minister to identify particular issues in an official plan on a case-by-case basis that would not be subject to appeal. Presumably, these would be issues which the Minister concludes are of particular provincial interest and/or have been fully vetted and understood at the provincial level. These issues could be clearly identified in the Minister's decision with all other (including more local) issues subject to appeal.

We appreciate the opportunity to provide these submissions and would be happy to discuss them at your convenience.

Yours very truly,
PARADISE DEVELOPMENTS

M. Jepp

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