



RESPONSE TO ERO POSTINGS UNDER THE *MORE HOMES, MORE CHOICE ACT, 2019*

**Proposed new regulation pertaining to the community benefits authority
under the Planning Act (ERO 019-0183)**

**Proposed changes to O. Reg. 82/98 under the Development Charges Act
related to Schedule 3 of Bill 108 - More Homes, More Choice Act, 2019
(ERO 019-0184)**

August 21, 2019
Parks and Recreation Ontario
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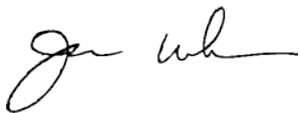
Introduction

Parks and Recreation Ontario (PRO) is a provincial association representing 6,500 members in municipalities across the province. PRO's members provide facilities and services to more than 85% of Ontarians in communities from Windsor to Ottawa to Thunder Bay.

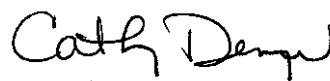
PRO is pleased to provide this submission to the Government of Ontario in response to the ERO postings related to Bill 108 -*More Homes, More Choice Act* (ERO 019-0183 and 019-0184).

PRO collaborated with municipalities across the province on this submission through a working group and a province-wide survey of its members. PRO circulated the key considerations and recommendations in this submission to its municipal members. Overwhelmingly, they agreed that there are significant concerns in the legislation and regulation related to the provision of recreation facilities and parks. They also supported the recommendations for extensive consultation with municipal recreation and parks stakeholders, the need for additional clarity on the transitional regulations, and more time to transition to the new Community Benefit Charges (CBC) framework.

Through its membership, PRO is ideally placed to provide advice to the Province on the implementation of the *More Homes, More Choice Act* to ensure that all municipalities benefit from vital community facilities and parks both today and in the future.



Jan Wilson, Chair



Cathy Denyer, CEO

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1. A provincially set cap for a CBC requires flexibility to ensure revenue neutrality across the province is achieved.

Recommendation: That the province work with municipalities to develop a flexible community benefits approach that is calibrated to ensure it achieves revenue neutrality and responds to funding needs for municipalities today and into the future.

PRO members appreciate the province’s commitment to revenue neutrality in the new CBC authority. Municipalities are hopeful that the new CBC legislative framework will allow for revenue neutrality, afford municipalities enough flexibility to respond to specific community and growth-related needs, and provide the resources to fund essential community assets like parks and recreation facilities.

It is important to acknowledge that with the current tools from the *Development Charges Act* and the *Planning Act*, municipalities already struggle to provide parks, recreation facilities and other discounted “soft-services” that meet the needs of rapidly growing communities. Research shows that municipalities are experiencing serious infrastructure funding gaps¹. The inability to keep up with growth can be attributed to the statutory 10% reduction in charges for soft services, in addition to the reduction in excess of 10-year historical service calculations in the *Development Charges Act*.

While these tools do not always suffice in meeting the funding needs for acquiring parkland and funding recreation facilities, municipalities are still concerned by their loss, specifically the *Development Charges Act* and Section 37 of the *Planning Act*. The majority (92%) of the municipalities that responded to PRO’s survey make use of the Alternative Rate, which allows them to adjust charges to developers based on the type of development, number of units, and development density. Without these tools – or a CBC framework that enables municipalities to easily acquire funds and parkland – municipalities are concerned that it will be harder to fund essential community assets.

PRO’s members are deeply concerned that municipalities will have to choose between parkland dedication and a CBC framework and by-law. Municipalities require the flexibility that separate instruments provide, given the vastly different requirements for community facilities and acquiring parkland. In many municipalities, alternative parkland dedication rates are used in combination with development charges and funds generated by Section 37 agreements to fund both parkland acquisition and lands for community recreation purposes. Combining these complex tools into a single CBC by-law will be a difficult process. It is therefore imperative that the Province involve recreation and parks stakeholders in the consultation and development process.

¹ Several studies ([Federation of Canadian Municipalities](#), [Parks and Recreation Ontario](#), [Statistics Canada](#)) highlight how municipalities are falling behind in the provision of recreation facilities and parks. Aging facilities are putting added pressure on municipal budgets, furthering inequality in residents’ access to facilities. The Federation of Canadian Municipalities Report Card noted that almost half of municipal sport and recreation facilities are in very poor, poor, or fair condition and are in need of repair or replacement. The Parks and Recreation Ontario Report found that there was a significant infrastructure deficit (\$5B in 2007) for recreation infrastructure, most of which was built between 1949 and 1967. Statistics Canada confirms that municipalities own the vast majority of “soft service” facilities including recreation centres, libraries, and cultural facilities. The same study found that over 50% of municipality-owned facilities were in need of retrofit, repair, or replacement.

Below is an example, provided by the City of Toronto, of a planned development that would be significantly impacted by the repeal of Section 42 and Section 51.1, the Alternative Parkland Dedication Rate. The amount of parkland is not adequate for this type of intensified community.

Alternative Rate - Current



Impact of Bill 108



Municipalities also expressed concern that, because the CBC formula is based on land value, it will pose significant challenges to acquiring funds for parkland and community services of equal standards across the province. Land values vary significantly across Ontario, and even within municipalities, while the bricks-and-mortar costs to build community assets are relatively stable. In higher-density developments, municipalities will have less revenue per unit to apply to the provision of vital facilities and parks. Inequity will result unless the CBC cap and formula are adjusted to address the individual needs of each community. Finally, developers often contest land values as established by a municipality and a CBC formula based on land value will increase the frequency of disputes, resulting in further delays in development and receipt of funds.

The above considerations reveal the necessity of involving parks and recreation stakeholders in the development of the regulations - to ensure that municipalities are able to create and sustain desirable communities, with high-quality facilities and access to green space for the people of Ontario. It will also support housing growth and economic development.

A change in the legislative regime is welcome as there is an opportunity to develop a system that finally achieves revenue neutrality for development of Ontario's parkland and facilities. To achieve this, we recommend the CBC formula ensures that where land values vary, the cap would not disadvantage a municipality or community with lower land values.

2. Municipalities require transition provisions to secure in-progress applications funded through the current legislation.

Recommendation: That a transition for in-progress planning applications be created so that municipalities can continue to receive the land and contributions for parkland or recreation facilities that were contemplated when the applications were received. Changes should only apply to complete applications submitted after proclamation. And specifically, that a transition provision be included related to Section 42 of the *Planning Act*.

Commentary

In the recent survey conducted by PRO, several municipalities expressed concern around in-progress applications. With the immediate repeal of Section 42 and Section 51.1 of the *Planning Act* without transition provisions, municipalities require clarity on how their in-progress applications will be impacted.

Municipalities approve planning applications (e.g. plans of subdivisions, site-specific applications) based on a series of assumptions, which may include securing parkland dedication and/or funding for park or recreation facilities as part of the development. In many cases, a municipality will make investments early in the development process ("front-end") based on agreements that the developer will reimburse the municipality at a later date. With the proposed regulatory changes, which will see an end to levying development charges for community infrastructure as of January 1, 2021, it is not clear if or how a municipality will be able to ensure existing agreements with developers will be fulfilled to support planning decisions that have already been made by municipal governments.

Most importantly, the Regulation as drafted does not appear to provide a transition provision for the Alternative Rate (Section 42 of the *Planning Act*), meaning that if or when the relevant section of legislation is proclaimed, municipalities will be left with a gap until such time as a CBC is put in place.

3. January 1, 2021 is not enough time for many municipalities to have a CBC Strategy in place, especially if the regulation(s) is not finalized until the fall of 2019.

Recommendation: That the Province change the CBC transition date to January 1, 2022 to provide more time for municipalities to transition.

Commentary:

The greatest concern among municipalities, when surveyed, was that the proposed timeline to implement a CBC framework and by-law will not provide enough time to adequately analyze and understand the new regulations. Municipalities need to understand the impact of the Bill on current Master Plans, subsidiary parks, and/or facility plans, as well as time to conduct extensive community consultation. More time is required to adequately develop a strategy and establish bylaws.

PRO members recommend the transition date be extended to January 1, 2022.

Conclusion

PRO appreciates the opportunity to address specific concerns related to proposed regulations under Bill 108, the *More Homes, More Choice Act*. PRO has focused its comments on strengthening the proposed regulations to support the provision of vital community recreation infrastructure and parks. There continues to be an overriding concern from stakeholders that there is an erosion of deference to municipal planning and heritage decisions, along with potentially significant financial implications in the provision of recreation facilities and parks.

PRO looks forward to working with the Province to ensure that the perspective of municipal recreation and parks is included in the consultations on these regulations and the development of the CBC Regulation.

For additional information, please contact:
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