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November 23, 2022

Paula Kulpa  
Heritage Branch, Ministry of Citizenship and Multiculturalism  
400 University Avenue, 5<sup>th</sup> Floor  
Toronto ON M7A 2R9

Dear Ms. Kulpa;

**RE: Ontario Heritage Act Amendments through Bill 23**

Please find attached comments from City of Kawartha Lakes heritage staff regarding the proposed amendments to the Ontario Heritage Act proposed through Bill 23, More Homes Built, Faster Act (2022). While the City is supportive of new and affordable housing through smart and sustainable development, the amendments proposed to the Ontario Heritage Act are regressive and place huge and undue burden on municipalities and the owners of heritage properties across the province.

Please be advised that as the timeline for completing a review of the proposed amendments coincided directly with the municipal election period in Ontario, this did not give municipal Councils appropriate time to review and provide comments separately from a Council perspective. This is not acceptable.

The Kawartha Lakes Municipal Heritage Committee has reviewed the proposed amendments separately from staff in order to provide a non-specialist view on the draft documents. A letter from the Chair of the Committee is attached to this letter.

Sincerely,

Emily Turner  
Economic Development Officer – Heritage Planning  
Development Services Division  
City of Kawartha Lakes  
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705-324-9411 ext. 1366

## **City of Kawartha Lakes Comments – Bill 23, More Homes Built Faster, Schedule 6 (Ontario Heritage Act)**

### **Municipal Registers**

- The requirement that municipal registers be provided online makes sense and aligns with current best practice.
- The change to the objection process by allowing any owner of a property to object at any time will waste Council and staff time at the municipal level by potentially inundating Councils with these requests without the requirement to provide studies or background information that would provide a rationale as to the owner's request.
- Increasing the standard for listing a property by applying Ontario Regulation 9/06 aligns with current practice in some municipalities where there are staff and resources to support this work. However, this will be a challenge for smaller municipalities which do not have dedicated staff to undertake this type of work and evaluation and may now be required to hire external help to undertake heritage evaluations, even for listed properties.
- The requirement to remove a listed property from the register after two years if a NOID has not been issued and prohibition from adding it again for five years will actively make it more difficult for municipalities to protect cultural heritage resource which are important to their residents and property owners. This will result in huge numbers of property being unprotected for years at a time as they cycle on and off the register, which will also waste staff and Council time removing and re-listing properties over and over again. There is not the capacity in municipalities to designate every listed property they have within two years, but this is what the province appear to be directing through this legislative change.
- Municipalities will attempt to designate as many properties as possible to prevent their heritage protection from lapsing, and this will be done primarily without owner consent or engagement as the timeline is so short and the province is forcing the hand of Councils, Municipal Heritage Committees and staff. This places a substantial burden on listed property owners but the province is leaving municipalities little choice but to forge ahead. The appeals process will mean that many of these designations will end up at the Ontario Land Tribunal, likely creating further backlog and slowing the development process even further by forcing the Tribunal to address huge numbers of designations of listed properties.
- Further, the forcing of municipalities to designate listed properties is an extremely poor way of involving communities in the preservation of their own heritage. Many municipalities across Ontario actively work with property owners to list their properties with the understanding that they will remain as listed

properties; this is often what a property owner feel comfortable with and listing provides a good middle ground with limited red tape between designation and no heritage protection that people feel positive about. Listing is an important process that serves a purpose beyond tying the hands of developers, which this legislation treats it as. Many municipalities tell their heritage property owners that listing is not a stepping stone to designation – because it has not been – and these amendments make liars of staff, municipal heritage committees and Councils who have worked diligently with their community members to protect and preserve the things that make their communities unique and desirable places to live, work and play.

### **Individual Designation**

- The increase in threshold for designations will make designating properties more difficult for municipalities, particularly those which may have only architectural or historical value but still may be highly significant to a community. It creates less flexibility for municipalities to protect their own resource based on their understanding of their own communities within the provincial framework.
- The new requirement that a property must be listed in order to be designated after prescribed Planning Act events is clearly an active attempt to prevent municipalities from protecting properties of cultural heritage value through the land use planning process. Given the new requirements for the removal of a property from the Register after two years and prohibition on re-listing it for another five, this will lead to municipalities having to guess at what properties might have a Planning Act application coming forward for them and listing properties accordingly as opposed to in a transparent, methodical and data driven way. While this intends for the development process to be more transparent, it makes it more difficult and less transparent for everyone involved as municipalities will rush to list properties to ensure that the conditions can be met when a Planning Act application is forthcoming, as opposed to taking a measured and long term approach to listing. This will make it more difficult for municipalities to meet their obligations under the Provincial Policy Statement and other relevant planning policy that directs the preservation of cultural heritage resources as part of the land use planning process.

### **Heritage Conservation Districts**

- The requirement for heritage conservation districts to meet a threshold through prescribed criteria creates predictability with regard to evaluation and consistency for municipalities and is a positive change in the legislation. However, the use of Ontario Regulation 9/06 is not appropriate as it is heavily tailored for individual property evaluation and lacks the nuance required to articulate the cultural heritage value found in larger cultural heritage landscapes.

It would be advisable to develop new criteria for this purpose. A sample criteria used by a number of municipalities for HCD designation is attached as a separate document. These criteria build on Ontario Regulation 9/06 and expands it to include additional criteria to better reflect how heritage conservation districts are understood and evaluated and how they function as cultural heritage resources. A new regulation should be adopted with new criteria specific to HCD evaluation.

- At present, there are many heritage conservation districts in development across the province including those where the study has been completed and the plan is in progress, but the designating by-law has not yet been brought forward. The MCM should consider that the new evaluation criteria should only apply to those HCDs where the plan phase has not yet been initiated by Council (i.e. those still undergoing study) to prevent municipalities from having to go back and amend already completed heritage conservation district studies which use different, older criteria as this would be a waste of staff time and municipal resources.
- The ability to amend or repeal an HCD by-law and plan is a positive addition to the Act. However, the development of the processes should include extensive consultation with municipalities to ensure that they are not burdensome or subject to frivolous requests by third parties to amend or repeal and by-law that does not suit them.

## Potential Criteria for Heritage Conservation District Designation

- Historical and Associative Value
  - Has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community
  - Yields or has the potential to yield information that contributes to the understanding of a community or area
  - Demonstrates or reflects the work or ideas of a planner, architect, landscape architect, artist, builder, designer or theorist who is significant to a community
- Contextual Value
  - Possesses a character that defines, maintains or supports the area's history and sense of time and place
  - Contains resources that are interrelated by design, history, use and/or setting
  - Is defined by, planned around, or is a landmark
- Design and Physical Value
  - Has a rare, unique, representative, or early collection of a style, type, expression, materials or construction method
  - Has a rare, unique or representative layout, plan, landscape or spatial organization
  - Displays a consistently high degree of overall craftsmanship or artistic merit
- Social and Community Value
  - Yields information that contributes to the understanding of, supports, or maintains a community, culture or identity within a district
  - Is historically and/or functionally linked to a cultural group, or organized movement or ideology that is significant to a community or plays an ongoing role in the practice or recognition of religion, spiritual, or sacred beliefs of a defined group that is significant to the community
- Natural and Scientific Value
  - Has a rare, unique or representative collection of significant natural resources
  - Represents or is a result of a significant technical or scientific achievement
- District Integrity
  - Retains visual, functional, or historical coherence in its cultural heritage values and character
  - Retains most of its original or appropriate materials, layout and structures related to its identified values

November 15, 2022

Paula Kulpa  
Heritage Branch, Ministry of Citizenship and Multiculturalism  
400 University Avenue, 5<sup>th</sup> Floor  
Toronto ON M7A 2R9

Dear Ms. Kulpa;

**RE: Proposed Ontario Heritage Act Amendments**

The Kawartha Lakes Municipal Heritage Committee has reviewed the proposed amendments to the Ontario Heritage Act through the More Homes Built Faster Act (2022) and has a number of concerns regarding the proposed changes. The Committee feels that many of the changes proposed in the legislation are far-reaching and unnecessary, and will significantly impact the ability of municipalities, Councils and their heritage committees to identify, protect and preserve cultural heritage resources which are important to our local communities. The Committee's comments are summarized as follows:

- The Committee is extremely concerned regarding the changes to the listing process. Listing is a highly effective method of protecting properties while providing flexibility to property owners and limiting red tape. Many property owners in our communities are happy and comfortable with having their property listed, but would prefer it not be designated. It is important to the Committee that the needs and wants of property owners be respected in the heritage process and the changes being proposed to listing – namely the requirement that properties be designated after two years or be removed from the Register – are not conducive to the kind of community building that the Committee undertakes. These changes will force municipalities to designate these properties to ensure their long-term protection, likely without property owner consent, which is not the type of positive relationship that the Committee wants to have with our local communities. The Committee has spent many years working to educate property owners about listing and has assured properties owners that listing is not a stepping stone to designation. These changes would make untrue many of the things the Committee, and others across the province have worked towards, and undermine the good public outreach and education it undertakes. It is likely that these changes will lead to committees across the province to stop listing heritage properties which will ultimately lead to poorer preservation efforts and less vibrant communities.
- The timelines identified under the amendments, specifically related to listing properties, removing them from the Register and adding them to the Register

again, are completely arbitrary. There is no logic behind these timelines and they serve only to make the heritage preservation process more difficult and reactionary. They appear to be forcing municipalities to play a game of heritage whack-a-mole which wastes time, resources and tax-payer dollars, instead of allowing staff, heritage committees and Council to create, maintain and promote robust and transparent heritage programs which are of benefit to the community. This is particularly the case with regard to the requirement that a property be listed in order for designation to be considered as part of a development application, as municipalities will have to guess with regard to which properties might be at risk and list accordingly.

- The changes to listing properties will create a huge and significant workload increase for municipal staff, heritage committees and Councils. The province does not appear to be providing resources to assist with this additional work which will negatively impact the ability of municipalities to undertake it.
- It appears highly likely that the requirement for municipalities to designate listed properties will result in a significant number of appeals to the Ontario Land Tribunal. The Committee has concerns that this will fill the OLT's schedule and vastly increase the appeal times for any type of planning appeal in the province.
- The changes effectively undermine the role of the Municipal Heritage Committee and the local community in providing input into the preservation of heritage properties by forcing municipalities' hands through unnecessary changes and timelines which do not allow for robust and appropriate consultation.
- It is the opinion of the Committee that the intent of the amendments is to strip powers away from municipalities to make decisions regarding the heritage of their own communities and allow developers to do as they will, without regard for the communities they are entering into and local history and heritage. Communities across Ontario need to be able to make decisions about protecting their heritage and require the flexible and positive tools within the Act as it currently stands to do so.
- The Committee is additionally concerned regarding the move of staff and jurisdiction for the Act from the Ministry of Sport, Tourism and Culture to the Ministry of Citizenship and Multiculturalism. This does not align with the type of legislation that the Act is, which fits more closely with the Ministry of Municipal Affairs and Housing. Without leadership which understands and appreciates the role of heritage preservation in the land use planning process, the Committee feels that the application of the Act will be neither thoughtful or effective under this new ministry.

The Committee recognizes and supports the need for new and affordable housing across the province, but does not feel that the preservation of our heritage and the construction of new homes are mutually exclusive goal in opposition to one another. These amendments do nothing to address the housing shortage in a real way. Heritage and housing are not a zero sum game, and the creative ways that heritage building

have been used and reused across the province shows that preservation and growth can have aligning and complementary goals. With good and effective heritage legislation across the province, the Committee feels that our communities can achieve both of these aims, and that this is not reflected in the current changes being proposed to the Act.

Sincerely,

A handwritten signature in cursive script that reads "Athol Hart".

Athol Hart  
Chair Kawartha Lakes Municipal Heritage Committee