



Greater Ottawa Home Builders' Association
Association des constructeurs d'habitations d'Ottawa

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December 9, 2022

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

Re: SUPPLEMENTAL COMMENTS to ERO #019-6196 Proposed Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022

Dear Ms. Kulpa,

Please accept the below as supplement comments from the Greater Ottawa Home Builders' Association (GOHBA) and its members to our original submission of November 21, 2022, to the government's request for feedback on Proposed Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022 (ERO #019-6196).

GOHBA, in conjunction with the Ontario Home Builders' Association and its 27 sister HBAs in municipalities across the province, is commenting specifically that currently the Regulation provides for 90 days from receipt of a notice of complete application for an OPA application, rezoning application, and/or subdivision application within which a municipality can designate a property (unless an extension is provided).

GOHBA notes that through, subparagraph 1(2) 5., there is a provision for an exception. Through (Subsection 29(1.2) there is an allowance under the Ontario Heritage Act to allow the Regulation to include exceptions to the 90-day period.

GOHBA is concerned that this subparagraph, if read literally, provides that the 90-day restriction no longer applies as of "the date of final disposition" of the above-noted applications, whether by operation of the Planning Act or order of the Tribunal.

GOHBA does not believe that the Province intended to allow a municipality to designate a property again if an application is approved. However, we note that the exception is not currently drafted that way. In fact, it is drafted broadly and would allow a municipality to designate a property the day after a zoning by-law amendment application is approved by a municipality. For example, issuance of a final zoning order by the Tribunal would be "the date of final disposition".

As such – we are proposing two different options/approaches via the following amendments to remedy the above noted matter:

- 1) Delete clause 1(2) 5. and subsection 1(4) of Ontario Regulation 385/21 – This would eliminate the ability for a municipality to designate a property, even after an official plan amendment, rezoning and/or plan of subdivision application is refused. While it would correct the issue, it would mean a property could never be designated, even if a proposed development is refused by the municipality and/or the Tribunal. In fairness, a municipality should likely be able to revisit the heritage status of a property if a proposed development is refused.

- 2) Revise clause 1(2) 5. and subsection 1(4) of Ontario Regulation 385/21 by adding the language underlined as below – This would continue to protect a property from designation if a proposed development is approved, but allow a municipality to revisit the property’s heritage status if a proposed development is refused. An additional exemption could be included that would permit a municipality to designate a property again after a specified amount of time (i.e. five years) has elapsed after an application is approved.

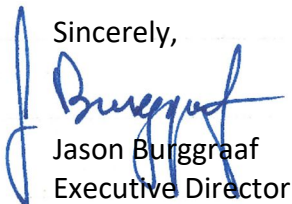
1(2) 5. Subject to subsection (4), if an event described in subsection (1) occurs in respect of a property, subsection 29(1.2) of the Act no longer applies to restrict the council of the municipality in which the property is situate from giving a notice of intention to designate the property as of the date of final disposition of the request or application giving rise to the event, whether by operation of the Planning Act or order of the Tribunal, if the final disposition is a refusal or dismissal of the requests or applications.

1(4) If two or more events described in subsection (1) in respect of a property occur on the same day, subsection 29 (1.2) of the Act no longer applies to restrict the council of the municipality in which the property is situate from giving a notice of intention to designate the property as of the latest of the dates on which the requests or applications giving rise to the events are finally disposed of, whether by operation of the Planning Act or order of the Tribunal, if the final disposition is a refusal or dismissal of the requests or applications.

We appreciate the opportunity to provide the above recommendations in addition to our submission of November 21, 2022 on ERO#019-6196.

We are pleased to answer questions or provide further information as requested.

Sincerely,



Jason Burggraaf
Executive Director