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11 May 2024

Provincial Planning Policy Branch
777 Bay Street, 13th Floor
Toronto, ON
M7A 233
By Email: PlanningConsultation@ontario.ca

Re: ERO-019-8369 – Proposed Bill 185, *Cutting Red Tape to Build More Homes Act, 2024*

Dear Sirs:

The Ontario Rivers Alliance (ORA) is a not-for-profit grassroots organization with a mission to protect, conserve and restore riverine ecosystems across the province. The ORA advocates for effective policy and legislation to ensure that development affecting Ontario rivers is environmentally and socially sustainable.

1. Revocation of the Public's Right to Appeal:

The ORA is strongly opposed to the proposal to remove the public's appeal rights for the adoption or amendment of Official Plans and Zoning By-Laws to the Ontario Land Tribunal (OLT). These amendments are unfair as they undermine the public's right to appeal local land-use decisions and deny access to justice. The public's right to appeal has been a long-standing feature of the *Planning Act*, and there is no persuasive evidence-based reason by this government to revoke this important right. It is consequential when a municipality approves a project that would be environmentally damaging to a property owner or may cause public health issues to the local community, the public would no longer be able to challenge the municipality's decision at the OLT.

In fact, the revocation of the public's appeal rights is contrary to the principles of good land-use planning, procedural fairness and natural justice. Stakeholders who are interested in or affected by land-use decisions should be able to fully participate in and influence such decision-making.

Recommendation 1:

ORA recommends the proposed amendments to Bill 185, Schedule 12, to revoke the public's right to appeal the adoption and amendment of Official Plans and Zoning By-Laws to the OLT, be removed.

2. Revocation of the Public's Appeal Rights Would Have A Retroactive Effect:

ORA is also strongly opposed to the proposed elimination of the public's appeal rights, which will have a retroactive effect, pursuant to sections 3(2), 3(4), 5(8) of Schedule 12. Bill 185 proposes to eliminate public appeals if the hearing on the merits has not been scheduled by 10 April 2024. This is a problem when long delays to schedule case management conferences at the OLT may automatically terminate a significant number of public appeals. This will have a financial impact



on members of the public, who will have their appeals dismissed after having potentially spent significant resources on appeal filing fees and retaining experts and lawyers.

Recommendation 2:

- (a) Remove sections 3(1), 3(3) and 5(7) of Schedule 12, as these sections seek to remove the public's ability to appeal the adoption or amendment of Official Plans and Zoning By-Laws under sections 17(24), 17(36) and 34(19) of the Planning Act.
- (b) Remove sections 3(2), 3(4) and 5(8) of Schedule 12. These sections seek to remove the appeal rights of the public retroactively if a hearing on the merits of an Official Plan or Zoning By-Law has not been scheduled by April 10, 2024.

3. Amendments Allow Proponents to Appeal Boundaries of Settlement Area:

ORA is opposed to the proposed amendments in Bill 185 and related amendments to the Provincial Planning Statement that would encourage development sprawl. These amendments will worsen the climate crisis and cause further loss of natural heritage features and agricultural lands. The Ontario Housing Affordability Task Force has confirmed that a shortage of land is not the cause of the housing availability problem.ⁱ

The proposal to remove the previous restriction on proponent appeals relating to a refusal of a municipality to adopt an Official Plan or Zoning By-Law amendment to alter all or any part of the boundary of an area of settlement. Bill 185 proposes to allow developers to challenge these decisions except if it would alter the boundary to include land in the Greenbelt Area in the area of settlement.

The *Planning Act* and corresponding planning policies should encourage in-fill and density development to avoid all the negative environmental impacts of sprawl development and worsening the climate crisis.

Recommendation 3:

Remove sections 4(4) and 5(6) of Schedule 12, which would allow for developer appeals of Official Plan and Zoning By-Law decisions not to expand the boundary of an area of settlement.

4. Removal of section 34.1 from the *Planning Act*:

Previous recent amendments to the *Planning Act* created a new power for the Minister to make zoning orders at the request of municipalities. Section 34.1 of the *Planning Act*, along with section 47 of the *Planning Act*, provides for the Minister to make zoning orders outside of the *Planning Act* process and without requirements for an evidentiary basis and public input.

These orders undermine access to due process and justice for communities. We therefore support the removal of s.34.1 of the *Planning Act* but recommend also restricting the use of s.47 orders.

Recommendation 4:

- (a) ORA supports amending the *Planning Act* to remove section 34.1, pursuant to section 6 of Schedule 12.



- (b) ORA also recommends removing or amending section 47 of the *Planning Act* to restrict the use of Ministerial Zoning Orders to only rare cases and to ensure that there is an evidentiary basis for land use decisions and that the public may participate in local land use planning decisions.

5. Removal of Power of Municipalities to Require Consultation:

ORA is also strongly opposed to the proposed amendments to the *Planning Act* that would remove the power of municipalities to require pre-consultation on applications for Official Plan amendments, Zoning By-law amendments, site plan control areas and plans of subdivision. The proposed amendments now only require that a municipal council “shall permit” applicants to consult prior to filing their applications.

Recommendation 5:

- a) Remove sections 4(2), 5(3), 8(1) and 10(1) of Schedule 12.
- b) Remove sections 4(3), 5(4), 8(2) and 10(2) of Schedule 12.

6. ORA supports the following proposed amendments to the *Planning Act*:

Recommendation 6:

- a) Amendments in sections 2 and 5(2) of Schedule 12, which would remove parking requirements in major transit station areas.
- b) Amendments in sections 5(5) and 8 (4), which would remove fee refund provisions.
- c) Amendments in sections 8(3) and 10(3) of Schedule 12, which would allow site plan approvals and draft plans of subdivision to lapse.

ORA submits that Bill 185, Schedule 12 should not be passed without incorporating the significant amendments proposed above.

Thank you for this opportunity to comment!

Respectfully,

Linda Heron
Chair, Ontario Rivers Alliance
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ⁱ Report of the Ontario Housing Affordability Task Force, (February 8, 2022) at 10, online: [Report of the Ontario Housing Affordability Task Force](#)