Ministry of Municipal Affairs & Housing
Provincial Land Use Plans Branch
777 Bay Street, 13th Floor
Toronto, ON
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**Re: ERO: 019-8369**

CLV Group Developments Inc. ("CLV") has developed this response to the province's ERO 019-8369 posting, titled, "***Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 Changes (Schedules 4, 9, and 12 of Bill 185 – the proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024***".

CLV is very active in the municipal planning process in Ontario. We are a rental housing developer with approximately 3,800+ units currently in the planning or construction process. We have in-house planners navigating the planning system daily across numerous municipalities.

We commend the Ontario Government for its efforts to address the housing supply crisis in Ontario, and fully support the objective of streamlining land use planning approvals and getting shovels in the ground more quickly and efficiently. We deeply understand and appreciate the need to improve the current system.

While we support most of what is being proposed within Bill 185, there is one major oversight, albeit most likely inadvertent, that requires reconsideration and correction: the proposed elimination of so-called "third party appeals" of Official Plan Amendments (OPAs) and Zoning By-law Amendments ("ZBAs) under the Planning Act. Such a change would undoubtedly have unintended consequences.

Third party appeals and the existence of the Ontario Land Tribunal creates healthy tension in the planning approvals system. These appeal rights are an essential check and balance in the system. They keep all of the stakeholders honest and facilitate fair negotiations and the resolution of conflicts.

Unfortunately, if implemented as currently worded, Bill 185 would eliminate these appeal rights. We are concerned that the elimination of third party appeals will have the following consequences, which will likely limit the supply of housing and result in poor planning:

- Will allow **municipalities to downzone or regulate**, acting without accountability;
- Will permit municipalities to **delay housing for years** by adopting unreasonable phasing policies and timing;
- Will **reduce the supply of housing** as anti-growth municipalities take advantage of the lack of landowner appeals against municipal initiatives;
- Will **allow municipalities to adopt restrictive policies contrary to Provincial Policy**, without landowners to fund hearings to defend Provincial Policy;
- Will put **pressure on the Province to pick politically unpopular fights with Municipalities** as the Minister will be the only person available to appeal municipal initiatives that are contrary to Provincial Policy;

- Will **move disputes to the courts**, increasing delays, costs, and lowering the quality of decision-making;
- Will raise the **risk of municipal corruption** as high stakes decisions will be final and unappealable.

The following are some examples of the problems that would arise (most of which would reduce the housing supply), without third party appeals:

1. Toronto OPA 536, establishing rail safety policies governing all development beside rail corridors. Required excessive setbacks and owners to indemnify the City in case of future rail accidents. Original policies were absurd, and would have wiped out thousands of housing units for decades to come. Negotiations of landowners' appeals has allowed a reasonable settlement. But these appeals would have been wiped out by the Bill.
2. Municipal Secondary Plans with unreasonable height limits. Appeals will no longer be permitted.
3. Downzoning of all main streets with heritage buildings to ensure there is no financial incentive to redevelop those sites. No appeals.
4. Establishment of 60 metre setbacks from all ravines and woodlots to protect the natural features. No appeal.
5. Zoning that 25% of units in all apartment buildings be 3 bedroom or more, to encourage family housing in an urban context. No appeals.
6. Phasing policies in an Official Plan Amendment that freeze hundreds of acres settlement area from being developed until 2049. No appeals.
7. Municipality wants to force out a long disliked abbatoir, concrete batching plant, or long time food processing plant that produces unpleasant odours. It approves a sensitive use next door. The industry has no right of appeal, loses its environmental approvals as it no longer complies with Ministry of Environment Guidelines, and must shut down or move.

We have already seen the implications of these changes. The City of Burlington's Official Plan is under appeal by numerous landowners because it includes policies that would prevent the development of thousands of housing units. In April the parties all agreed to participate in mediation to resolve those appeals. Mediation has been extremely successful in similar cases. The next meeting for the mediation was to be May 6th. Just last week we received an email from counsel to the City requesting that the meeting be cancelled. Why? In the words of counsel to the City, "I have received instructions from the City to adjourn any further mediation discussions until after the impacts of Bill 185 (in its final form) can be understood and assessed."

Why mediate when you can dictate? If passed in its current form, the healthy tension in the system would be lost and the appeals of all these so-called "third parties" would be summarily dismissed. There is no need for the City to engage in mediation under those circumstances.

This is the future under Bill 185. It is extremely problematic, and the Government surely cannot have intended what is already unfolding.

The Ontario Land Tribunal is a critical part of Ontario's land use planning system. The Government should be commended for recognizing the role of the Tribunal and for strengthening that role. The Government has made clear efforts to encourage Tribunal-led mediation and to increase resources for additional Tribunal members for more timely resolution of appeals. However, strengthening the

Ontario Land Tribunal will not achieve the desired outcomes if there are not appropriate appeal mechanisms to get before the Tribunal.

What is proposed by Bill 185 is not what we believe the Government intended in respect of these appeal rights. These can be readily corrected in the legislation by removing the proposed changes to subsections 17(24), 17(36) and 34 (19) of the Planning Act (subsections 3(1), (2), (3), (4) and 5(7) and (8) of Schedule 12 of the Bill).

Should you wish to discuss these comments further with us, please do not hesitate to reach out to us.

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CLV Group Developments Inc.