

May 10, 2024

Ministry of Municipal Affairs & Housing
Provincial Land Use Plans Branch
777 Bay Street, 13th Floor
Toronto, ON M7A 2J3

RE: ERO: 019-8369
Mayfield West Phase 2 Landowners Group
Town of Caledon, Region of Peel

Glen Schnarr & Associates Inc. is planning consultant to the Mayfield West Phase 2 Landowner Group who controls the majority of lands within the Mayfield West Phase 2 Secondary Plan Area in the Town of Caledon. On behalf of the Group, we submit 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*".

The Mayfield West Phase 2 Landowners Group is very active in the municipal planning process. To date, the Group has constructed approximately 1,200 dwelling units out of a planned 5,700 units within the Mayfield West Phase 2 Secondary Plan Area. The members of the Landowner Group have also developed thousands of housing units across the Greater Toronto Area over the last several decades.

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. No third-party appeals on private OPA/Rezoning applications which pursue elimination of Landowner Group cost-sharing requirements which are imperative for the development of complete communities.
2. Appeals will no longer be permitted for municipally-initiated Secondary Plans with unreasonable height and density limits.
3. No appeals will be permitted on municipal downzoning of main streets with heritage buildings to ensure there is no financial incentive to redevelop such sites.
4. No appeals on unreasonable setback requirements from natural heritage features where implemented by a municipality.
5. No appeals on municipally-initiated Zoning By-law Amendments that implement unreasonable minimum unit count requirements for 3 or more bedroom units, to encourage family housing in an urban context.
6. No appeals on phasing policies in an Official Plan Amendment that freeze hundreds of acres of settlement area from being developed.
7. No appeals on municipally-approved zoning that allow for inappropriate industrial uses causing odour or noise issues near sensitive land near future sensitive residential land uses. In these cases, the industry loses its environmental approvals for no longer complying 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. A meeting for the mediation was scheduled for May 6, 2024, however, the City requested that the meeting be cancelled from having received instructions to adjourn any further mediation discussions until after the impacts of Bill 185 (in its final form) can be understood and assessed.

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 with our Group, please do not hesitate to contact to the undersigned.

Sincerely,

GLEN SCHNARR & ASSOCIATES INC.



Jason Afonso, MCIP RPP
Partner

- c. Hon. Doug Ford, Premier of Ontario
Hon. Paul Calandra, Minister of Municipal Affairs and Housing of Ontario
MW2 Landowner Group