

May 9, 2024

Our File No.: 241431

Via Email (MFPB@ontario.ca) and online submission

Ministry of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, Ontario M7A 2J3

Dear Sirs/Mesdames:

Re: ERO No. 019-8369
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)

Please accept this submission on the amendments to the Planning Act proposed through Bill 185, *the Cutting Red Tape to Build More Homes Act, 2024*. In particular, this submission focusses on the proposed amendments that would eliminate third party appeals, including the elimination of appeal rights of municipally initiated planning instruments even by affected landowners. These proposed amendments, if left unchanged, would have unintended consequences and contrary to the intention of Bill 185 would not streamline planning approvals to build more home faster, but would rather have the opposite effect, namely Bill 185 would almost certainly deliver less housing, slower. To highlight this concern, this submission focusses on one unintended consequence of Bill 185 demonstrating how Bill 185 as currently drafted could frustrate an important provincial policy objective introduced through Bill 97 and the new Provincial Policy Statement to unlock lands to increase housing supply.

Bill 97 (the Helping Homebuyers, Protecting Tenants Act, 2023) received Royal Assent on June 13, 2023. Among other things, Bill 97 and the new PPS narrow the definition of “area of employment” to traditional manufacturing, warehousing and related uses. Bill 97 and the new PPS expressly provide that areas where institutional uses and commercial uses are permitted, which include retail and office uses not associated with primary industrial uses, are no longer to be considered an “area of employment” where residential permissions are prohibited. The intent of Bill 97 and the new Provincial Policy Statement is clear. Areas subject to employment conversion policies and statutory provisions are limited to areas with traditional manufacturing, warehousing and related uses. At the same time, mixed use development is to be encouraged outside of these areas to support residential housing needs and the creation of complete communities.

Despite the policy intent of Bill 97 and the new PPS, the City of Toronto is proposing to bring forward OPA 680. Rather than consider what lands within the City truly meet the new definition of “area of employment”, OPA 680 would remove institutional and commercial land use permissions from all of the City’s employment areas without examining whether it is appropriate to do so. This would effectively prevent further consideration of expanded development opportunities in accordance with Bill 97 and the new PPS to meet provincial and municipal forecasts while negatively impacting the existing planning function of many of those areas.

Prohibitions on appeals of municipally initiated planning instruments proposed through Bill 185 would render OPA 680 a *fait accompli*. That is, OPA 680 could not be appealed to the Ontario Land Tribunal by affected landowners even where OPA 680 would conflict with provincial policy. As a consequence, all lands caught by OPA 680 would continue to be considered an “area of employment”. These lands could not be unlocked to facilitate new housing and landowners would be prevented from seeking to introduce residential permissions on these lands until the next municipal comprehensive review where there would be no appeal right to the Tribunal from a decision.

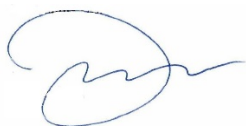
Bill 185 represents a drastic, unnecessary and counterproductive curtailment of landowners’ rights. As shown through the example above, it would allow municipalities to make planning decisions that undermine, rather than support, the objective of facilitating new housing, even in a manner that directly conflicts with provincial policy direction, without the critical check and balance that an appeal to the Tribunal provides.

We understand that curtailing appeal rights for true “third parties” – i.e. those whose lands are not subject to the Council-approved amendments – may be seen as desirable to address delays in creating housing supply. However, the legislation as currently proposed goes far beyond prohibiting third party appeals. Prohibiting appeals from landowners with lands that are directly subject to the amendments is unfair and will not serve the Province’s stated objectives.

In these circumstances, we ask the Ministry of Municipal Affairs and Housing to amend Bill 185 to at minimum maintain landowners’ rights to appeal official plan and zoning amendments that directly affect them.

Yours truly,

Goodmans LLP



Joe Hoffman
Partner
JH/rr
1414-7435-5980