



**Ontario**  
Home Builders'  
Association

## Municipal Legislative Review

Municipal Act  
City of Toronto Act  
Municipal Conflict of Interest Act  
Municipal Elections Act

**EBR – 012-4277**

BILD  
Bluewater  
Brantford  
Chatham-Kent  
Cornwall  
Greater Dufferin  
Durham Region  
Grey-Bruce  
Guelph & District  
Haldimand-Norfolk  
Haliburton County  
Hamilton-Halton  
Kingston-Frontenac  
Lanark-Leeds  
London  
Niagara  
North Bay & District  
Greater Ottawa  
Oxford County  
Peterborough &  
The Kawarthas  
Quinte  
Renfrew  
Sarnia-Lambton  
Simcoe County  
St. Thomas-Elgin  
Stratford & Area  
Sudbury & District  
Thunder Bay  
Waterloo Region  
Windsor Essex



**Submitted to: Hon Ted McMeekin**  
**Minister of Municipal Affairs and Housing**  
**October 30, 2015**



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## About OHBA

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The Ontario Home Builders' Association (OHBA) is the voice of the land development, new housing and professional renovation industries in Ontario. OHBA represents over 4,000 member companies, organized through a network of 30 local associations across the province. Our membership is made up of all disciplines involved in land development and residential construction, including: builders, professional renovators, trade contractors, manufacturers, consultants and suppliers. Our members have built over 700,000 homes in the last ten years in over 500 Ontario communities. The residential construction industry employed over 313,000 people and contributed over \$44 billion to the province's economy in 2013.

OHBA is committed to improving new housing affordability and choice for Ontario's new home purchasers and renovation consumers by positively impacting provincial legislation, regulation and policy that affect the industry. Our comprehensive examination of issues and recommendations are guided by the recognition that choice and affordability must be balanced with broader social, economic and environmental issues.

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## Background

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The Ministry of Municipal Affairs and Housing is reviewing three key elements of Ontario's municipal legislative framework: the *Municipal Act*, the *City of Toronto Act*, and the *Municipal Conflict of Interest Act*. Related to this is a review of the *Municipal Elections Act*. The goal of this review is to ensure that local governments in Ontario remain strong and financially-sustainable, and that they continue to be accountable, flexible and responsive to the people they serve.

According to the Ministry of Municipal Affairs and Housing, the review will use the following themes:

### **Accountability and Transparency**

Accountability and transparency is a key foundation of any government. The province wants to ensure legislation continues to support Ontario's local governments in being open and accountable to the people they serve. In this review, the province will consider topics such as:

- Municipal codes of conduct
- Integrity officers
- Conflicts of interest
- Open meetings

### **Municipal Financial Sustainability**

The province wants to ensure local governments remain strong and financially sustainable. In this review, the province will consider topics such as:

- How existing municipal financial tools can be used more effectively;
- Whether municipalities have the necessary tools to effectively plan for, prioritize and fund their investments in infrastructure and spending on services ;
- What barriers municipalities may face in achieving long-term financial sustainability.

### **Responsive and Flexible Service Delivery**

The province wants to make sure that municipalities have the powers and the flexibility they need to govern and to be creative and responsive in providing services to their communities. In this review, the province will consider topics such as:

- Whether municipalities are able to be innovative in how they are providing services to the community;
- How improvements to the *Municipal Act* and *City of Toronto Act* can help ensure that municipalities can make the best use of their authority and available tools to respond to climate change and other municipal and provincial priority areas;
- Whether the *Municipal Act* and *City of Toronto Act* have the necessary processes in place to address local representation needs.

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## **Executive Summary**

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OHBA is pleased to respond to the provincial review of the key elements of Ontario's municipal legislative framework. OHBA is supportive of broad objectives for strong, vibrant communities where individuals and families can live, work and play. OHBA is also supportive of the need for municipalities to be fiscally sustainable, open and accountable to both residents and businesses.

OHBA's 4,000 member companies and network of 30 local associations operate businesses in a wide variety of differing municipalities with unique characteristics ranging from large urban centres to smaller rural towns with small dispersed populations. It is essential that the review of the municipal legislative framework take into account the significant differences in municipal size, character and composition.

OHBA notes that the review of the municipal legislative framework comes at the same time as the Provincial Government is consulting on the Co-ordinated Review of the Greenbelt Plan, Oak Ridges Moraine Conservation Plan, Niagara Escarpment Plan and Growth Plan for the Greater Golden Horseshoe. The review is also taking place at the same time as the province is considering amendments to the *Planning Act* and *Development Charges Act* through the *Smart Growth for Our Communities Act* (Bill 73). Through our recommendations to this consultation as well as both the Bill 73 and the Co-ordinated Review consultation, OHBA intends to connect all the dots to ensure public policy is appropriately implemented and aligned.

OHBA notes that key components of the municipal infrastructure and planning framework include legislative amendments to the *Development Charges Act* and the *Planning Act*. It is therefore critical that the Provincial Government, through a multi-ministry approach, also ensure that all the dots are connected, not only between the Co-ordinated Reviews, the proposed Bill 73 and the municipal legislative review, but also many other provincial initiatives including, but not limited to: the Provincial Policy Statement, climate change initiatives, the upcoming ten-year review of the Metrolinx *Big Move*, the *Conservation Authorities Act* review, and the Long-Term Affordable Housing Strategy, etc. As the Minister of Municipal Affairs and Housing stated in the Legislature during Second Reading of Bill 73 on April 21<sup>st</sup>, **“To manage growth, we had to put all their pieces together and build the framework.”** It is important that the Minister’s words are taken seriously and that all the pieces to the puzzle do, in fact, fit and work together.

OHBA is concerned about the cumulative impact of the various consultations on housing affordability and choice. The Co-ordinated Review may have impacts on housing supply, the proposed Bill 73 will result in potentially significant development charges increases with respect to transit and other eligible services and the Long-Term Affordable Housing Strategy may include new planning tools such as inclusionary zoning which is essentially a new tax on housing. OHBA is concerned that the municipal legislative review may also become focused on how municipalities can generate additional revenue from our sector and ultimately our consumers by charging more new neighbour taxes (a municipal land transfer tax). OHBA continues to advocate for fairness and transparency for new neighbours, and this legislative review **cannot result in a further piling on of taxes on the backs of future new home purchasers and employers.**

OHBA appreciates the opportunity to present our views and recommendations to the government. We are hopeful that these positive and constructive recommendations will assist and inform the province in updating its municipal legislative framework.

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## Key Recommendations

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OHBA is pleased to submit our key recommendations towards the municipal legislative review:

- OHBA strongly supports the continued role of the OMB as the essential impartial, evidence-based, quasi-judicial administrative tribunal that is responsible for handling appeals of land use planning disputes. The role of the OMB is also to assess and ensure accountability in the local planning decision-making process.
- OHBA supports a better balance needs to be struck between the costs assigned to new neighbours and existing home and businesses.
- OHBA supports the steps taken by the provincial government in the *Provincial Municipal Fiscal and Service Delivery Review* over the past decade to relieve financial pressure on municipalities by phasing in a social services upload.

- The municipal legislative review cannot result in legislative amendments allowing a municipal land transfer tax and become an opportunity to pile on even more additional taxes onto new home buyers and new employers.
- OHBA strongly supports the provincial government's broad \$130 billion ten-year infrastructure plan for Ontario.
- OHBA is broadly supportive of measures to establish mechanisms to encourage evidence-based and strategic long-term infrastructure planning (municipal infrastructure asset management plans). Additional accountability mechanisms should be put in place to ensure asset management plans are prepared with rigor and that there is provincial accountability and oversight as well as a full public engagement process at the municipal level.
- OHBA continues to oppose the very significant and inequitable Toronto Land Transfer Tax since its inception in 2008. In 2013 the City of Toronto collected \$356 million from the Toronto Land Transfer Tax. This tax targets a very small percentage of residents to cover a very significant revenue source.
- OHBA is opposed to extending municipal licensing powers to cover the new housing industry. The Tarion Warranty Corporation insures the statutory warranty rights of new home buyers and regulates new home builders under the *Ontario New Home Warranties Act*.
- OHBA recommends that clarity be provided by the province regarding Municipal Capital Charge By-Laws and Development Charges By-Laws to ensure that municipalities are accountable and apply the proper legislation to infrastructure projects. Furthermore, appeal rights for municipal capital charge provisions should be extended to the OMB.
- Amend Ontario Regulation 599/06 under the *Municipal Act* to permit a private lender to retain an equity interest in local infrastructure. Under the proposed *Strengthening Consumer Protection and Electricity System Oversight Act, 2015* (Bill 112), it is proposed to amend the *Electricity Act* to allow specifically for this type of ownership to accommodate access to private sector funds and OHBA recommends that the *Municipal Act* should follow and parallel this lead.
- Under the *Building Code Act* and the Ontario Building Code, the province creates and maintains the policies and laws to promote safe, healthy and accessible buildings in Ontario, as well as the requirements respecting conservation and environmental protection. OHBA strongly recommends the all building code and new construction standards should be subject to this well-established provincial process. Any further building and construction standards mandated by municipalities are an additional and unnecessary layer of bureaucracy when an already established technical process exists.

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## Accountability and Transparency

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The review of the municipal legislative framework provides an opportunity to ensure that municipalities are implementing provincial policy objectives, while enhancing municipal accountability and transparency. OHBA, recommendations to the recent reviews of the development charges and land use planning and appeals system focused on legislative and regulatory changes intended to achieve more predictability, transparency and accountability and most importantly, better outcomes for new neighbours – both new home owners and new

businesses – and communities across Ontario. OHBA continues to support enhanced municipal accountability and transparency through the municipal legislative review.

### **Enhancing Accountability in Ontario's Land Use Planning & Development Charges System**

A number of OHBA recommendations to these recent consultations have been incorporated into the proposed *Smart Growth For Our Communities Act* (Bill 73). OHBA highlights our support of the following proposed measures to enhance municipal accountability and transparency within the proposed Bill 73:

- **Planning Act:** Various decision-makers are required to explain the effect of written and oral submissions on their decisions (subsections 17 (23.1) and (35.1), 22 (6.7), 34 (10.10) and (18.1), 45 (8.1), 51 (38), 53 (18)). OHBA recommended that additional language be added to provide greater accountability and transparency so that decision makers also be required to explain the effect of other relevant materials submitted and considered during the planning process.
- **Planning Act:** Section 37 is proposed to be amended to require that money collected under the section be kept in a special account, about which the treasurer is required to make an annual financial statement. This reflects OHBA's recommendations in 2014 to create more transparent reporting requirements for municipalities to detail how funds are collected and spent.
- **Planning Act:** Newly proposed subsections 42 (17) and (18) require the treasurer to make an annual financial statement about the special account established under subsection 42 (15). OHBA is supportive of the Treasurers Statement requiring that the treasurer of the municipality shall each year, on or before a date specified by the council, give council a statement relating to the special account (parkland dedication). OHBA recommended section 42 (17) be further amended to include stronger language to further enhance accountability and transparency. The treasurer should not just disclose a financial statement, but also how much money was spent the previous year and articulate the specific projects and land acquisitions financed from the special account. OHBA further recommended this statement be published publicly and linked back to the new municipal parks plans requirement to ensure great municipal transparency and accountability with respect to parkland dedication.
- **Development Charges Act:** The contents of the treasurer's financial statement under section 43 are proposed to be expanded to include additional details on the use of funds as well as a statement as to compliance with new section 59.1. OHBA is supportive of the proposed amendments to enhance transparency and accountability in the development charges system.
- **Development Charges Act:** Newly proposed section 59.1 imposes restrictions on the use of charges related to development, gives the Minister power to investigate whether a municipality has complied with the restrictions and authorizes the Minister to require the municipality to pay the costs of the investigation. OHBA supported this measure to enhance municipal accountability and transparency and ensure compliance with the legislative framework.

## Support for a Strong and Independent OMB

OHBA strongly supports the role of the OMB as the essential impartial, evidence-based, quasi-judicial administrative tribunal that is responsible for handling appeals of land use planning disputes. In this administrative authority the OMB serves to ensure that provincial land use policies and objectives are achieved and is a critical component to ensuring that consistency is applied in the application and of the implementation of the *Planning Act*, the *Provincial Policy Statement*, Provincial Plans and related land use legislation. **The role of the OMB is also to assess and ensure accountability in the local planning decision-making process.**

## Enhancing Accountability Mechanisms in the Municipal Act and City of Toronto Act

We believe that a better balance needs to be struck between the costs assigned to new neighbours and existing home and businesses. Failing to address this imbalance will have an impact on current and future affordability of homes and employment centres and challenge economic growth. It will also exacerbate current frustrations with a decline in transparency and accountability in some areas of the Province.

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## *Municipal Financial Sustainability*

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It is important that municipalities are both fiscally sustainable and fiscally responsible in carrying out their services and investing in capital projects. While the property tax, with \$17.5 billion in revenue across Ontario continues to be the main source of revenue for municipalities, there are many other existing fiscal tools that municipalities utilize such as development charges (\$2 billion collected across Ontario in 2013). Not only are substantial funds being collected through development charges, but they have escalated significantly over the past decade and proposed legislative changes in Bill 73 will allow municipalities to substantially increase charges even further. Municipalities also collect a range of other government imposed charges from the new housing, land development and professional renovation industry. These range from building/planning permit fees as well as cash-in-lieu of parkland fees (and Section 37 density bonusing fees).

OHBA notes that these other revenue sources for municipalities from the new housing and land development industry are significant. The Ministry of Municipal Affairs and Housing has reported that as of December 31, 2013, municipalities had \$794,482,315 in “recreation land (*Planning Act*)” in reserve funds. Furthermore, according to the government’s *Financial Information Return*, municipalities collected over \$220 million in cash-in-lieu of parkland dedication alone in 2013. Furthermore according to the Ministry of Municipal Affairs and Housing, as of December 31, 2013, municipalities across Ontario had \$810,617,130 in *Development Charges Act* discounted services in reserves and \$2,348,343,822 in *Development Charges Act* non-discounted services in reserves. Lastly OHBA notes that municipalities had \$189,416,623 in Building Code Act related fees (for all building types) in reserves as of December 31, 2013.

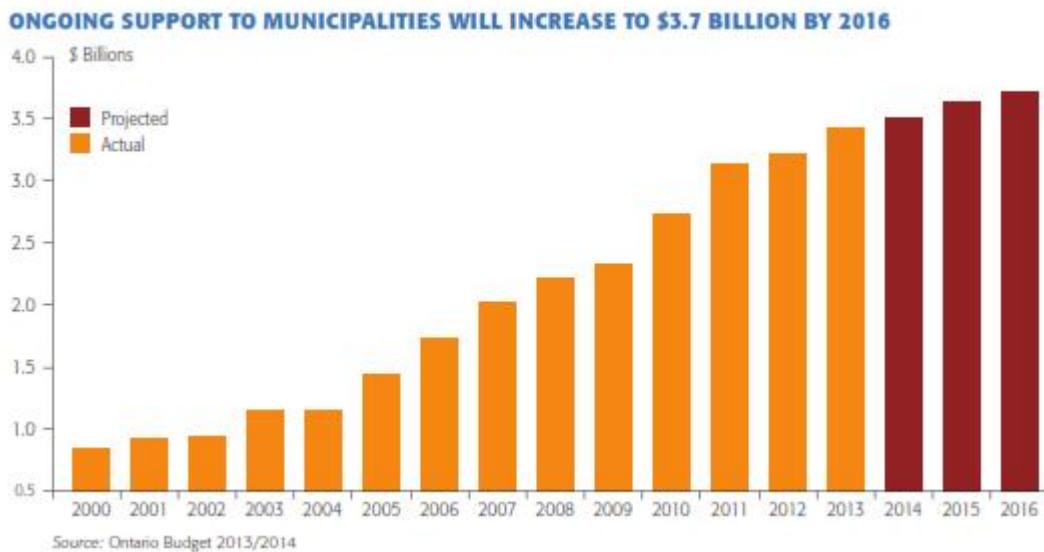


OHBA notes that the Municipal-Fiscal Services Delivery Review has significantly relieved fiscal pressures on municipalities. Furthermore, both the provincial and the federal government have delivered on enhancing municipal gas tax contributions and made them permanent over the past decade, thus vastly improving and creating certainty with respect to municipal fiscal sustainability. OHBA suggests that municipalities are on much stronger fiscal footing today than they have been for decades (if ever).

OHBA is very concerned that despite significant taxes, charges and fees levied on housing and significant improvements to municipal fiscal capacity, there continues to be a strong appetite to levy additional taxes, charges and fees on new neighbours. Escalating government imposed charges on new neighbours are having negative impact on housing affordability and choice. This municipal legislative review cannot result in legislative amendments allowing a municipal land transfer tax and become an opportunity to pile on even more additional taxes onto new home buyers and new employers

### Provincial-Municipal Fiscal and Service Delivery Review

OHBA applauds the steps taken by the provincial government in the *Provincial Municipal Fiscal and Service Delivery Review* over the past decade to relieve financial pressure on municipalities by phasing in a social services upload. These social services were unfairly downloaded onto municipalities across the province and are until recently were fully funded through the property tax base. Furthermore, gas tax contributions from both the provincial (two cents) and federal governments (five cents) have even further relieved fiscal pressure on municipal capital infrastructure budgets. The federate government has also within the last decade implemented a GST rebate for municipalities. OHBA notes that the province is providing municipalities with ongoing support of approximately \$3.5 billion in 2014, which is an increase of 200 per cent from the level provided in 2003.



As the social services upload is completed and gas tax funds continue to be transferred, municipalities *should* have greater fiscal capacity to make investments in core infrastructure. OHBA is

concerned that despite greater fiscal capacity, municipalities continue to increase taxes on new neighbours and apply pressure on the provincial government to grant additional taxation powers.

### **Provincial Leadership in Funding of Infrastructure**

OHBA strongly supports the provincial government's broad \$130 billion ten-year infrastructure plan for Ontario. In particular, our members support the two dedicated transportation infrastructure funds for the GTAH (increased to \$16 billion in the spring budget) and for the rest of Ontario (increased to \$15 billion in the spring budget). In a press release following the 2015 Ontario Budget OHBA President Vince Molinaro publically welcomed the additional transit and transportation investments announced in the budget, which will support the province's investment ready community's initiative and the creation of new housing and employment centres.

The renewed commitment towards infrastructure investment by the province should provide additional relief for municipalities to further enhance their long-term fiscal sustainability.

### **Development Charges**

Development charges are a significant component of the municipal financial picture. OHBA notes that the Ministry of Municipal Affairs and Housing has stated that municipalities have over \$3 billion in development charges reserves as of December 31, 2013. The *Development Charges Act* was reviewed in 2014 and a number of significant amendments have been proposed through the *Smart Growth for our Communities Act*. While development charges are out of scope for the review of municipal legislation, OHBA briefly reiterates that we remain concerned that the *Smart Growth For Our Communities Act* proposes to increase taxation on transit-oriented development and will make complete communities less affordable for new neighbours and new employers. It is critical that the province not undermine its own smart growth planning objectives through a misalignment of tax/fiscal policy, or pile on even more taxes on new housing and/or employment centres through the municipal legislative review.

### **Municipal Asset Management Planning**

OHBA is broadly supportive of measures to establish mechanisms to encourage evidence-based and strategic long-term infrastructure planning that supports job creation, economic growth and the protection of the environment. The recently passed *Infrastructure for Jobs and Prosperity Act* (Bill 6), offers an important function to ensure that the government, and every broader public sector entity (as defined in section 2 of the legislation), must consider a specified list of infrastructure planning principles when making decisions respecting infrastructure. OHBA was supportive of the legislation (Bill 6) and had even recommended that the legislation be strengthened to reflect the importance of asset management plans.

The Ministry of Municipal Affairs and Housing has established a number of technical working groups to provide recommendations with respect to regulations that will implement proposed amendments to the *Development Charges Act* as proposed by the *Smart Growth For Our Communities Act* (Bill 73). Proposed legislative amendments and potential Regulations will result in municipal Development Charges Background Studies having to correlate with municipal asset management plans through life cycle (maintain and replace) costing for infrastructure. It is therefore critical that the province ensure

greater accountability and transparency in the preparation of municipal infrastructure asset management plans. OHBA recommends that additional accountability mechanisms be put in place to ensure asset management plans are prepared with rigour and that there is provincial accountability and oversight as well as a full public engagement process at the municipal level.

### **City of Toronto / Municipal Land Transfer Tax**

OHBA is already concerned that the provincial Land Transfer Tax (LTT) is a growing barrier to housing affordability. We were opposed to granting the City of Toronto additional taxation powers when the *City of Toronto Act* was introduced in 2006 and we are very concerned that the current legislative review will result in new amendments to the *Municipal Act* to permit municipalities to levy a local land transfer tax in communities across Ontario (should those municipalities choose to do so).

Under the *City of Toronto Act*, the Province of Ontario provided Toronto the special planning tools including the powers to implement a Toronto Land Transfer Tax. Toronto implemented the tax on February 1, 2008, and in 2013 collected over \$356 million from this new neighbour tax. The tax is collected and allocated to general revenue and used to fund Toronto's budget with no direct accountability to those home purchasers paying the tax.

OHBA is concerned that a municipal land transfer tax would be inequitable as it forces a small segment of taxpayers to fund municipal services designed to benefit all citizens. For example, in Toronto an average home buyer during the first six months of 2015 paid \$673,661 for a home (MLS) resulting in a total average Land Transfer Tax of \$19,146.44 (\$9,198.22 was on average paid to the City of Toronto). **This is a very significant tax levy.** Research has shown that the municipal LTT reduces a significant amount of consumer spending in the economy.

OHBA notes that Metrolinx carefully examined implementing its own land transfer tax as one of the 25 possible revenue tools to provide funding for the implementation of the *Big Move* transit plan across the GTA in the *Metrolinx: Investing in our Region; Investing in our Future* report. However, the land transfer tax was **not recommended** as one of the four proposed investment tools. In particular, the report noted that a land transfer tax failed to meet one of Metrolinx's key principles for the proposed revenue tools – **fairness**. Furthermore AECOM in association with KPMG analyzed the 25 possible revenue tools for Metrolinx and noted part of the rationale for not recommending that tools was that "the [LTT] is sensitive to the cycles in the housing market, annual revenues could vary from year to year." Lastly, OHBA notes that the Ontario Transit Investment Strategy Panel also did not recommend a land transfer tax as it did not align with several of the core principles set out by the Panel, including: striving for fairness across regions and among income groups and sectors; minimizing economic impacts and distortions; and encouraging less reliance on the automobile.

*"The costs and benefits of the investment strategy should be distributed fairly across all population groups in all parts of the GTA.  
Tools should be selected so that **no one group pays too much** or benefits too little"*  
Metrolinx - 2013

Lastly, OHBA is concerned that a municipal LTT would potentially have a high degree of year-over-year variability due to the cyclical nature of real estate markets. This problem is compounded by the variability that exists between local real estate markets. Predicting how our real estate markets will

perform on a year-over-year basis from municipality-to-municipality is difficult (especially if some have municipal land transfer taxes, while others do not). As such, budgeting for municipal services using revenue from the municipal LTT could result in unpredictable and detrimental budget shortfalls.

A municipal Land Transfer Tax is not the answer to enhance municipal financial sustainability. Regrettably it targets a very small percentage of residents to cover a significant budget revenue source while increasing the cost of housing and slowing an industry that already contributes hundreds of thousands of jobs and billions of tax dollars to the provincial economy. OHBA therefore recommends that the province not permit new municipal taxation powers that could include a municipal land transfer tax.

### **Licenses, Permits and Rents**

The issue of Municipal Licensing is of particular interest to our industry. In 1976, the Ministry of Consumer and Commercial Relations established the HUDAC Warranty Program (renamed ONHWP and then rebranded as the Tarion Warranty Corporation in 2004) to be the licensing and regulatory body overseeing the residential construction industry. The Tarion Warranty Corporation insures the statutory warranty rights of new home buyers and regulates new home builders under the *Ontario New Home Warranties Plan Act*.

Tarion guarantees the statutory warranty rights of new homebuyers and regulates new homebuilders under the *Ontario New Home Warranties Plan Act*. As the regulator of Ontario's new home building industry, Tarion registers new homebuilders and vendors, enrolls new homes for warranty coverage, investigates illegal building practices, resolves warranty disputes between builders/vendors and homeowners, and establishes high quality standards for Ontario's new homes. Tarion also works with the building industry to educate new homebuyers regarding their warranty rights, including how to protect and maintain their warranty. Financed entirely by builder registration renewal and home enrolment fees, Tarion receives no government funding and has overseen warranty protection for well over 1.8 million new homes

Tarion is in the best position to provide the necessary protection to both consumers and builders, and set the standards by which the homebuilding industry must abide. Every builder working in the province of Ontario must, by law, register and enroll the homes they build with the program, and in situations where a builder does not operate up to the imposed standards, the program has the ability to both step in and resolve the issue and to deregister offending companies.

As the Tarion Warranty Corporation is the regulatory body for the residential construction industry, any further licensing by municipalities without corresponding enforcement is merely an additional layer of bureaucracy and taxation for the industry, which ultimately adds to the cost of new homes. Duplication of licensing and registration is unnecessary and costly.

### **Municipal Capital Charge Provisions**

The *Municipal Act* gives municipalities the statutory authority to recover the costs of services, including capital costs, through by-law. Municipalities have used these types of capital charges to recover infrastructure costs associated with the extension of municipal services to private service

users, to recover capital improvement costs from existing developments, and to recover growth-related costs of service extension. These by-laws are typically used where development charges would not be applicable (e.g. recovery from existing developments) or where existing and growth related cost recovery would be simplified under the administration of one by-law.

There are no public process requirements under Part XII for adopting a capital charge by-law (although it is a prudent process recommendation). Part XII charges cannot be appealed to the OMB on the grounds that the fees or charges are unfair or unjust. However they may be challenged in court on the basis that the municipality is not operating within its statutory authority.

OHBA is concerned that some municipalities may be misusing Municipal Capital Charge Provisions in place of Development Charges to avoid specific provisions within the *Development Charges Act*. For example in the City of Kawartha Lakes, the municipality received an Infrastructure Stimulus funding grant for a project and the funds were applied the entirely to the municipal share (benefit to existing) for the project. If the municipality were to implement the project under the DC By-law they would have to share the grant with new neighbours (future allocated growth), by taking the value of the grant off the total amount of the project from the get go, before splitting between growth and benefit to existing. This has not occurred and appears to be a loop-hole to avoid appropriate provisions in the *Development Charges Act* to ensure equity, accountability and transparency.

OHBA recommends that clarity be provided by the province regarding Municipal Capital Charge By-Laws and Development Charges By-Laws to ensure that municipalities are accountable and apply the proper legislation to infrastructure projects. Furthermore, appeal rights for municipal capital charge provisions should be extended to the OMB.

### **Expanding Role For Private Sector Funding of Infrastructure**

OHBA believes that it would be in the public interest to augment the financial tools available for the funding of infrastructure. One of the critical gaps in accessing the abundant private sector funds available for infrastructure is the limitation in Ontario Regulation 599/06 under the *Municipal Act* that does not permit a private lender to retain an equity interest in local infrastructure. Under the proposed Strengthening *Consumer Protection and Electricity System Oversight Act, 2015* (Bill 112), which is currently in Second Reading debate at the Legislative Assembly, it is proposed to amend the *Electricity Act* to allow specifically for this type of ownership to accommodate access to private sector funds and OHBA recommends that the *Municipal Act* should follow and parallel this lead.

It has been the experience of both the private and public sectors that in order to address the needs of private lenders to mitigate against risk and to achieve a secure guaranteed return on investment, additional fiscal and policy tools must be provided. Sufficient protection is in place through various other legislative tools to ensure the delivery of safe infrastructure such that the risk of allowing an equity interest to a private lender is inconsequential. The added tool of allowing for equity interest has been demonstrated to satisfy private lenders and eliminates taxpayer risk and debt.

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## *Responsible and Flexible Municipal Government*

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OHBA is supportive of responsible municipal governance that has some flexibility to address emerging issues within their scope of jurisdiction (i.e. not overlap or duplicate provincial or federal responsibilities).

### **New Building and Construction Standards (Municipal Building Codes)**

Under the *Building Code Act, 1992* and the Ontario Building Code, the province creates and maintains the policies and laws to promote safe, healthy and accessible buildings in Ontario, as well as the requirements respecting conservation and environmental protection. Municipalities are responsible for enforcing the *Building Code Act* and Building Code within their local jurisdictions. OHBA is concerned with the potential for municipal and provincial interests to conflict when municipalities pass by-laws that affect new construction standards. Furthermore, we are concerned with the inconsistency in construction as a result of various municipal by-laws across jurisdictions in Ontario. OHBA recommends that the province maintains its role in developing a uniform new building and construction regulatory system across Ontario.

There is already a well-established multi-stakeholder process and infrastructure in place at the provincial level (Building and Development Branch at the Ministry of Municipal Affairs and Housing) to facilitate the regular review of the Building Code in a fair and balanced manner. Furthermore the Minister of Municipal Affairs and Housing has established *Building Code Conservation Advisory Council (BCCAC)* under directive from the *Green Energy and Economy Act, 2009*, as part of the regular review cycle for the Building Code. With the passing of the *Water Opportunities and Water Conservation Act, 2010*, the BCCAC's mandate was expanded to include water conservation. The function of the BCCAC is to provide strategic advice on the general direction of the Building Code to the Ministry of Municipal Affairs and Housing with respect to energy and water conservation. OHBA strongly recommends the all building code and new construction standards (e.g. City of Toronto's Green Roof By-law) should be subject to this well-established provincial process. Any further building and construction standards mandated by municipalities are merely an additional and unnecessary layer of bureaucracy when an already well established technical process exists.

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## Conclusion

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The Ontario Home Builders' Association shares the province's goals regarding a strong, fiscally sustainable municipal sector that has the appropriate tools to be flexible, responsive and accountable to the people and businesses that they serve. OHBA is however concerned that instead of making communities more affordable for residents, **that taxes continue to be piled on and only serve to undermine the affordability of new communities.** OHBA continues to see governments and government agencies undermine affordability in their drive for short-term revenue instead of supporting long-term community-building objectives by ensuring that we are building homes and employment centres that people can afford.

The current debate on the proposed *Smart Growth For Our Communities Act* continues to be focused on how municipalities can generate more new neighbour taxes (taxes, levies, fees) instead of achieving smart growth objectives. OHBA is concerned that the municipal legislative review will also result in calls for expanded municipal powers to levy municipal land transfer taxes and/or other charges and fees on new neighbours. OHBA continues to advocate for fairness and transparency for new neighbours, and neither Bill 73, nor inclusionary zoning policies or potential new land transfer taxes through amendments to the *Municipal Act*, can result in a further **piling on of taxes on the backs of future renters or home purchasers.** The Government of Ontario has a responsibility to ensure that provincial policy objectives and housing affordability is not further undermined by additional layers of bureaucracy, more taxation and financial burdens on new housing or employment centres.

The residential construction industry is a crucial private sector partner in the delivery of housing that is affordable for people to rent or purchase. OHBA is concerned that this role is becoming increasingly difficult due to barriers in housing supply, approvals process, increased regulations and taxes, fees and charges. OHBA looks forward to continuing to work with the Ontario Government in the review of the municipal legislative framework.