



MEMBER UPDATE

Thursday, April 11, 2024

Bill 185 – Further Housing Initiatives to Deliver More Housing

On April 10, 2024, the Ontario government introduced [Bill 185, the Cutting Red Tape to Build More Homes Act, 2024](#). This legislation, positioned as an omnibus red tape reduction bill, contains the next round of proposed policy changes that form part of the housing supply action plans that the Ford government has committed to releasing on an annual basis.

The policy changes proposed in this legislation have been grouped into four (4) themes:

1. *Building Homes Cheaper and Faster.*
2. *Prioritizing Infrastructure for Ready to go Housing Projects.*
3. *Improved Consultation and Greater Certainty to get Homes Built Faster; and,*
4. *Building more Types of Homes for More People.*

Under the theme of “**Building Homes Cheaper and Faster**”, the government is proposing:

- (i) **The elimination of parking minimums in proximity of higher order transit stations (PMTSA/MTSA).**
- (ii) Consultation on removing zoning barriers to build additional residential units such as laneways, garden suites, and basement apartments, among others.
- (iii) Allowing mass timber construction up to 18 storeys and allowing single-stair egress in small residential buildings to promote higher density via additional OBC changes.
- (iv) Removal of the Community Infrastructure and Housing Accelerator (CHIA) from the *Planning Act* with an updated Minister’s Zoning Order (MZO) framework.

In general, OHBA supports any measure(s) that address increasing the potential for additional housing supply and coupling that objective with reducing time and significant costs to development projects.

The theme of “**Prioritizing Infrastructure for Ready to Go Housing Projects**” focuses on:

- (i) **Enhancing municipal tools through a “Use It or Lose It” framework, such as enhanced lapsing provisions for subdivision and site plan control.**

- (ii) **Authority to create a framework for municipal staff to allocate and reallocate servicing capacity to developments ready to proceed.**
- (iii) Creation of a new “service management” tool to facilitate infrastructure servicing reallocation to make more efficient use of municipal servicing capacity.
- (iv) **Eliminating the mandatory five (5) year development charge (DC) rate phase-in and reinstating studies as an eligible DC capital cost.**
- (v) Amend the provisions for the DC freeze to reduce the timeframe from two (2) years to eighteen (18) months to obtain a building permit and benefit from frozen DC rates.
- (vi) Streamline extensions of existing DC by-laws to enable municipalities to continue levying DCs.
- (vii) Explore new financing and governance models to support the building of critical housing-enabling infrastructure.

OHBA is interested in finding out more details about the “Use it or Lose it” framework in the coming days. Of particular concern is the introduction of another change to the DC regime. The DC phase-in pursuant to Bill 23 was intended to “stabilize costs and make development more predictable up front” by providing greater financial certainty to development projects. However, the “walk back” of this provision will only serve to cause uncertainty and instability (financial and otherwise) to projects that are currently in the sales and marketing stream or projects that were committed to proceeding via the planning approvals phase given attractive pro-forma outcomes.

OHBA and other member HBAs will be in discussions with MMAH staff as quickly as possible to address the impacts of this amendment and determine a campaign to restore stability and cost certainty that was the hallmark of Bill 23.

Another theme being addressed is **“Improved Consultation and Greater Certainty to Get Homes Built Faster.”** Changes include:

- (i) **Restrict third-party appeals for OP and OPAs, and zoning by-laws and amendments to key parties that participated in the process (restriction still applies for Minister-approved OP and OPAs).**
- (ii) **Restore appeal rights for privately initiated settlement area boundary expansion refusals or non-decisions (that are outside the Greenbelt protected lands).**
- (iii) **Repeal Bill 109 fee refund requirements for zoning and site plan applications.**
- (iv) Introduce legislative changes to make pre-application consultation voluntary at the discretion of the applicant.

The restoration of appeal rights for boundary expansions indicates a very necessary and positive step that has been awaited by the industry and will prove valuable in addressing

land supply challenges across Ontario. However, OHBA has serious reservations concerning the implications of restricting the third-party appeal rights “walk-back” coupled with the Bill 109 fee refund regime. OHBA and BILD have already been in contact with MMAH staff to secure meetings for more fulsome reasoning and explanation of the amendments.

Finally, “**Building More Types of Homes for More People**” introduces legislative and policy changes that include:

- (i) **Release of the updated draft Provincial Planning Statement for another 30-day consultation, with updated policy areas that focus on housing outcomes related to the availability of land for residential development, increasing density and intensification around transit and along corridors, and facilitating redevelopment of underutilized plazas and strip malls.**
- (ii) **Move forward with the removal of upper-tier planning from seven municipalities, starting with York, Peel, and Halton by July 1, 2024.**
- (iii) **Consult on types of instruments like surety bonds that community builders could use to secure obligations for municipal conditions of planning approvals.**
- (iv) Exempting publicly assisted universities from the *Planning Act* and the *City of Toronto Act* to accelerate the building of new student housing units.
- (v) Exempting standardized housing designs from certain sections of the *Planning Act* and development of standardized designs for modular construction.
- (vi) Bring DC exemptions and discounts for affordable residential units into force on June 1, 2024, with a bulletin on Ontario.ca.

Under this theme, we are encouraged to see that the *Provincial Planning Statement* (formerly called the Provincial Policy Statement) has remained relatively unchanged from its previous introduction and proposes a renewed focus on intensification, density and height around transit to support increasing land supply and housing choices. These updated policy areas are welcome additions.

Coupled with other positive measures such as settlement area boundary expansions of any size and redefining employment areas so more mixed-use development is possible, these changes are encouraging and positive steps. OHBA will strongly encourage the government to have the new PPS come into effect as expeditiously as possible once consultation is complete. **Members are encouraged to review the [draft Provincial Planning Statement, 2024](#) and submit consultation feedback to ERO No. 019-8462 (linked at the end), the Review of Proposed Policies for a new Provincial Planning Policy Instrument.**

We understand that four (4) additional municipalities, Simcoe, Durham, Niagara, and Waterloo, will ultimately no longer have upper-tier planning authority as well and we await the timing of those effective dates.

OHBA will also accelerate its efforts to make the government move faster with regulations to enact “pay-on-demand surety bonds,” allowing developers/builders the choice of using either letters of credit (LC) or pay-on-demand surety bonds as a financially guaranteed instrument with the municipality against public works.

The government has also introduced a new structured framework and process for requesting and deciding on MZOs. This framework will include criteria that demonstrate how the MZO either delivers on a provincial priority supported by a minister or is supported by a municipal council by council resolution or from a mayor with strong mayor powers. The framework also requires justification for why the normal municipal process cannot be used, as well as a description of all Indigenous engagement and public consultation undertaken. Previous requests for a Community Infrastructure and Housing Accelerator (CIHA) tool are being proposed for consideration as MZOs going forward, as that tool is being eliminated.

The new MZO framework is not a legislative change as part of Bill 185, but in a document released online: [Zoning Order Framework](#).

Overall, Bill 185 makes some promising steps forward. But the housing supply and affordability crisis in the province will require additional decisive and bold measures to crush the crisis. OHBA will stress the need to honour the commitment to annual Housing Supply Action Plans to bring the crisis under control in addition to addressing the concerns previously noted in this briefing.

OHBA will be working with BILD to continue our engagement with the Minister’s office, Ministry officials, and the Premier’s office on the many items that require changes. OHBA and BILD have already met with the Minister’s office this morning to voice our concern over many of the items proposed, such as **limiting third-party appeals, the proposed changes to the DC framework, elements related to Bill 109 fee refund reforms and the proposed Use it or Lose It initiative, amongst others**. Another meeting with Ministry officials is scheduled for this afternoon, and we will be scheduling additional meetings with the province as we progress through the consultation period to address our concerns and offer practical and pragmatic solutions. The industry’s focus will remain on certainty and predictability in the land use planning system to deliver more supply, faster approvals, and housing affordability.

Furthermore, we are in the planning stages of hosting an OHBA member webinar with experts who will offer perspectives on Bill 185's highlights and a critical analysis of how to navigate these amendments in managing members' development and planning approvals. Our HBA partner, BILD, will assist in coordinating this effort. Stay tuned for a save the date and event details in the coming days.

Finally, we encourage members to reach out to their respective HBAs to discuss any concerns or questions regarding Bill 185 that OHBA should advocate for or address in conversations with MMAH in the upcoming days.

Formal public input for yesterday's proposals is being sought by way of the Environmental Registry of Ontario for a 30-day period, with a commenting deadline of **May 10th**. A link to those numerous postings can be found below.

We strongly encourage our HBA network and members to provide their own feedback on each of the postings and to provide comments as soon as possible to ceo@ohba.ca

We will be working with all local associations to make formal industry submissions. OHBA will of course prepare an ERO submission with the advice and assistance of our BDC Land Committee.

Please see the attached link: "[Ontario government announces proposed amendments to Planning Act and Development Charges Act](#)," for an additional detailed overview of the Bill, which includes links to red-lined versions of the Planning Act and Development Charges Act. OHBA acknowledges and greatly appreciates Chris Barnett, Evan Barz and Osler, Hoskin and Harcourt LLP for undertaking this effort to prepare these.

LINKS TO ENVIRONMENTAL REGISTRY OF ONTARIO POSTINGS FOR PUBLIC COMMENT:

[ERO 019-8462 Review of proposed policies for a new provincial planning policy instrument \(May 10\)](#)

[ERO 019-8371 Changes to the Development Charges Act, 1997 to Enhance Municipalities' Ability to Invest in Housing-Enabling Infrastructure \(May 10\)](#)

[ERO 019-8370 Proposed Changes to Regulations under the Planning Act and Development Charges Act, 1997 Relating to the Bill 185, Cutting Red Tape to Build More Homes Act, 2024 \(Bill 185\): Newspaper Notice Requirements and Consequential Housekeeping Changes \(May 10\)](#)

[ERO 019-8369 Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 Changes \(May 10\)](#)

[ERO 019-8368 Proposed Amendments to Ontario Regulation 73/23: Municipal Planning Data Reporting \(May 10\)](#)

[ERO 019-8366 Proposed Regulatory Changes under the Planning Act Relating to the Cutting Red Tape to Build More Homes Act, 2024 \(Bill 185\): Removing Barriers for Additional Residential Units \(May 10\)](#)