



Ontario
Home Builders'
Association

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Ministry of Municipal Affairs and Housing

777 Bay St. Toronto ON

Comments submitted by email to: PlanningConsultation@ontario.ca

ERO Number: 019-6197

RE: Proposed Changes to Ontario Regulation 299/19: Additional Residential Units

The Ontario Home Builders' Association (OHBA)

The Ontario Home Builders' Association (OHBA) is the voice of the residential construction industry in Ontario. OHBA represents over 4,000 members including builders, developers, professional renovators, trade contractors and many others within the residential construction sector.

The OHBA is coordinating our public policy response with regards to Bill 23, the *More Homes Built Faster Act, 2022* with input from members across Ontario. OHBA is proudly affiliated with the Building Industry and Land Development Association (BILD), the West End Home Builders' Association (OHBA) and the Greater Ottawa Home Builders' Association (GOHBA).

Industry Support to End Exclusionary Zoning

OHBA with the support of 27 local associations including BILD, GOHBA and WEHBA have provided the current and previous governments with years of recommendations to modernize local zoning ordinances for a more permissive framework and to put an end to exclusionary zoning through many submissions, deputations, research, and advocacy.

To put it bluntly, there is no such thing as "stable neighbourhood". Within many older neighbourhoods in communities across Ontario they are shrinking in population as residents age and their children move out. The fact is our communities and neighbourhoods are constantly evolving. Introducing small-scale housing options in these established neighbourhoods would keep the population stable, and provide the customers needed for local businesses to thrive. Allowing more small-scale housing units in established neighbourhoods would increase the supply of housing in location-efficient neighbourhoods. We have solutions available to create more small-scale affordable housing, but those housing options can't be built under current zoning rules in many neighbourhoods.

OHBA therefore strongly endorses bold action to end exclusionary municipal zoning practices. Exclusionary zoning policies make it virtually impossible to build the “missing middle” types of housing that we need in communities across Ontario to help house the significant population growth expected in the coming decades. Duplexes, triplexes, laneway, garden suites and quadplexes are a key but often absent piece of the puzzle to solving the housing crisis. Put simply, single family zoning limits the ability to create gentle density in neighbourhoods, and in our experience many municipalities have been doubling down on restricting intensification development with existing neighbourhoods rather than encouraging it.

The OHBA strongly supports the *Housing Affordability Task Force* (HATF) recommendations #3 - #5. The HATF stated that “Too much land inside cities is tied up by outdated rules” and that, “As-of-right zoning allows more kinds of housing that are accessible to more kinds of people. It makes neighbourhoods stronger, richer, and fairer. And it will get more housing built in existing neighbourhoods more quickly than any other measure.” For the purposes of this submission, OHBA would like to highlight a few key recommendations of the HATF:

- 3.** Limit exclusionary zoning in municipalities through binding provincial action:
 - a) Allow “as of right” residential housing up to four units and up to four storeys on a single residential lot.
 - b) Modernize the Building Code and other policies to remove any barriers to affordable construction and to ensure meaningful implementation (e.g., allow single-staircase construction for up to four storeys, allow single egress, etc.).
- 4.** Permit “as of right” conversion of underutilized or redundant commercial properties to residential or mixed residential and commercial use.
- 5.** Permit “as of right” secondary suites, garden suites, and laneway houses province wide.

General Comments

OHBA is strongly supportive of the bold approach the government has taken with the *More Homes Built Faster Act*. OHBA is generally supportive of Schedule 9 of the Bill which proposes amendments to the *Planning Act* to support gentle intensification in existing residential areas. More specifically we support provincial intervention in local municipal planning frameworks to accelerate the implementation of an updated “additional residential unit” framework. We are supportive of proposed changes to allow, “as-of-right” (without the need to apply for a rezoning) up to 3 units per lot in many existing residential areas (i.e., up to 3 units allowed in the primary building, or up to 2 units allowed in the primary building and 1 unit allowed in an ancillary building such as a garage).

OHBA however recommends given the severity of the housing crisis and the fact that some municipalities such as Toronto and Hamilton have already implemented local policies to allow for gentle density, that there is an opportunity for the province to be bolder. We support and recommend the HATF “4 and 4” approach. Allow as-of-right 4-stories and allow as-of-right 4 units. Some municipalities are already at 4-units, and we strongly believe there is both opportunity and an appetite to take an additional step to allow an additional unit (four units total) and four floors.

OHBA supports amendments to the *Planning Act* that will supersede local official plans and zoning to automatically apply province-wide to any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services (excepting for legal non-conforming uses such as existing houses on hazard lands). However, “Full” municipal water and sewage services needs to be clarified to not include stormwater, only drinking water and wastewater. Provincial intervention is both warranted and required. The unfortunate reality of the housing crisis is that for the most part, hyper local political considerations are more important to many councillors than serving the broader public interest when it comes to housing policy.

OHBA is supportive of the provincial plan to remove barriers and incent these types of units by prohibiting municipalities from imposing development charges, parkland dedication or cash-in-lieu requirements. These prohibitions have been proposed through a separate ERO 019-6172 notice that we will also be responding to (*Proposed Planning Act and Development Charges Act Changes: Providing Greater Cost Certainty for Municipal Development-related Charges*). Lastly, OHBA is also supportive of the proposal to prohibiting municipalities for applying minimum unit sizes.

OHBA does however have concerns with the parking ratio of up to one parking space per unit. OHBA would in fact very strongly recommend a further amendment to completely eliminate parking requirements from being imposed. However, at an absolute minimum the province should recognize that demanding up to three units and therefore three parking spaces on a typical residential lot in many Ontario communities will make most conversions unviable and works against most municipality’s desire to utilize public transit. Municipalities should only be allowed to require up to one parking spot for the primary unit.

Technical Recommendations – Additional Residential Units - O Reg 299/19

As a result of these proposed legislative changes, consequential amendments to Ontario Regulation 299/19: Additional Residential Units (O. Reg. 299/19) are also being proposed. We are concerned that there are several potential loopholes in the proposals that municipalities will abuse to unreasonably restrict conversions, thereby severely limiting the ability to increase intensification in existing neighbourhoods and work against the government’s efforts. In fact, we have seen many of these tactics in use already. These loopholes include:

- Not allowing reasonable additions as-of-right to the existing structure in order to facilitate transition to a duplex or triplex (like a second kitchen or separate entranceway);
- “Full” municipal water and sewage services needs to be clarified to not include stormwater, only drinking water and wastewater. For example, the City of Ottawa, through its Infrastructure Master Plan, is proposing to require that all new infill development manage stormwater on-site, because it does not know if / does not believe it has the capacity to take on additional stormwater from intensification units.
- Municipalities should only be allowed to require up to one parking spot for the primary unit.
- Municipalities should not be able to use unreasonable size or bedroom restrictions to limit uptake of ADU’s. For Example, the City of Hamilton has imposed a 2-bedroom limit and a size restriction to any laneway or garden suites constructed. In particular this goes against other municipal policies in development that seek to add more 3-bedroom units to a municipalities overall housing stock.

- Furthermore, size restrictions and setback requirements implemented by bylaw at the municipal level have been identified as a challenge. Size restrictions in Hamilton present a barrier to the construction of accessible units as well as building to higher standards of energy efficiency. Setback requirements also often preclude the addition of more units to a lot in an ancillary building.

Industry Support for a More Aggressive Approach to “Gentle Density”

Jurisdictions right here in Ontario, including Toronto and Hamilton have taken small steps towards eliminating exclusionary zoning (albeit, not bold enough – but it is a start). While we very strongly support the proposed actions from the provincial government in ERO 019-6197 and O.Reg 299/19 – we believe there is an opportunity and appetite to be bolder. We therefore recommend that the Ministry of Municipal Affairs amend the proposed regulation to adopt the *Housing Affordability Task Force* Recommendation #3a:

- 3. Limit exclusionary zoning in municipalities through binding provincial action:**
 - a) Allow “as of right” residential housing up to four units and up to four storeys on a single residential lot.

We are pleased to see that duplexes and triplexes will be permitted through conversion and additions; however, we are disappointed that new-build duplexes and triplexes will not be permitted through the construction of new buildings. OHBA recommends the provincial government not take a tentative approach with interim steps, but rather take a bolder approach and allow for new construction in addition to conversions and renovations as soon as possible. Ontario has a significant portion of aging existing buildings that will reach the end of their lifespan. Limiting the construction of more units to the adaptive re-use of existing structures is a missed opportunity to further the goals of both residential intensification, energy efficiency, and accessibility upgrades.

Conclusion

The Provincial Government has a duty to protect the public interest. Now is the time for bold action across Ontario. Southern Ontario is Canada’s primary economic engine and is the fastest growing region in North America. It is critical that there is a holistic provincial planning framework to provide a broad, long-term, and comprehensive plan that promotes prosperity, employment growth and an appropriate supply of housing. Through the changes in the Growth Plan (2019 and 2020), the Housing Supply Action Plans 1.0 and 2.0 and now Bill 23 and the Housing Supply Action Plan 3.0, the current Provincial Government has moved to restore balance in housing choice and permit the ability to provide housing that meets the aspirations of Ontario families, while balancing the need to continue to urbanize and achieve transit-oriented communities. After a decade and a half of policies that produced the current housing supply crisis, it will take time and a determined continued effort to turn things around.

The OHBA strongly believes that a healthy housing system only exists when all levels of government work together with the private sector to ensure the right mix of housing choices and supply that provide all residents' shelter needs through their full life cycle. A properly functioning housing system should provide stability to both renters and owners, at prices people can afford and in the choice that meets their needs. The housing system must also be able to respond to meet projected demographic and market requirements for current and future residents.