

Bill 185 – *Cutting Red Tape to Build More Homes Act* and Responses to Various ERO and Regulatory Registry Postings

AMO'S SUBMISSIONS TO THE MINISTRIES OF MUNICIPAL AFFAIRS AND
HOUSING, AND ENERGY

Regulatory Registry 24-MMAH006
Regulatory Registry 24-MMAH010
ERO 019-8369
ERO 019-8462
ERO 019-8370
ERO 019-8368
ERO 019-8527

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Executive Summary

AMO appreciates the opportunity to comment on the proposed Bill 185, *Cutting Red Tape to Build More Homes Act* and red tape reduction and housing supply measures put forward along with the bill. This submission includes comments on the proposed legislation and Environmental Registry (ERO) postings associated with the Bill.

AMO recognizes that the changes proposed under Bill 185 and the associated ERO postings are the result of a renewed approach to collaboration between the province and municipalities. The proposed changes make progress in walking back elements of Bill 23 that significantly undermined municipalities' ability to support housing. They do not, however, replace the need for a comprehensive conversation to update the provincial-municipal fiscal framework to support sustainability, affordability, and economic prosperity.

Municipalities support changes that streamline land use planning so long as the need to support growth and build 1.5 million homes is balanced with the need to ensure that good planning processes remain in place. Bill 185 is the next of a series of legislative changes through which the province has created a generational shift in planning which seems to place the onus directly on municipal governments to build housing faster. At the same time, many of the key tools that municipalities had to recover costs associated with growth and responsibly manage livability and environmental considerations have been removed.

AMO is increasingly concerned about the cumulative impact of continued land use planning changes. The impact of these changes will be the opposite of what the province intends - slowing planning approvals and making them more costly for the sector. These impacts have been documented by many municipal governments and environmental groups through individual submissions. AMO encourages the government to review these submissions carefully.

Bill 185, *Cutting Red Tape to Build More Homes Act*

Development Charges (Regulatory Registry 24-MMAH006)

Across Ontario, municipalities are planning for capital expenditures of over \$250 billion over the next 10 years, with around \$100 billion of that related to growth. Bill 23

significantly undercut municipalities' ability to fund and finance the infrastructure needed to support housing supply, which created an estimated \$10 billion loss in municipal revenue over 10 years. In response to municipal submissions highlighting the impact of these changes, this government committed to "make municipalities whole" in November 2023.

Bill 185 takes significant steps towards restoring municipalities' ability to fund growth-related infrastructure by:

1. Repealing the mandatory five-year phase-in of new DC rates; and
2. Restoring studies as eligible DC expenses.

To enable municipalities to keep pace with growth infrastructure needs and to help address the growing homelessness crisis across the province, AMO calls on the government to:

- Reinstating the cost of land as an eligible DC expense. Purchasing land on which to build infrastructure like new water treatment plants, water towers, transit hubs and police stations is a key cost driver of municipal infrastructure. Barring municipalities from being able to recover these costs from developers will cost property taxpayers \$1.9 billion over 10 years.
- Reinstating the cost of housing services as an eligible DC expense. Capital to repair and build more community housing and emergency shelters is needed Ontario-wide. This measure removed \$2 billion from municipal housing services, impacting an estimated 47,000 units.

Neither Bill 185 nor any of the government's many other pieces of housing legislation since 2022 adequately address the challenge of the extreme lack of deeply affordable housing in Ontario. Community housing waitlists top 200,000 individuals in Ontario. An estimated 140,000 new units of community housing are needed in this province just to approach the OECD average.¹ While the National Housing Strategy was supposed to provide a way forward, a lack of federal and provincial alignment are putting at risk more than \$350 million a year in funding for rent supplements and community housing capital. There is an urgent need for federal, provincial and municipal governments to come together to fundamentally re-think the way that community housing is funded in Ontario.

¹ Canada Housing and Renewal Association, "The Impact of Community Housing on Productivity."

Minister’s Zoning Orders (Regulatory Registry 24-MMAH010)

The proliferation of MZO’s under the previous Minister of Municipal Affairs and Housing undermined local decision-making and created challenges for infrastructure planning and funding. The government’s new framework requiring those requesting an MZO to provide timelines for downstream approvals, project completion, and demonstrate how infrastructure servicing will be addressed for a project is an important step forward. Going further and enshrining in legislation the need to use MZO’s only in collaboration with municipalities and in situations of extraordinary urgency would strengthen protections against MZO’s that undermine municipal decision-making, planning, and growth financing.

“Use it or Lose it” (Regulatory Registry 24-MMAH010)

We are pleased to see the introduction of these provisions recognize the need to hold developers accountable for the building of houses and that municipalities alone do not control the levers of housing supply. Enabling municipalities to reallocate servicing capacity from those developers who do not pull building permits within a reasonable amount of time will help municipalities make better use of the infrastructure that is already in place and incent developers to move forward with housing.

***Proposed Planning Act, City of Toronto Act, and Municipal Act* Changes from the proposed Bill 185 (ERO 019-8369, Regulatory Registry 24-MMAH010)**

In general, AMO is supportive of changes to the *Planning Act, City of Toronto Act, and Municipal Act* intended to improve the land-use planning process so long as the right pre-conditions are in place to ensure that municipalities are positioned for success. This would include fair funding, shared and fair accountability for planning and development outcomes, and the prioritization of non-market housing growth. In our comments below, our feedback is intended to help ensure that the proposed changes are practical, increase housing supply and affordability, and serve the public interest.

Third Party Appeals

AMO supports proposals to limit appeals to enhance planning certainty and Ontario Land Tribunal effectiveness. Public and agency feedback during the initial approval process can ensure informed planning decisions are made, avoiding the inefficiency of later appeals. Maximizing local planning decisions by municipal planners instead of a province-wide body makes good sense.

Fee Refund Provisions

AMO strongly supports removing application fee refund provisions to reflect that *all* development partners – including provincial ministries and agencies and developers – have a collective impact on the amount of time it takes to finalize planning approvals. Many municipalities and developers have highlighted the disconnect between fee refund requirements and the realities of the planning process on the ground and called for the repeal of this provision.

Facilitating Standardized Housing Designs

AMO is supportive, in principle, of a standardized housing catalogue that would help reduce barriers to approval and speed up construction. However, significant questions remain about the scope of this catalogue and how it would be implemented. In particular, it is important that any provincial standardized housing initiative aligns with the coming federal Standardized Housing Design Catalogue to avoid duplication of effort or conflicting requirements. This is critical as proposed federal Canada Housing Infrastructure Fund terms requires provinces and territories to allow "as-of-right" construction of buildings from the federal government's national Housing Design Catalogue.

Upper-Tier Planning Responsibilities

As we have explained in previous submissions, AMO does not support eliminating regional Official Plans and planning responsibilities. In a rapid growth environment, the lack of a way to coordinate planning approvals and infrastructure creates a significant risk of either under-servicing or over-building and an over-burdening of the property tax base.

Exempt Public Universities from the *Planning Act* and Expedite Approvals for Community Service Facilities

Municipalities are in principle supportive of expedited approvals for schools, community service facilities and student housing. The ability to provide schools, health and long-term care facilities, and a range of housing is essential to building complete communities that are attractive and can support Ontarians of all walks of life.

Although the province has expressed that the proposed exemption of universities from the *Planning Act* is intended for student housing, we are concerned that the proposed legislation grants a full exemption from the Act with no language to scope this exemption to the specific types of construction desired. This would seemingly allow the affected parties to build anything, anywhere, without planning oversight or coordination. We would encourage the government to consider scoping the exemptions to better reflect the types of projects needed to grow housing and complete communities rather than providing a blanket planning exemption.

If passed, we recommend the province provide implementation supports to ensure proper coordination with municipalities on servicing capacity and siting considerations (e.g. to avoid building in floodplains, etc.).

Proposed policies for a new provincial planning policy instrument (ERO 019-8462)

We note that AMO are not technical experts in land-use planning. The province will however receive submissions from technical experts from municipalities, planners' associations, and other relevant parties. We encourage the province to consider these expert opinions to ensure clarity and avoid unintended consequences.

Infrastructure and Planning Coordination

In AMO's previous submission on a combined Provincial Policy Statement and A Place to Grow, we raised concerns about the impact of proposed changes on infrastructure planning to support orderly, and fiscally responsible planning and phasing of growth. We are pleased to see encouragement for municipalities to establish infrastructure phasing policies around designated growth areas to ensure that development aligns with the provision of infrastructure. It will be important to ensure that Ministry of Finance population and employment growth projections are detailed and localized enough to

support effective infrastructure planning, particularly where infrastructure crosses municipal boundaries.

Agricultural Lot Severances and Land Protection

In AMO's previous submissions, we raised concerns about increased fragmentation of agricultural and rural lands through additional severances. We commented that although the use of Additional Residential Units (ARUs) as of right makes sense, implementing them on farm lots needs to be done with caution to avoid potential issues related to infrastructure servicing. We have also previously expressed concerns about the impact of settlement boundary expansions in rural areas.

AMO is pleased to see that the revised draft PPS does not include the proposed policies that would have permitted lot creation in prime agricultural areas through additional severances. However, undefined terms such as "farm consolidation" and broad definitions such as "agricultural-related uses" leave considerable ambiguity around what uses may be permitted a severance. It is difficult to assess the effectiveness of only allowing one severance per "farm consolidation" unless that term is clearly defined. Clearer definition of provincial intent through the PPS or interpretive guidance documents will be important to help municipalities implement the revised PPS in a way that meets the desired outcomes.

Intensification, Affordability and Complete Communities

In AMO's previous submissions, we encouraged the province to provide consideration and flexibility for the differing challenges experienced in urban, rural and northern municipalities related to intensification and to support the development of complete communities with a range of housing options. We are pleased to see continued encouragement for municipalities to establish and implement intensification targets, particularly around transit corridors.

AMO also previously called on the government to ensure that the PPS encourages continued progress towards targets for affordable and rental housing creation. We are pleased to see the requirement for municipalities to set local targets for affordable housing based on the reinstated definitions for affordable, and low- and moderate-income households. We also support encouraging a mix of housing options and affordable housing in designated growth areas.

Employment Lands

In AMO's previous submissions, we noted the proposed definition provides for a smaller number of uses that would make it difficult to create communities with a mix of residential and employment uses. In urban areas, this type of mixed-use development often sees the inclusion of retail and office alongside high density housing. In rural areas, these mixed-uses appear as main streets and retail plazas. These types of development are excluded from the new definition of "employment area". We continue to call for the definition to ensure that municipalities can continue to treat these mixed-use areas as employment land.

Environmental Concerns

AMO remains concerned about downgrading environmental risks by preventing municipalities from entering into agreements with Conservation Authorities to provide technical advice on development proposals. This requires municipalities to take on responsibility for safeguarding environmentally sensitive lands including farmland and protecting people and property from natural hazards without Conservation Authority's technical expertise and science. The ability for the Minister to override Conservation Authorities' decisions flood hazards proposed in regulation compounds these risks. With the diminished role of Conservation Authorities and updates to the Ontario Wetland Evaluation System, it will be critical to ensure appropriate resources to support municipalities in managing environmental protections under the PPS, including additional provincial resources as well as transition funding for municipalities.

Indigenous Relations

The PPS continues to be vague on Indigenous consultation and consent despite First Nations' calls to more explicitly incorporate United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) provisions for free, prior and informed consent into land-use planning and development processes. Detailed guidance is required to support a shared understanding of obligations and best practices to underpin strong Indigenous-municipal relationships.

Changes Related to Newspaper Notice Requirements (ERO 019-8370)

AMO is pleased to see changes that respond to municipal concerns about statutory requirements for certain land-use planning notices, and the proposal or passage of development charge by-laws. The proposed change is to allow municipalities to publish notice on municipal websites where no local newspaper is available.

As we see a decrease in local media, AMO believes that municipalities are in the best position to decide when notice is required, and how to communicate notices with their citizens. It will be important to ensure that alternative notice options are available, noting that digital-first options may exclude residents who do not have access to reliable, affordable internet, or who are otherwise unable to access internet services. While uncommon, it is important to note that not all municipalities have websites and may use other sources, such as community newsletters, to share important information when required.

AMO also encourages the Ministry of Municipal Affairs and Housing to engage with other ministries – including the Ministry of the Attorney General – to coordinate any changes to other public notice provisions for municipalities to ensure that residents maintain access to important information. Civic engagement may be impacted if residents are sent to different sources of information for different purposes.

Changes to Municipal Planning Data Reporting (ERO 019-8368)

Municipalities support increased transparency and consistency in data collected. It is however, unclear how the housing data proposed to be collected would be used.

Municipalities have expressed interest in metrics to show how all housing partners are contributing to performance on delivering new homes. This could include reporting on when developers submit complete applications after a pre-consultation meeting, when different provincial agencies complete their approvals; and when a developer pulls a building permit after the municipality approved the planning application. A broader approach could help better understand how projects move through different levels of municipal and provincial approvals, and how delays after approvals influence the rate of development and construction starts.

AMO would also encourage the province to ensure that the proposed changes to planning data reporting align with other data initiatives such as the collection of housing data, and the Data Standards for Development and Planning Applications being developed by the Ministry of Municipal Affairs and Housing, and the Ministry of Public and Business Service Delivery.

The province should also track and report its own approval metrics to identify approval delays and inconsistencies to identify opportunities to streamline provincial approvals as part of delivering on housing and development.

Changes to modernize leave-to-construct approvals for pipeline relocation or reconstruction projects (ERO 019-8527)

We understand that the proposed regulation would exempt hydrocarbon pipeline relocation and reconstruction projects from seeking leave-to-construct in more circumstances. AMO welcomes measures to simplify reconstruction and relocations, particularly where they are minor in nature and facilitate transit and housing initiatives. We strongly support retaining requirements around Duty to Consult to balance streamlined approvals with the importance of engagement with Indigenous communities.

Conclusion

In addition to the items outlined in this submission, AMO notes that the cumulative impact of repeated changes to the planning rules detracts from the capacity of municipalities' focus on approving development applications. Each change requires municipal staff to shift their focus to reviewing and implementing new changes or responding to provincial consultation. The rapidly-changing environment also creates more red tape for approvals; creating a patchwork of different legislative and regulatory requirements for developments depending on when an application is submitted.

Bill 185 addresses some critical issues with Bill 23 regarding development charges, but further action is needed. While reinstating the 5-year phase-in and studies as eligible expenses are positive, restoring housing services and land costs as eligible for development charges are crucial actions to ensure that municipalities can manage growth and infrastructure needs.

Affordable housing remains a significant concern. AMO urges the government to reinstate housing services as an eligible development charge cost to support building critically needed community housing units. This, along with addressing the federal funding shortfall, is essential to address the housing affordability crisis.

While streamlining land-use planning is desirable, it must be balanced with environmental protection. Bill 23's weakening of Conservation Authorities and the lack of clarity on Indigenous consultation create significant risks and require government action.

Ultimately, a successful path forward requires a comprehensive approach that addresses infrastructure funding, affordable housing needs, environmental protection, and clear roles and responsibilities for all partners involved in building Ontario's future.