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April 19, 2024

Honourable Paul Calandra  
Minister of Municipal Affairs and Housing  
37 Sandiford Drive, Suite 400  
Stouffville, ON  
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**RE: ERO #019-8369 - PROPOSED CHANGES TO THE PLANNING ACT**

Minister Calandra:

Through Bill 185, the Province has proposed a package of legislative changes to the Planning Act, some of which will be of great help in advancing important housing projects across the province. However, there are many changes proposed which will significantly hamper the ability to bring housing to market and stifle economic investment in our communities.

This letter will include headings with discussion on two topics: removal of third party appeal rights specifically as it relates to municipally initiated applications, and the proposed introduction of a "use it or lost it" development approvals system in Ontario.

We believe that the decisions to forbid third party appeals of municipally initiated official plan and zoning applications, along with the "use it or lose it" concept as currently proposed, will eventually be seen in the same light as the to-be-scrapped fee refund provisions are today. Instead of facilitating and incentivizing development, they will become roadblocks which negatively affect the delivery of housing.

***Third Party Appeals of Municipally Initiated OPAs and ZBAs***

Bill 185 proposes to remove general third party appeal rights in the same manner which was proposed and subsequently removed from Bill 23. We are very concerned that the Province is choosing to move ahead with this policy. Municipalities frequently propose problematic mapping or policy language without the required work to support such a decision and which, if put into force and effect, can have serious negative consequences for development potential of privately owned lands.

Appeals have become the venue for meaningful discussions with municipalities, often leading to settlement discussions and decisions which allow development to proceed. Without the appeal mechanism, municipalities can act unilaterally without due regard for impacts to land and landowners. The likely result of this policy, if enacted, will be the proliferation of private applications to reverse or change recent municipal decisions. These applications will require significant staff resources which should instead be allocated to approvals of development applications. The monetary and time costs associated with this type of approval environment will negatively impact development of housing in Ontario.

***Use It or Lose It Policies***

If the Province chooses to proceed with this direction to introduce “use it or lose it” policies, we would propose some revised wording and adjustments to minimum timeframes to ensure that housing development isn’t crippled by these new directives.

1. Adjust the minimum time prior to a lapsing of draft plan approval or removal of servicing allocation to occur after a minimum 5 year period rather than a 3 year period
2. Retain language in the Planning Act that a draft approval of a plan of subdivision may lapse, rather than requiring that it lapse
3. Introduce language which has the effect of freezing the draft approval in time so as not to require updates related to new municipal standards or design requirements when pursuing an extension with a municipality
4. Restrict the “lose it” concept to servicing allocation only, do not repeal planning approvals which have been achieved through the site plan approval process
5. Do not apply mandatory lapsing provisions to approved draft plans of subdivision which do not include residential components (i.e. industrial subdivisions)

Housing development is a long process with significant capital requirements and requires the carrying of costs to achieve approvals and building permits. While we acknowledge that the option for municipalities to introducing lapsing provisions to site plan agreements is not mandatory as is proposed to apply to plans of subdivision, we do not agree that making either modification to the Planning Act will accelerate housing construction in Ontario.

Further, we are strongly opposed to the retroactive application of lapsing provisions to plans of subdivisions which do not include residential development. If the Province chooses to proceed with changes to draft approvals which have occurred more than 20 years ago, we request that the Province exclude industrial subdivisions from this clause.

### ***Summary of Concerns***

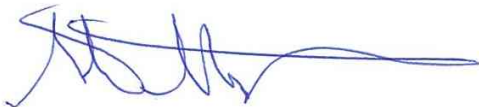
Bill 185 introduces many changes to the Planning Act, the Development Charges Act, the Municipal Act and more. Unfortunately, alongside a proposed Provincial Planning Statement which has significantly reversed direction on proposed tools to expand housing supply and accelerate development, some of the changes in Bill 185 will have the result of slowing down development applications and punishing developers for circumstances outside their control.

The proposed restriction on appeals of municipally initiated official plan and zoning by-law amendments will create a retaliatory application cycle whereby developers need to file subsequent applications to correct decisions which were made by municipalities without any avenue for recourse aside from a subsequent private application. This will cost time and money for all sides, meaning more expensive projects with housing being delivered to Ontarians more slowly.

If the Province feels that “use it or lose it” policies need to be included in the Planning Act, we recommend that they should be revised as we have outlined in this letter. Removal of planning approvals is too significant a step to take and will lead to fewer applications being filed until the market is “just right”, reducing the pipeline of projects which can be triggered as market conditions warrant. Retroactive changes to long standing approvals which do not bring housing supply to market should be removed from the proposal, with industrial draft plans of subdivision exempted from the proposed retroactive lapsing provision.

Should you wish to discuss any of the content of this letter, please reach out to me directly.

Sincerely,



Stephen Stapleton

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