

November 17, 2022

Planning Consultation
Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, ON M7A 2J3

Submitted via email to: planningconsultation@ontario.ca and submitted online via the Environmental Registry of Ontario (ERO)

Dear Ministry of Municipal Affairs and Housing officials:

RE: ERO #019-6163 Proposed *Planning Act* and *City of Toronto Act* Changes (Schedules 9 and 1 of Bill 23, *More Homes Built Faster Act*, 2022).

The Ontario Federation of Agriculture (OFA) is the largest general farm organization in Ontario, proudly representing more than 38,000 farm family members across the province. OFA has a strong voice for our members and the agri-food industry on issues, legislation and regulations governed by all levels of government. We are passionate and dedicated to ensuring the agri-food sector and our rural communities are included, consulted, and considered in any new and changing legislation that impacts the sustainability and growth of our farm businesses.

Ontario's diverse and innovative agri-food sector is a powerhouse for the province – growing and producing more than 200 farm and food products, fuelling our rural communities and driving the provincial economy by generating more than 860,000 jobs and contributing over \$47 billion to Ontario's annual GDP. We are the leading agricultural advocate for Ontario farmers, their businesses and their communities. Decision-makers must never lose sight of this reality when making decisions about housing for population and employment growth and the potential impacts to agricultural land, industries, and communities.

OFA appreciates this opportunity to provide input to ERO #019-6163, the proposed changes to the *Planning Act*, as per Schedule 9 in the *More Homes Built Faster Act*.

Before providing comments concerning the changes, we must acknowledge that farmland makes up less than 5% of Ontario's land base. Ontario's agricultural lands are a finite and shrinking resource. We cannot sustain continuing losses of agricultural land while maintaining our ability to produce food, fibre and fuel from this limited and declining agricultural land base. The 2016 Census of Agriculture statistics indicated that Ontario lost the equivalent to 175 acres of farmland per day. The recent statistics from the 2021 Census of Agriculture show that Ontario's farmland loss rate has increased to 319 acres per day. Further, between 2000 – 2017, southern Ontario lost more than 72,000 acres of prime agricultural land to Official Plan Amendments approved for

urban development.¹ When agricultural land is developed, it is lost forever. Ontario is losing some of its most productive agricultural land to pressures for urbanization and growth enabled by provincial policies and tools. If our province plans to continue to grow and prosper, we must also have a plan to protect Ontario's position to produce food, fibre and fuel for the people of Ontario and beyond.

When contemplating changes to the *Planning Act* and Ontario's land use planning policy framework, the Ontario government must recognize that our agricultural areas provide us with food, fibre and fuel, and a broad range of environmental and ecological goods and services that benefit all Ontario residents. More robust protection against development on agricultural land combined with fixed, permanent urban and settlement area boundaries and mandatory compliance with urban density and intensification requirements would achieve objectives for sustainable community building and farmland protection for future generations. We emphasize that there is only one Ontario landscape. The full range of urban, rural, agricultural, natural heritage, cultural heritage, and mineral extraction land uses across the province must coexist in the same space. Intensification of residential development within the existing urban footprint, in the context of complete and liveable communities, along with the distribution of economic development provincially, addresses housing needs. Intensification will boost economic growth, create new jobs, provide new affordable housing options, support municipal infrastructure systems, ensure food security, and contribute to environmental stewardship.

Lastly, many challenges have contributed to Ontario's current housing affordability crisis, some of which go beyond the land use planning policy framework. Other factors include the impacts of a low-interest rate environment, speculative demand, labour shortages and costs, trade availability, supply chain delays, municipal servicing, development charges, NIMBYism, inflation and higher material and construction fees, amongst others. While our comments stem from the land use and farm property perspectives, we urge the provincial government to recognize and address these other factors in tandem with any reform to the planning system.

Addressing the 'Missing Middle'

Changes are proposed to strengthen the existing "additional residential unit" (ARU) framework to allow, up to three ARUs per lot, as-of-right provincially in existing residential areas by overriding existing municipal official plans and zoning by-laws. This would be three units in a primary building or up to two in a primary building and one in an ancillary structure. These changes only apply to newly defined "parcels of urban residential land" in settlement areas with full municipal water and sewage services.

OFA challenges the Ontario government to be more ambitious by increasing the density of units allowed on a parcel of urban residential land. OFA applauds the provincial government for taking this sweeping measure to intensify housing development within existing urban boundaries. However, we firmly believe the government should take a more assertive approach to **end exclusionary "single detached" zoning and allow for mid- to higher densities (beyond just three units) as-of-right provincially**. There is plenty of land within existing municipal urban boundaries to build more homes faster. The current ARU proposal would create just 50,000 out of the Ontario government's ambitious goal of 1,500,000 promised homes (a mere 3.33% of total dwellings proposed) and fails to allow purpose-built walk-up mid-rise apartments or townhomes as-of-right. This proposal falsely justifies sprawl-inducing development to address the housing

¹ Caldwell, Wayne, Sara Epp, Xiaoyuan Wan, Rachel Singer, Emma Drake, and Emily C. Sousa. "Farmland Preservation and Urban Expansion: Case Study of Southern Ontario, Canada." *Frontiers in Sustainable Food Systems* 6 (February 18, 2022): 777816. <https://doi.org/10.3389/fsufs.2022.777816>.

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supply and affordability crisis when *further* increased densities on existing land could achieve denser, walkable, and lower-cost forms of housing.

OFA wants this proposal to be applied to rural and smaller-town municipalities **within designated settlement areas**. We acknowledge the servicing capacity limits many rural communities in Ontario face, such as that with private water and wastewater services. However, rural communities also need additional housing. There are opportunities within existing smaller villages, hamlets, and towns to intensify parcels of land in the settlement area that are adequate for servicing and more efficiently contribute to the rural tax base.

Further, the Ontario government could also apply this form of increased gentle density to parcels containing single-detached dwellings that have historically been severed from a primary farm operation. OFA strongly views this as a creative alternative to further densify housing in the agricultural *without further* sacrificing farmland or fragmenting the agricultural land base through lot creation. Any changes to increase gentle density on these historically severed parcels, or in the designated settlement area of a rural or small-town, should be accompanied with additional oversight to ensure the parcel can be serviceable (e.g., seepage and sewage) with minimum to private rural water systems.

OFA wants to clarify that it opposes any re-introduction of severances in agricultural areas and desires to work with the Ontario government to **increase density and housing in rural Ontario in ways that do not sacrifice farmland**. Anywhere low-density housing already exists presents critical opportunities to advance “gentle density” that addresses the provincial housing supply, preserves farmland, and builds complete communities characterized by smart growth principles in land use planning.

Lastly, similar to overriding municipal zoning to permit ARUs, OFA urges the Ontario government to enforce on-farm accommodations for labour as an agricultural use which should be permitted as-of-right in municipal Official Plans and Zoning By-laws. Ontario farmers often require on-farm or off-farm accommodations for full-time farm and seasonal workers when additional labour is required. Depending on the farm operation’s needs, size, and scale, this can range from repurposing surplus houses to larger bunkhouse accommodations. Despite PPS policies, OFA is increasingly hearing concerns raised by our members who are challenged with securing time- and cost-prohibitive planning approvals at the municipal level to construct affordable and appropriate worker housing for domestic and international farm workers. Some municipalities are excluding such uses from their definitions of agricultural uses in their Zoning By-laws and are subjecting uses to a Zoning By-law Amendment – a much lengthier and costly approval process.

Our employers seek consistent interpretation and implementation of regulations across Ontario that also provide enough flexibility for Ontario’s farmers to construct safe and quality accommodations for farmworkers suitable to the needs of their operation and servicing of the area. In doing so, OFA wants housing for farm labour to be consistent with current provincial guidance, including ensuring farm labour residences are temporary structures, that land taken out of production is minimized, and that severances for such residences are prohibited. Enhanced training on the Guidelines for Permitted Uses in Ontario’s Prime Agricultural Areas (2016) for municipalities would be of benefit to ensure consistent interpretation and implementation of provincial guidance on accommodations for farm labour.

Higher Density Zoning Around Transit

OFA fully supports proposed changes that establish minimum densities and heights and require municipalities to implement as-of-right zoning for transit-supportive densities in Major Transit Station Areas and Protected Major Transit Station Areas. Increased housing densities around transit systems will curb sprawl, reduce traffic, streamline municipal servicing and investments, and help build complete communities that protect Ontario's farmland.

Site Plan Control

Currently, Site Plan Control is a tool under the *Planning Act* that allows a municipality to control certain matters on and around a site proposed for development. This control over site-specific matters, such as access, lighting, waste facilities, landscaping, drainage, and exterior design, ensures that a development proposal is appropriately designed to be compatible and avoids, minimizes, and mitigates any negative impacts on neighbouring properties. However, proposed changes will limit the scope of Site Plan Control by removing the ability for municipalities to regulate architectural details and aesthetic aspects of landscape design and allow the use of Site Plan Control for "matters of health, safety, accessibility or the protection of adjoining lands."

OFA opposes this change. Site Plan Control is a critical tool to help municipalities build climate-resilient, sustainably designed, transit-supportive, complete communities and ensure that any development will be compatible with its surrounding land uses. For example, Site Plan Control can ensure and reassure other landowners that their nearby properties are not negatively impacted by improper drainage or will have negative impacts on their private water wells. Without Site Plan Control to regulate these uses (and without third-party appeals to the Tribunal), what recourse is there for neighbours negatively affected by development?

Further, while this proposal may seemingly speed up the approval process, OFA sees the opposite. Municipalities may update their Zoning By-laws to be more permissive and progressive when permitting higher-density and transit-supportive housing options as-of-right and then subject these applications to a streamlined Site Plan Control process. However, scaling back Site Plan to address only matters of health, safety, and accessibility will mean that municipalities will revert to implementing these requirements in their Zoning to regulate the character and compatibility of proposals (opening the doors for amendments and appeals, which can be a time and cost-intensive process for proponents). In these instances, municipalities will revert to square one when attempting to streamline planning approvals. In contrast, Site Plan Control is informed by expertise, can be simplified, scoped to fit the context of the property, and is only appealable by the applicant. OFA wants all municipalities to be able to take full advantage of the Site Plan process, as it is currently regulated under the *Planning Act*.

From an agricultural perspective, if the process is designed correctly (i.e., timelines and fees are minimal), Site Plan Control is a critical tool to help expedite development proposals on farm operations, as well as ensure development proposals (e.g., agriculture-related or on-farm diversified uses) are compatible with existing farm operations so that they do not adversely impact normal farm practices. It also provides a degree of protection for farmers from negative impacts by neighboring development. **OFA wants to see the matters that municipalities can regulate Section 41 of the *Planning Act* remain intact.** OFA urges the Ontario government and municipal counterparts to continue exempting agricultural uses, buildings, and structures from designated Site Plan Control areas.

New Class of Upper-tier Municipalities

Proposed amendments introduce a new definition and class of upper-tier municipalities, specifically “upper-tier municipality without planning responsibilities.” These changes would apply to the Regions of Durham, Halton, Niagara, Peel, Waterloo, York, and the County of Simcoe. However, the amendments would provide future regulation-making authority to prescribe additional upper-tier municipalities as “upper-tier municipalities without planning responsibilities” if needed. The proposed amendments also include transitional matters and clarify the roles and relationships between this new class of upper-tier municipalities and their lower-tier counterparts (i.e., Official Plans, approvals for Plans of Subdivision and consents, planning advisory committees, local appeal bodies, and more). The proposal effectively downloads all previous authority and responsibility of the upper-tier to the lower-tier level.

OFA is opposed to this change and urges the Ontario government to regulate all upper-tier municipalities as “upper-tier municipalities with planning responsibilities.”

It is presumed that this proposal is intended to streamline planning permissions at the municipal level; however, it is unclear how these changes will improve community livability connected to core infrastructure in an integrated and coordinated way. OFA firmly believes that downloading all planning responsibilities and decisions at the local level will lead to uncoordinated decision-making resulting in scattered, inefficient, and piecemeal development that is expensive for municipalities to maintain and occurs at the expense of sound regional planning (such as dense, transit-supportive, complete communities that protect farmland and the agricultural sector). For example, the proposed amendments could have unintended consequences by having local planning disconnected from the servicing requirements that many upper-tier municipalities are responsible for managing and funding (such as infrastructure needed to support regional transportation systems). These consequences will have the *opposite* effect of getting more homes built faster, in ways that promote growth within existing urban boundaries.

Upper-tier municipalities play critical planning functions in our communities, particularly for rural and small-town municipalities at the lower-tier level. Many of Ontario’s smaller rural municipalities have only one (1), half (0.5), or no (0) planners on staff² (or even a department) to be able to plan for their communities sustainably. Many upper-tier municipalities (e.g., Counties of Huron, Oxford, Perth, Wellington, and more) have agreements with their lower-tier counterparts to provide planning services on their behalf.

Further, many rural lower-tier municipalities have outdated Zoning By-laws as they lack the resources (e.g., staff, expertise) to update policies to conform to new policy changes at the upper-tier and provincial levels. Reliance on out-of-date Zoning By-laws stifles development and economic activity and adds unnecessary costs to proponents, and further pose barriers to new housing developments.

OFA worries that these changes to Ontario’s land use planning system will disproportionately impact rural municipalities as they may not have the capacity (e.g., staff, budgets, or expertise) to adopt these downloaded responsibilities, utilize new tools, and keep up with the pace of policy implementation, as the Ontario government has so frequently changed land use planning and legislation over the past few years. Under Bill 23, the only way lower-tier municipalities can effectively take on these responsibilities is by shifting the financial burden unto property taxpayers

² Caldwell, Wayne, Elise Geschiere, Emily Sousa, and Regan Zink. “Municipal Capacity: A Case Study of Ontario’s Greenbelt to Respond to Emerging Agriculture and Agri-Food Priorities.” *International Journal of Environmental Impacts: Management, Mitigation and Recovery* 4, no. 3 (July 28, 2021): 243–61. <https://doi.org/10.2495/EI-V4-N3-243-261>.

– this is particularly concerning in small, rural municipalities with fewer taxpayers to split the cost. OFA sees that downloading these responsibilities to the lower-tier will only exacerbate these issues.

OFA urges the Ministry to ensure that any further changes to support housing at the provincial level have been analyzed from a rural-municipal perspective. **To streamline planning approvals, we also ask the Ministry that the necessary support, such as additional time, funding, training, and expertise, are provided to municipalities to enable them to utilize tools and implement provincial policies to their benefit.** Instead of deregulating and downloading the authority of upper-tiers, OFA recommends the Ontario government financially assist municipalities in achieving any goals related to updating and implementing municipal plans, policies, and procedures that will address housing and other matters of provincial interests. Lastly, OFA recommends that the Ontario government provide a period of policy stability to allow municipalities to adapt to the land use planning policy framework changes once the upcoming round of policy changes is in place.

Third Party Planning Appeals

Changes are proposed to limit third-party appeals for all planning matters (Official Plans, Official Plan Amendments, Zoning By-laws, Zoning By-law Amendments, Consents and Minor Variances). The Ontario government would maintain appeal rights for some participants (e.g., applicants, the provincial government, and public bodies), except where appeals have already been restricted (e.g., the Minister's decision on a new Official Plan). The third-party appeal limits would apply to any matter that has been appealed but has yet to have a hearing scheduled by the Ontario Land Tribunal (the "Tribunal") when the bill is introduced.

OFA is opposed to removing third-party planning appeals and urges the Ontario government to look for alternative options to address the backlog of appeals and streamline processes at the Tribunal. The Tribunal has been an essential mechanism for many of our members to appeal and resolve disputes related to land use matters as they pertain to their farm properties, operations, and agriculture more broadly. Ontario farmers increasingly need an appeal process for decisions impacting agriculture, rendered by increasingly urbanizing municipalities whose councils and staff may not apply an agricultural lens to their plan-, policy-, and decision-making processes or have made errors in issuing planning decisions. For example, several of our members have relied on third-party appeals concerning incorrect Minimum Distance Separation Formulae (MDS) calculations, resulting in development too close to livestock operations and prohibiting farmers from expanding in the future.

Instead of eliminating third-party appeals, the Ontario government should look for alternative solutions, and OFA offers the following suggestions:

OFA maintains its stance on limiting appeals to exclude municipal decisions that conform to the PPS, provincial plan, or other, preserving the end of de novo hearings as part of the Tribunal hearing format, and limiting hearings to those based on errors in law or procedures. We firmly believe that the sole role of the Tribunal is to determine if the decision under appeal is the "correct" decision based on applicable laws, procedures, and policies in Ontario's land use planning policy framework. Doing so otherwise would revert to a Tribunal hearing format that is too time-consuming and costly, rendering decisions that are subjective and non-compliant with provincial policy. We recommend that decisions of Tribunal be based solely on conformity to the PPS, applicable provincial plan, provincial guidance material (e.g., MDS calculations), or Official Plans and Zoning By-laws. We also expect the Ontario government to

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maintain its commitment to invest in more adjudicators and other resources for the Tribunal to speed up proceedings, resolve cases faster, hear priority projects sooner, and reduce the backlog of cases.

Public Consultation on Plans of Subdivision

The proposed changes would remove the requirement for a public meeting to be held for a draft plan of subdivision applications.

OFA is against removing the requirement to hold a public meeting regarding a draft plan of subdivision. While this proposal may facilitate a timelier approval, it diminishes opportunities for meaningful public engagement and stakeholder input. Eliminating public meeting requirements would otherwise undermine sound planning principles and introduce bias into the plan-making process. Community engagement in the planning process is fundamental to "good planning" – it allows for the sharing and listening of different perspectives and understanding the diverse needs of a community.

As Ontario becomes more urbanized, farmers increasingly need to engage with their municipalities in land use planning, as councils and staff may not apply an agricultural lens to their plan-, policy-, and decision-making processes. Public meetings are one opportunity that allows agricultural voices to be heard and thereby represented in a draft plan of subdivision. This is particularly critical as we increasingly need to plan for 'farm-friendly' urban development that promotes compatibility at the urban-agricultural interface. For example, parcel size, configuration, building setbacks, road patterns, institutional locations, drainage patterns and location of municipal servicing will all have implications for agriculture. The public meeting process can provide feedback to improve or modify subdivision plan design to avoid, minimize, and mitigate potential land-use conflicts. These tools will ensure that *agricultural uses* continue and *normal farm practices* are protected.

In addition to public meetings, OFA firmly believes in the widespread use of Agricultural Impact Assessment (AIAs). As studies, AIAs identify opportunities to increase compatibility between agricultural and non-agricultural uses by looking for ways to avoid, minimize, then mitigate adverse impacts on agricultural operations and the Agricultural System. OFA believes in making greater use of AIAs, including in draft plans of subdivision.

We look forward to seeing provincewide implementation and widespread use of AIAs as we work to address the growth of our province's housing supply while enabling a thriving agri-food sector.

Aggregates Applications

Currently, the *Planning Act* sets a 2-year period where changes to new official plans, secondary plans and new comprehensive zoning by-laws are not permitted unless these changes are municipally supported. Changes are proposed to remove the "two-year timeout" period for applications to amend new official plans, secondary plans and zoning by-laws for aggregate operations. The timeout provisions would continue to apply to other types of planning applications.

OFA believes that agricultural activities make the best use of arable lands and that the province must maintain the productivity of those lands. While we recognize the critical importance of aggregates for upgrading and maintaining our networks of roads and bridges and for residential, commercial, institutional and industrial construction, **OFA insists that agricultural lands be fully rehabilitated to their former use for sustainable use agricultural production,**

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in a timely manner. OFA believes aggregate extraction should be prohibited on prime agricultural land (classes 1-4) and specialty crop lands.

Conservation Authorities Role in Land Use Planning

Changes are proposed to re-enact provisions that are not yet in force but would limit conservation authority (CA) appeals of land use planning decisions. CAs would continue to be able to appeal matters where they are the applicant. When acting as a public body, CAs could only appeal concerning issues related to natural hazard policies in provincial policy statements. Changes to the *Planning Act* are also proposed to broaden the ability of CAs to use an existing streamlined process to sever and dispose of land.

As OFA previously submitted, since conservation authorities have a role and responsibility in development related to natural hazards, the ability to appeal planning decisions counter to these objectives is necessary. **OFA requests that the power of a conservation authority to appeal on its own right or be a party to an appeal be retained.**

OFA's predominant concern with the proposal to broaden the ability of CAs to use an existing streamlined process to sever and dispose of land lies with the potential unintended consequences of conservation authority lands being used for housing. Specifically, what assurances will the Ontario government put in place to ensure that farmers and agricultural lands will not bare the responsibility of the lost environmental and ecological services that these lands currently serve?

Ministerial Authority to Amend OPs – Matter of Provincial Interest Affected by Plan

Section 23 of the *Planning Act* currently enables the Minister to amend Official Plans by order where the plan is likely to adversely affect a matter of provincial interest (e.g., farmland protection). Proposed amendments to Section 23 will eliminate specific procedural requirements to which the Minister's power is subject and remove the possibility that the Minister request the Tribunal hold a hearing on the proposed amendment – essentially removing the opportunity for municipalities to remedy any non-compliance or concerns. This amendment would supplement the Minister's existing authority to exercise zoning powers through Minister's Zoning Orders (MZOs).

OFA opposes this change and views this proposal as equivalent to issuing an MZO. OFA has continuously emphasized our opposition to the frequent use of MZOs in areas with a robust planning process, and the use of this proposed mechanism is no different.

For example, several municipalities (e.g., Hamilton, Halton, and Waterloo) have created and adopted Official Plans within the last year that address housing supply and affordability within existing urban boundaries while protecting farmland. These Official Plans conformed with provincial policy. Yet, as of November 4, 2022, the Minister amended several Official Plans, adding 2,200 and 3,200 hectares of land (much of it prime farmland) into the urban boundaries of Hamilton and Halton, respectively. With overwhelming political and public support, these leading municipalities opted to keep firm boundaries to uphold and protect matters of provincial interest – such as providing safe, affordable housing *while* protecting farmland. Yet, the Minister overrode these decisions with little to no justification and no opportunity to appeal the decision. Ontario citizens deserve a transparent, accountable, and fair decision-making process with the opportunity to provide comments on approving and amending Official Plans.

Municipalities should be able to remedy their Official Plans according to their local community's interests, needs, and contexts. OFA requests the Ministry be transparent with the public and the

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municipality in advance of amending an Official Plan if it is the Minister's opinion the plan adversely affects a matter of provincial interest. Doing so should include reasons, concerns, detailed analyses, planning justification rationale, and the opportunity for municipalities to respond and remedy any concerns.

Rather than grant ministerial authority to amend Official Plans in the belief there is a detriment to matters of provincial interest, **OFA would like to see the Ontario government create an independent, non-partisan Office of the Legislative Assembly to provide oversight of the municipal implementation of provincial land use plans and policies.**

Creating an independent, non-partisan Office of the Legislative Assembly would address gaps in the municipal implementation of provincial planning policy by operating as an arm's length oversight and advisory function for municipalities. While the Minister plays this role to a certain extent as the approval authority for many plans, this Office would resolve differences between multiple Ontario Ministries and municipalities on land use planning policies and plans at the local level. This Office of the Legislative Assembly could provide arm's length recommendations and guidance to municipalities whose plans and decisions are misaligned with provincial plans and policies and guide them on a path to conformity.

We urge the Ontario government to implement changes to Ontario's land use planning regime that fully reflect that growth management and farmland protection are two sides of the same coin. Agriculture and agri-food businesses must be able to invest in their operations and diversify their products with confidence that farmlands will be available. Their ability to feed our province and economy relies on knowing that encroaching development will be limited and not hinder their ability to farm and remain viable into the future. Ontario farmers cannot do so if the planning system is increasingly altered to shut the public out of the process and draconian deregulation tools, such as MZOs, are continuously used to expedite housing at the expense of all other matters of provincial interest.

OFA appreciates the opportunity to provide our feedback and agricultural perspectives on the proposed changes to the *Planning Act*. We must ensure that any future changes to Ontario's land use planning policy framework protect our agricultural land base and support our agri-food sector as an economic powerhouse. We look forward to working with the provincial government and our municipal counterparts to sustain our province's housing supply and communities.

Sincerely,



Peggy Brekveld
President

cc: The Honourable Steve Clark, Minister of Municipal Affairs and Housing
The Honourable Lisa Thompson, Minister of Agriculture, Food, and Rural Affairs
The Honourable Graydon Smith, Minister of Natural Resources and Forestry
OFA Board of Directors