

May 10, 2024

Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th Floor
Toronto, ON M7A 2J3

Submitted via email to: PlanningConsultation@ontario.ca and submitted online via the Environmental Registry of Ontario (ERO) and Ontario's Regulatory Registry (ORR).

Dear Ministry of Municipal Affairs and Housing officials:

RE: Proposed changes to the *Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001* through the proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024 (ERO #019-8369 and ORR # 24-MMAH010)

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

Ontario's agri-food sector is an economic powerhouse – producing more than 200 farm and food products, fuelling rural communities, generating nearly 750,000 jobs, and contributing over \$47 billion to Ontario's annual GDP. The province's agri-food strategy, Grow Ontario, aims to strengthen the agri-food sector, support economic growth, and ensure an efficient, reliable, and responsible food supply. By removing barriers, unnecessary costs and red tape, Ontario farmers will be positioned to seize opportunities and rise to the challenge of an ambitious growth strategy, allowing the agri-food sector to drive the economy forward.

OFA appreciates this opportunity to provide input to ERO #019-8369 and ORR # 24-MMAH010 - as the Ministry of Municipal Affairs and Housing (MMAH) seeks input on proposed changes to the *Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001* through Bill 185, the proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024.

OFA has provided the following comments regarding schedules 9 and 12 of Bill 185, to the Standing Committee on Finance and Economic Affairs as part of their consideration of Bill 185. OFA has not provided specific comments regarding schedule 4 which amends the *City of Toronto Act, 2006*.

Summary of key OFA Recommendations:**Schedule 9 (Municipal Act, 2001):**

- OFA recommends the Minister exercise rigorous selection in authorizing tax incentives to ensure that they are genuinely effective, equitable and have minimal impact on the existing tax base.
- OFA recommends broadening the scope of the amendments to include provisions for supporting existing businesses critical to Ontario's agri-food sector, such as local abattoirs.

Schedule 12 (Planning Act):

- OFA supports enhancing the Minister's regulation-making authority to remove zoning barriers to building small multi-unit residential.
- OFA supports the removal of the Community Infrastructure and Housing Accelerator (CIHA) tool.
- OFA supports implementing a revised and transparent process for requesting and issuing Minister's Zoning Orders.
- OFA supports enhancing the lapsing authority for approvals.
- OFA does not support limiting who may appeal as a third-party to the Ontario Land Tribunal (OLT).
- OFA recommends enabling any affected party the right to appeal a decision to the OLT.
- OFA recommends limiting the grounds for appeal to the OLT to disputes related to a municipal decision that allegedly goes beyond the municipality's authority; fails to follow due process; fails to adhere to all salient provincial legislation, policy statements and guidance documents; and/or fails to adhere to the municipalities own official plan, by-laws, etc.
- OFA recommends reconsideration of the government's earlier decision to remove upper-tier planning responsibilities from some municipalities.
- OFA does not support outright exempting of community service facilities from the *Planning Act* provisions or regulations made under section 70.2, but supports a streamlined approvals process for community service facility projects as long as projects are subject to responsible land use planning and any impacts on prime agricultural areas are assessed and mitigated.
- OFA recommends further amendments to the *Planning Act* to eliminate the automatic merging of property titles.

Schedule 9 – *Municipal Act, 2001*

Currently, the *Municipal Act, 2001* and *City of Toronto Act, 2006* prohibit municipalities from providing direct or indirect assistance to any manufacturing, industrial or commercial businesses. The proposed legislative amendments to the *Municipal Act, 2001* and *City of Toronto Act, 2006* would allow a proposed Lieutenant Governor in Council (LGIC) regulation-making authority to be able to authorize a municipality to assist a particular recipient. The proposal further describes that this power would be enacted if the LGIC believed that it is necessary or desirable in the provincial interest to attract investment in Ontario.

OFA appreciates the government's efforts to increase business investment in Ontario and supports the initiative to make Ontario competitive in attracting new businesses. We commend the proposal's targeted approach, which allows for exemptions on a case-by-case basis, potentially increasing the effectiveness of these incentives. However, we urge caution in selecting which businesses receive such incentives to minimize detrimental impacts on the existing tax base and avoid exacerbating fiscal strains on municipalities.

OFA recommends the Minister exercise rigorous selection in authorizing tax incentives to ensure that they are genuinely effective, equitable and have minimal impact on taxpayers.

Moreover, OFA recommends broadening the scope of the amendments to include provisions for supporting existing businesses critical to Ontario's agri-food sector, such as local abattoirs. The financial viability of small provincially inspected abattoirs is of critical concern. These facilities are vital to the local agri-food supply chain, and their struggles with financial viability, regulatory burdens, and labor shortages have caused many abattoirs to close in Ontario.

Currently, municipalities are limited in their ability to provide direct support to help keep services such as local abattoirs in business. The ability for municipalities to provide direct support to a business that is crucial to growing the agri-food supply chain would not only help maintain the productivity of existing agri-food businesses, but also potentially attract new businesses to communities where there are gaps in the value chain.

OFA remains committed to working collaboratively with the Ministry and other stakeholders to ensure that legislative changes support the sustainability and growth of Ontario's agri-food sector and rural communities.

Schedule 12 – *Planning Act*

OFA believes that farming is the best use for farmland. When contemplating changes to the Planning Act and Ontario's land use planning policy framework, the government must ensure our agricultural areas are protected and the agricultural system is supported across the province.

Our agricultural areas provide us with food, fibre, fuel, flowers, nursery stock, 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. There is only one Ontario landscape. The full range of urban, rural, agricultural, natural heritage, cultural heritage, and mineral extraction land uses must coexist across this landscape. Intensification of residential development within the existing urban footprint, in the context of complete and liveable communities, along with the distribution of economic development provincewide, 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.

OFA supports enhancing the Minister's regulation-making authority to remove zoning barriers to building small multi-unit residential. OFA believes that reducing parking minimums; eliminating barriers including maximum lot coverage and limits on bedrooms allowed per lot,

will not only help to create more housing options, but also increase intensification within the existing built urban areas.

OFA supports removal of the Community Infrastructure and Housing Accelerator (CIHA) tool. The CIHA was an additional type of Minister's Order added to the *Planning Act*. OFA was not in favour of the CIHA tool when it was proposed and thanks the government for seeking to remove it as proposed in Bill 185.

The *Planning Act* allows the Minister of Municipal Affairs and Housing (“Minister”) to make “Minister's Zoning Orders” (“MZOs”), to govern land uses within areas subject to the order. The frequent use of MZOs with respect to lands where there is already an established robust planning process is concerning. We note that significant acres of farmland have been lost to development because of MZOs to date. We do not support the use of MZOs for lands in municipalities that have well-developed, Ministry-approved Official Plans and Zoning By-laws. We urge the government to approve only MZOs that are consistent with provincial statements, policies, and guidance documents. However, OFA understands the need for the Minister to have the power of an MZO and we support MZO usage in areas of the province that are without robust local planning processes. We have no objection to MZOs being used within the lands that would be considered the Urban Envelope. OFA welcomes the implementation of a revised and transparent process for requesting and issuing MZOs as proposed in Bill 185.

Enhancing and expanding a municipality's ability to support the efficient allocation of housing-enabling infrastructure will help ensure houses get built. OFA supports enhancing the lapsing authority for approvals by formalizing how water and sewage servicing of an approved development is managed to enable servicing capacity to be allocated / reallocated to other projects if the approved development has not proceeded after a specified timeline and the servicing is needed elsewhere in the service area. OFA supports the government's proposal to create a Minister's regulation-making authority to enable the Minister to provide exemptions for individual or classes of approved developments. OFA supports the enhancing of the lapsing authority for approvals of draft plans of subdivision/condominiums and site plan to facilitate the efficient use of housing-enabling infrastructure and accelerate housing development.

OFA does not support limiting who may appeal as a third-party to the Ontario Land Tribunal (OLT). The proposal in Bill 185 would further limit third-party appeals for official plans, official plan amendments, zoning by-laws, and zoning by-law amendments. OFA recommends enabling any affected party the right to appeal a decision to the OLT.

OFA believes appeals can play a meaningful role in ensuring decisions made by a municipality are consistent with provincial legislation, policy statements and guidance documents. OFA recommends limiting the grounds for appeal to the OLT to disputes related to a municipal decision that allegedly go beyond the municipality's authority; fail to follow due process; fail to adhere to all relevant provincial legislation, policy statements and guidance documents; and/or fail to adhere to the municipalities own official plan, by-laws, etc. We believe that the OLT should respect the authority of the municipality and not overturn a municipal decision in cases where the municipality had decision-making authority to make their decision, had correctly followed all relevant provincial legislation, policy statements and guidance, and had followed due process.

OFA understands the government's intention is to eliminate frivolous appeals that are just meant to delay processes. We wish stress the meaningful role appeals can play in ensuring municipalities are held accountable to following provincial legislation, policies and guidelines. We highlight the example of an apple grower wishing to build housing for farm workers on his farm and being told by his municipality that accommodation for farm workers is not considered an Agricultural Use, even when it is included in the Provincial Policy Statement 2020 definition of "Agricultural uses". Another example is the case of an error being made in the calculation of the required Minimum Distance Separation (MDS) for a new residence from an existing livestock barn. In these examples and in other situations, an appeal would provide the means of ensuring provincial policies are adhered to by the municipality. We believe it is sensible to ensure legitimate appeals are heard, thus allowing farmers the ability to protect their farm operations from inappropriate municipal decisions.

OFA recommends the government reconsider the earlier decision to remove upper-tier planning responsibilities from some municipalities. As stated in our Standing Committee submission regarding Bill 23 – *More Homes Built Faster Act, 2022*, OFA is opposed to removing planning responsibilities from certain upper-tier municipalities and urges the Ontario government to regulate all upper-tier municipalities as "upper-tier municipalities with planning responsibilities." OFA is concerned that the downloading of planning responsibilities to certain lower-tier municipalities will disproportionately impact rural municipalities as they may not have the capacity (e.g., staff, budgets, or expertise) to adopt these downloaded responsibilities and keep up with the pace of policy implementation. We also wish to highlight the benefits of land-use planning done at a regional level in terms of a larger area in which consistent interpretations of the provincial legislation, policy statements and guidance materials are applied.

Schedule 12 proposes to amend the *Planning Act* by inserting subsection 62.0.3 which would state that regulations may provide that any provision of this Act or a regulation made under section 70.2 does not apply, or may set out restrictions or limitations with respect to its application, to a prescribed class of community service facilities that meets such requirements as may be prescribed.

OFA does not support outright exempting of community service facilities from the *Planning Act* provisions or regulations made under section 70.2. However, OFA supports a streamlined approvals process for community service facility projects as long as projects are subject to responsible land use planning and any impacts on prime agricultural areas are assessed and mitigated.

Although not initially proposed in Bill 185, OFA recommends further amendments to the *Planning Act* to eliminate the automatic merging of property titles. Many farmers have been shocked to find out that two farm properties they own had been merged without any notification. Under the Land Registry system, the titles of abutting properties held in the same name or names are merged. Despite merging, the owner may receive separate tax notices under separate roll numbers and may only become aware that the properties were merged once it has come time to sell one or both properties. Property buyers, lawyers and real estate agents may not be aware that property owners buying an abutting property might result in the merging of titles under the Land Registry system, but not necessarily under the Land Titles system. For farmers with merged titles, the process to "unmerge" the properties can be both time consuming and costly, complicated by policies in a municipality's Official Plan or Zoning By-laws (e.g., minimum lot size, lot creation policies).

To date this challenge of merged titles has not been fully addressed. OFA continues to call on the Ontario government to change the Land Registry System under the Planning Act so that the practice of automatic merging be discontinued and that mergers only be considered upon application by the affected parties. OFA also continues to request that the Ontario government implement a streamlined process to demerge property titles which have been automatically merged when such merging was not intended by the owner.

OFA supported Schedule 24 of Bill 276, *Supporting Recovery and Competitiveness Act, 2021* as proposed by the Ministry of Municipal Affairs and Housing. Bill 276 received Royal Assent on June 3, 2021, amending the *Planning Act* such that:

A new clause 50 (3) (a.1) is added to provide an exception in respect of land that is the whole of a parcel of land that was previously owned by, or abutted land previously owned by, joint tenants and the ownership would have otherwise merged in the person as a result of the death of one of the joint tenants.

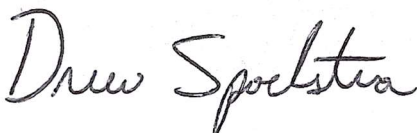
OFA was pleased this Planning Act amendment was made. However, more amendments are required to address all situations where automatic merging of titles has occurred. Therefore, OFA requests further legislative amendments to ease the burden on property owners wishing to demerge formally unmerged properties to their originally surveyed state (i.e., prior to merging).

Conclusion

Provincially, the protection of Ontario's prime agricultural areas for their long-term agricultural use must be a key objective. OFA is a strong advocate for the protection of Ontario's farmlands for their long-term ability to produce food, fibre, fuel, flowers, and nursery stock, not only for Ontario's growing population, but also for consumers beyond our borders. Ontario's limited supply of farmland is a scarce resource, making up less than five percent of all the land in the province. Given Ontario's farmlands are a finite and shrinking resource, any proposals designed to increase housing supply must be done with consideration to the needs and support of the agricultural community.

OFA appreciates the opportunity to provide our feedback and agricultural perspectives on the proposed amendments to the *Planning Act* and other Acts as outlined in Bill 185. We look forward to working with the provincial government and our municipal counterparts to protect Ontario's farmlands as well as sustain Ontario's housing supply and communities.

Sincerely,



Drew Spoelstra
President

cc: OFA Board of Directors