

May 2, 2024

Patricia Baran
Ontario Ministry of Agriculture, Food and Rural Affairs
Economic Development Policy Branch
1 Stone Road
Guelph, ON
N1G 4Y2

Submitted online via Ontario's Regulatory Registry

Dear Patricia Baran,

RE: Proposed Legislative Amendments to the *Line Fences Act* (Regulatory Registry # 24-OMAFRA010)

The Ontario Federation of Agriculture (OFA) appreciates this opportunity to provide input with respect to the proposed legislative amendments to the *Line Fences Act* (LFA) as outlined in Schedule 8 of Bill 185, Cutting Red Tape to Build More Homes Act, 2024.

Summary of OFA Recommendations:

- OFA supports OMAFRA's proposed wording in the LFA to improve readability and understanding.
- OFA recommends further amendments to enable farmers, who are subject to a municipal fencing bylaw, the ability to use the dispute resolution provisions contained in the LFA should the need arise.
- OFA recommends further amendments to state whether the LFA applies or does not apply to boundary fencing between a farm property and an active railway property. We further encourage the government to make fencing the boundary line the sole responsibility of the railway.

The LFA is a valued piece of legislation. It sets out the mechanism for resolving disputes between abutting property owners over cost-sharing the construction, maintenance or repairs for their shared fence, should the parties be unable to reach an agreement on their own.

OFA supported the transfer of the administration of the LFA to the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) as of April 1, 2020.

OFA supports OMAFRA's proposed wording in the LFA to improve readability and understanding as proposed in Bill 185.

We believe the LFA reduces red tape and unnecessary delays for property owners seeking a resolution to their fencing dispute. It eliminates costly and time-consuming court proceedings, which will be the only recourse for farmers and any other property owners facing a fencing dispute with their neighbour. It provides property owners with a quick resolution to their fencing dispute.

The LFA is particularly useful in rural Ontario where larger properties are located. The LFA provides farmers with a cost-effective tool to resolve fencing disputes between adjacent property owners. However, a municipality may choose to opt-out of the LFA. Section 26 of the LFA states that the LFA, except section 20 (Duties of owner of former railway land), does not apply to land in an area that is subject to a by-law for apportioning the costs of line fences passed under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be.

Unfortunately, when a line fence is subject to a municipal fence by-law, property owners are not able to utilize the LFA's dispute resolution mechanisms.

If the municipal by-law does not adequately address or resolve a dispute between property owners, property owners may need to rely on the courts. However, reliance on the courts does not cut red tape, costs or provide a timely resolution for property owners or municipalities. Farmers may also choose to challenge a burdensome municipal by-law by submitting a By-law Complaint under Section 6 of the *Farming and Food Production Protection Act*.

OFA recommends further amendments to the LFA to enable farmers, who are subject to a municipal fencing bylaw, the ability to use the dispute resolution provisions contained in the LFA should the need arise.

Under Section 20(1) of the LFA, an owner of former railway land is responsible to construct, keep up and repair the fences that mark the lateral boundaries of the land if a farming business is carried out on the adjoining land upon request of the owner of the adjoining land.

The LFA does not state specific line fencing requirements or responsibilities for owners of active railway land. OFA recommends further amendments to state whether the Line Fences Act applies or does not apply to boundary fencing between a farm property and an active railway property.

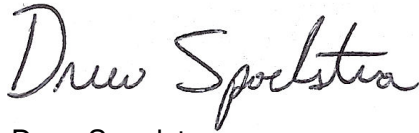
The federal *Railway Safety Act (R.S.C., 1985, c.32)* includes provision that permit the Government of Canada to make regulations dealing with the prevention or restriction of access to rail lines by means of fences, signs or other measures. However, the federal government has to date not made any regulations under the federal *Railway Safety Act* with respect to fencing.

OFA believes the purpose of a fence under the Ontario LFA is distinct from the purpose of any fence requirement contained in a future regulation under the *Railway Safety Act*. Unlike a railway safety fence which may in the future be required to be erected on the railway land for safety reasons, the purpose of a line fence is to mark the boundary between properties and would be erected on the property line.

OFA encourages the government to make fencing the boundary line the sole responsibility of the owner of the railway land. The railway would then also be solely responsible for ensuring the fence satisfies any federal fencing requirements.

Thank you for considering our views. We remain 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.

Sincerely,



Drew Spoelstra
President

cc: The Honourable Lisa Thompson, Minister of Agriculture, Food, and Rural Affairs
OFA Board of Directors