

Ontario Federation of Agriculture  
Submission to Standing Committee on  
Finance and Economic Affairs

Regarding Consideration of  
Bill 185, Cutting Red Tape to Build More Homes  
Act, 2024

May 10, 2024

May 7, 2024

Standing Committee Chair Ernie Hardeman, MPP  
Standing Committee on Finance and Economic Affairs  
Whitney Block  
Room 1405  
99 Wellesley Street W  
Toronto, ON M7A 1A2  
Submitted online via the Legislative Assembly of Ontario website.

Dear Standing Committee Chair and Members:

**Re: Bill 185, Cutting Red Tape to Build More Homes Act, 2024**

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 with respect to Bill 185, Cutting Red Tape to Build More Homes Act, 2024. We are pleased to provide our comments and recommendations on four of the twelve schedules contained in this Bill.

**Summary of OFA Recommendations:**

**Schedule 6 (Development Charges Act):**

- OFA supports the repeal of the mandatory five-year phase in for development charge rates.
- OFA supports reinstating background studies as an eligible capital cost for development charges.
- OFA supports the proposals to streamline the process for extending development charge by-laws.
- OFA recommends amending the *Development Charges Act* to provide a statutory exemption for farm buildings from development charges.

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**Schedule 8 (*Line Fences Act*):**

- OFA supports OMAFRA's proposed wording in the *Line Fences Act* 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 *Line Fences Act* should the need arise.
- 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. We further encourage the government to make fencing the boundary line the sole responsibility of the railway.

**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.

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**Schedule 6 – Development Charges Act:**

OFA firmly believes that growth must pay for growth. The capital infrastructure costs required to service new development should be paid for by developers and not the current base of property taxpayers. OFA supports the proposed changes to the *Development Charges Act* which will allow municipalities to collect more revenue, faster from Development Charges (DCs) to ensure the cost of growth-related capital costs are not shifted onto existing taxpayers.

OFA supports repealing the five-year phase in for DC rates which will allow municipalities to more quickly recover the necessary costs to invest in the infrastructure required by new residential and commercial development.

OFA welcomes the reinstatement of the cost of DC background studies as an eligible capital cost. This change is in alignment with our view that developers should bear the full cost of growth-related capital expenditure which includes the cost and planning required to deliver those capital costs. This proposal is especially helpful for small and rural municipalities who have a smaller tax base and could less afford to pay for these studies using funds from the general tax levy.

The extension of DC by-laws using a streamlined process is a sensible approach to minimize red-tape and have more DC revenue used for its intended purpose of paying for infrastructure rather than additional fees for redundant background studies.

OFA has long advocated for a statutory exemption for farm buildings from DCs since farm structures like barns do not contribute to growth related capital expenditures in the same way as other development.

Only 5% of Ontario's land base is suitable for agriculture. And since we have no way to make more soil, we need to hold on to all the productive land and soil we have. And if the supply of available, productive agricultural land continues to dwindle, everyone will suffer.

Exempting farm structures from DCs and maintaining them for all other types of development will increase the relative cost for developing agricultural land for other uses, creating a financial incentive to keep agricultural land in production.

In addition to creating financial incentives to preserve agricultural land, exempting farm structures from paying DCs makes sense given the purpose of DCs are "to pay for increased capital costs required because of increased needs for services arising from development".

New farm residences, with an MPAC unit classification of RU (residential unit) or FRU (farm residential unit) should be treated the same as other new residences with regards to DCs. Growth-related capital needs can be attributed to all new residences.

The construction of new farm buildings/structures, however, does not generate growth-related capital costs. Therefore, DCs should not apply to farm buildings/structures. If they do, farmers are bearing more than their share of the municipality's additional capital expenditures.

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The majority of municipalities acknowledge that applying DCs to farm buildings is inappropriate. 74% of all municipalities with a Development Charge by-law already provide some form of exemption for agricultural buildings. However, the DCs applied to farm buildings in the minority of municipalities creates regional imbalances and disincentives farmers from reinvesting back into their business.

Standardizing the application of DCs to agriculture through a province-wide exemption would prevent farmers from facing inequitable treatment in a minority of municipalities that have inadvertently not provided an exemption.

To support the ministry's policy objective of protecting prime agricultural areas for the long-term use for agriculture and to ensure DCs are focused on development that will generate growth-related capital costs, the *Development Charges Act* should be amended to provide a statutory exemption to farm buildings/structures.

### **Schedule 8 – Line Fences Act:**

The *Line Fences Act* (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*.

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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 LFA 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.

### **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

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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.



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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



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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.

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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: The Honourable Lisa Thompson, Minister of Agriculture, Food, and Rural Affairs  
The Honourable Paul Calandra, Minister of Municipal Affairs and Housing  
OFA Board of Directors