

Review of the Land Use Planning and Appeal System

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Introduction

The Federation of Rental-Housing Providers of Ontario (FRPO) is the province's leading advocate for quality rental housing. We represent multi-residential housing providers who supply and manage homes for over 350,000 households in Ontario.

We are supportive of a land use planning process that removes barriers to the supply of housing. To accomplish the objective of ensuring residential development can meet the needs of the population, the land use planning and appeals process must support the supply of all types of housing at all ranges of prices.

The province must provide clear direction to municipalities to ensure an adequate supply of land be available for development. This means expanding the available land supply, removing restrictive zoning, and eliminating the damaging effects of localized community opposition as early as possible in the planning process.

Summary of Recommendations

In order to encourage investment in quality housing, FRPO is suggesting the following:

- 1) Ensuring the land use approval process is used to provide more supply to the market rather than restrict it.
- 2) Keeping a wholesome, provincial view of development to ensure that all communities' needs are met.
- 3) Creating more transparency through the development system by modernizing the appeals process and providing education to the general public on the complexity of land development.
- 4) Creating a land use planning system emphasizing a 'live-work' lifestyle that decreases commute times and increases quality of life.
- 5) Introducing a fair and transparent development charge system, with greater municipal government accountability, to help developers bring to new supply to the market.

Consultation Theme A: Achieve more predictability transparency and accountability in the planning / appeal process and reduce costs

Rental housing industry position: The land use approvals and appeals system should be used to plan housing development, not to create barriers to new housing for Ontarians.

The land development approval process has become increasingly complex and burdensome. This leads to two consequences: less housing and higher prices. Municipalities that imposed policies that prevent development on suburban green-field sites results in fewer housing options. This cuts off the supply chain and drives up housing prices within cities. While development of residential housing to meet population demands should be planned, it should not be restricted.

The Ontario government should ensure the land use planning and appeals process enables intensification across the province. There are opportunities for the government to support intensification through up-to-date zoning policies that conform to provincial planning policy. Adequate transportation investments, and ensuring that the Ontario Municipal Board (OMB) upholds existing policies and plans against local government resistance, can also help encourage the development of housing that meets provincial goals for intensified land use.

Community Wide Planning

With the increase in tactical social media, localized community NIMBYism (Not In My Backyard) has caught the interest of the media in recent years. Broad-based community consultation for planning proposals can often be overwhelmed by small groups of vocal opponents. More often, there is strong local opposition to housing developments that would benefit vulnerable residents including those with mental illness, drug addiction and physical disabilities. Activists concentrating on their own local issues fail to take a full scope of the community needs – be that economic or social goals.

Furthermore, opposition and delays by small, vocal groups imposes real costs to developers including holding costs on the land, long legal battles or postponed construction which harms future homebuyers and tenants. These issues result in increased costs for the developer which is then passed on to the consumer.

An independent and effective OMB allows for all parties to be heard in a professional setting with a fulsome view. Political interference from elected officials or unelected activists increases the level of inconsistent and poor planning due to the nature of their short term views. Without the independence of the OMB, new, lively and economically vibrant communities such as Toronto’s Distillery District, Shops of Don Mills and The Kings might not exist.¹ All three of these examples have brought new life to abandoned land and created new jobs and provided homes for thousands of people.

¹ The Building Industry and Land Development Association (BILD), 2013, *Building Futures* .

Consultation Theme B: Municipal leadership in resolving issues and making local land use planning decisions.

Rental Housing Industry Position: the broader provincial interest should be considered, and land development in municipalities must be carried out in accordance with provincial growth plans.

While municipal governments have an important role in the land use planning process, there is substantial risk that local governments fail to adequately consider the broader public interest in development decisions. Appeals from the housing development industry are often necessary due to negative decisions by local governments on proposals for new infill housing projects or supportive and affordable housing projects.

While municipal governments currently have the authority to establish local appeal bodies, these appeal bodies should be restricted to adjudicating minor variance and consent applications.

The generally negative attitudes of local politicians towards intensification and affordable housing, especially when affordable infill projects are proposed near existing residents, creates significant difficulties for our industry to provide housing. Both private and public sector affordable housing providers must be able to enter into a development agreement with the confidence that they will be able to proceed without suffering potential financial loss or costly delays.

Better co-operation between municipal governments, community groups and developers: Rental housing conversion and demolition policies.

There is considerable misunderstanding regarding the consequences of converting rental units into homeownership and condominium units. The conversion of rental units into ownership units is a natural response to market demands, especially in light of Ontario's long term trend toward a higher percentage of the population choosing homeownership over renting. For the vast majority of tenants who have no affordability problem, conversion of rental to condominium offers greater opportunity for Ontarians to take this next financial step in their lives.

Unfortunately, it is not uncommon for municipal officials to suggest that demolition or conversion of rental housing will result in a loss of rental housing or "affordable" housing for a municipality. The evidence does not support this viewpoint. Municipal government policies that claim to protect existing rental housing do little more than prevent the construction of newer and better rental housing.

To foster better co-operation, municipal governments must develop and support policies that promote and encourage the development of all forms of housing that meet the demands of residents, since a critical determinant of the affordability of housing depends on growth of total housing supply. Rather than allow policies that expropriate property rights to prevent conversions and demolitions of rental

housing, there should be policies to promote conversions and demolitions, since a significant portion of detached homes and condominiums become rented to tenants².

Providing the OMB with more resources

Our members, municipalities and consumers have each indicated that the OMB's backlog of cases has reached a breaking point. It is vitally important to the supply of rental providers that this be resolved. There is simply not enough professionals carrying the case load. FRPO suggests that the Government look into funding tools to give the OMB more resources to fully employ professionals that can execute decisions. Moving the projects through the OMB quicker, developers, complainants and municipalities will all save time and money.

Pre-consultation is an important part of the development process. It ensures that the developers can avoid making costly mistakes by reviewing their goals with municipal officials before jeopardizing capital. It is important to note that most developers already participate in some sort of pre-consultation process. Since the 2007 implementation of Bill 51, which places a greater emphasis on resolving issues at the front-end of the planning process, there are fewer appeals to the OMB due to more collaboration to resolve land-use planning decisions locally.

This improvement in efficiency at the OMB suggests that the new system is working and that with further resources the OMB it will continue to speed up the process allowing developers to continue to build the infrastructure desperately needed to decrease rental prices.

Consultation Theme C: Better engaged citizens in the local planning process.

Rental Housing Industry Position: Public Participation and engagement can be vastly improved by provincial government efforts to educate and inform citizens about the planning process, and ensuring that local governments modernize outdated zoning by-laws.

Municipal Zoning By-laws

The province must do more to encourage municipalities to update zoning bylaws to reflect the intent of provincial growth policies by pre-zoning and pre-designating lands where intensification meets the vision of the provincial plan. Outdated municipal zoning by-laws result in costly and lengthy applications by the development industry, and often become entangled in confrontational public battles of related land use decisions – even in cases where a proposal meets the objectives of the approved official plan.

² CMHC's December 2013 Rental Housing Report indicated approximately one-quarter of GTA condominium units are being utilised by tenants as rental housing units.

Education

A concern of the development industry is that the general public does not understand the complexity of the land use planning process. It is vital to understand that integrating new housing into existing communities leads to the stability and ultimately the upward socio-economic mobility of lower-income households. FRPO suggests that the province and the residential construction industry to work together to educate the public on the merits of integrating housing projects within the existing urban fabric.

Beyond fiscal and regulatory tools, the development industry requires the support of the provincial government over the long term to fundamentally change public attitudes towards land development and housing construction. A public education effort must be made by all stakeholders in an attempt to reduce NIMBYism and the undeserved negative image of housing projects. Without a public education campaign, poverty reduction policies that will benefit from the development of more housing will inevitably fail. If housing projects are to be integrated into mixed income communities within the existing urban fabric, our industry must have increased public support for affordable housing projects where appropriate.

Modernization of the process

Better engagement of citizens can be achieved by modernizing the consultation process and digitizing all documents and forms that are currently only available in hardcopy paper format. By moving to an electronic format amendments, approvals and challenges would be easier to process. Forcing people to use burdensome hard copies result in frustration and confusion.

In an ongoing effort to streamline the building process, it's important to eliminate duplicate forms within the zoning, Provincial Planning System and Official Plans. Saving developers and the public important time and resources will ultimately better serve the system.

Theme D: Protect long-term public interests, particularly through better alignment of land-use planning and infrastructure decision, and support for job creation and economic growth.

Rental Housing Industry Position: The land use planning system must consider the positive relationship between intensification and transportation policies to reduce traffic congestion and commute times.

It is important that the government continue to support developers as they play a significant role in the economy. New development not only helps to keep rental properties affordable, but it also promotes jobs and the economy via commercial properties.

Despite higher density living results in a much smaller environmental footprint, it continues to be a major challenge to build more densely in Ontario. Local opposition to higher density housing in urban areas is getting stronger every year. The provincial government needs to design a land use planning system that makes it clear to municipalities that high density development will be allowed and encouraged in urban areas.

Job creating commercial zoning uses must be protected, and also must be supported by residential and mixed uses to ensure successful employment growth. The notion of promoting ‘live-work’ lifestyles through planning is only successful when considerations are made for transit commuting and essential services and residential zoning. This will ensure successful employment lands, reduced commute times and better quality of life for all. In short, the province can support complete communities by enforcing current planning policies.

In large Ontario cities such as Toronto and Ottawa, two thirds of centrally located high rise apartment units are located within 1km of a rapid transit station, compared to just between 7% and 18% of detached housing in the inner suburbs³. Households in centrally located high rise apartment units own only between 1.1 and 1.3 vehicles per household, compared to overall average per household vehicle ownership of 1.9 and 1.7 for those two cities respectively.

Data from other sources reinforce these findings. Condominium and townhouse residents average 5.6 vehicle trips per day and apartment dwellers 6.3 trips per day, compared with the 10 trips per day averaged by residents of low-density communities⁴.

Continuing to encourage municipalities follow the intensification and transportation policies set out by the province will ensure that Ontarians enjoy a better quality of life.

Review of the Development Charges Act

Rental Housing Industry Position: The development charges system must be fair, accountable and transparent

Keeping a balance toward fair and predictable development charges across the province will help investors build new supply for the rental market – helping to keep new housing affordable. There must also be greater accountability and transparency by municipal governments so that residents of new housing developments understand that up to one quarter of the cost of their new home is to pay for the infrastructure used by the broader community.

Recently, new transit strategies have suggested that developers should have to pay for transit into Toronto. Although this proposed tax would not affect existing properties, it would deliver a decisive blow to new investors and new residents. Recent data from the Ontario Home Builders’ Association

³ Statistics Canada, 2001. CanMapR Streetfiles V6.3 and the 2001 Census.

⁴ Institute of Traffic Engineers, Trip Generation, 6th ed., vol. 1 (Washington, D.C.: Author, 1997).

suggests that new homebuyers and new businesses paid more than \$1.3 billion in development charges across Ontario.⁵

Also, there is no assurance that development charges that are collected by municipalities are used to actually fund the public facilities that are required. There must be greater accountability measures to ensure that residents of new homes directly benefit from the infrastructure that is funded by their development charges.

Any increases to development charges must be fair and predictable. If development charges were to increase excessively, the incentive for investors to build new units decreases. Shorter supply will ultimately mean higher rents across the province.

In the case of new rental housing, projects are even more sensitive to development charge increases. Investments take a much longer period of time to recover through long-term collection of rents, compared to costs of new owner-occupied projects.

According to Thomas Schwarz, CEO Canadian Apartment Properties REIT, “If construction and land costs come off a bit and if municipalities encouraged rental housing by taking away development charges, you may be able to make the equation work. And the industry would gear up and build some purpose-built rental housing for the first time probably in 25 years.”⁶

The province and municipalities must consider affordability and fairness within the *Development Charges Act*, and prevent development charges from being used as a new “tax”, whereby new residential communities are forced to finance long-term municipal infrastructure deficits. Growth should pay for growth, but municipalities must not rely on development charges to pay for infrastructure projects that benefit existing residents. There must be greater fairness, accountability and transparency in all growth related taxes, fees and charges.

Conclusion

FRPO remains focused on providing quality rental housing across the province. It is important that the government understand land development restriction will only hinder our mutual goal of affordable housing. Rather than focus on complicated policies – making land development simple and predictable with help all parties involved.

Again we thank the Ministry for taking the time to consider FRPO’s view on this important matter. We look forward to continuing this conversation in the near future.

⁵ OHBA-BILD-HHBA Response to MetroLinx Investment Strategy July 8 2013

⁶ Perkins, Tara. “Rental apartment construction set to boom.” *Globe and Mail*. 8 September 2013, Online Edition.