



AMO's Submission to Consultations Related to Bill 23 & The More Homes Built Faster Plan

AMO Submission to the Ministry of Municipal Affairs and Housing, Ministry of
Citizenship and Multiculturalism, Ministry of Natural Resources and Forestry,
and the Ministry of the Attorney General on:

**ERO 019-6196
ERO 019-6172
ERO 019-6141
ERO 019-6163
ERO 019-6197
22-MMAH017
22-MAG011
ERO 019-6173
22-MMAH018**

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Preamble

The Association of Municipalities of Ontario (AMO) is a non-profit, non-partisan association that represents municipal governments across Ontario. Together with our members, we address common challenges facing our residents and provide advice to the government about solutions to them. AMO has been actively involved in housing and homelessness advocacy for years, as Ontario's 444 municipal governments are responsible for building strong, complete communities, of which housing – both home ownership and rentals – is a key component.

Housing affordability and building supply is a challenge all Ontarians share. There is much that can be done collectively by working together to increase housing supply, diversify the mix and increase affordability. Solving the housing crisis will require an all-of-government approach by all three orders of government and the development industry.

Introduction

AMO appreciates the opportunity to provide comments on several consultations related to Bill 23 – *More Homes Built Faster Act, 2022*. These are in addition to the [written submission to Bill 23](#) AMO provided to the Standing Committee on Heritage, Infrastructure and Cultural Policy.

Despite the Bill's passage on November 28, municipal governments remain concerned that the legislation:

1. Shifts the cost burden of growth
2. Undermines planning and community livability
3. Exacerbates risks to the environment and human health.

On November 30 AMO was pleased to see the government's response to AMO's preliminary analysis of the Bill which indicated a need for a transfer of up to \$1 billion a year in costs from private sector developers to property taxpayers without any likelihood of improved housing affordability. Our focus will now shift towards making sure the housing pledges and targets are feasible and reasonable given historical data. To tie funding to unreachable targets and narrowly-defined "housing enabling infrastructure" are details we look forward to discussing more.

In the meantime, AMO is asking the province to work with all of its housing partners to take an integrated approach to environmental, social and economic policy that allows Ontario to take its place ahead of competing jurisdictions.

To that end, AMO respectfully submits comments on various consultations related to Bill 23 and the More Homes Built Faster Plan.

Proposed Changes to the *Ontario Heritage Act* and its Regulations: Bill 23 (Schedule 6) – The Proposed *More Homes Built Faster Act, 2022* (ERO 019-6196)

The Ministry of Citizenship and Multiculturalism is proposing changes to heritage considerations to remove barriers that are perceived to be slowing housing construction and making it difficult to protect most of Ontario's identified heritage properties.

AMO is supportive of measures that streamline provincial and municipal approvals in a way that speeds up development while balancing important liveability considerations. For example, the new two-year time limit on listing of non-designated buildings with a five-year limitation on re-listing could have the unintended consequence of creating more reactionary designations, and more appeals to the Ontario Land Tribunal (OLT) on matters of designation.

That is AMO supports the Ontario Professional Planners Institute (OPPI's) recommendation that mutual-consent clauses be allowed if the property owner agrees to allow for properties to remain on the Register past the two years, or to designate a property not previously listed.

Proposed *Planning Act* and *Development Charges Act* Changes: Providing Greater Cost Certainty for Municipal Development-related Charges (ERO 019-6172)

Development charges are designed to help municipalities pay for a portion of the capital infrastructure required to support new growth. Premised on the widely accepted principle that growth should pay for growth, development charges help to ensure that existing taxpayers are not required to subsidize costs of the infrastructure or services needed to support new residents and businesses.

The Housing Supply Action Plan sets the ambitious target of building 1.5 million homes by 2031, with 1.23 million in Ontario's 29 largest communities. AMO's preliminary analysis estimated that development charges in these communities would drop by at least \$5.1 billion – or \$569 million per year in today's dollars.

Since AMO estimated these shortfalls, we have received additional information from some members that suggests a more significant impact on the sector from Bill 23. Increased estimates for impacts on housing services and land cost ineligibility as well as new estimates regarding phasing suggest that the impact is likely over \$10 billion over ten years or over \$1 billion per year.

AMO appreciates the recent letter from the Minister of Municipal Affairs and Housing that commits to "ensuring that municipalities are kept whole for any impact to their ability to fund housing enabling infrastructure because of Bill 23." By way of this letter, AMO believes government recognizes the importance for municipal access to funding to support the joint provincial-municipal goal of increasing housing supply and affordability and looks forward to more information regarding this commitment as it becomes available.

Given that the changes to development charges have not yet been proclaimed, AMO recommends that the government pause on implementation of Schedule 3 of Bill 23 until it has completed the targeted audits committed in their recent letter and/or consider amendments to the development charge framework that support housing-enabling infrastructure as a part of future iterations of their ongoing housing action supply work.

For more specific AMO positions on municipal finances, please read [AMO's Submission on Bill 23](#), and the [letter to the Minister of Finance](#) on November 1.

Legislative and regulatory proposals affecting conservation authorities (CAs) to support the Housing Supply Action Plan 3.0 (ERO 019-6141)

The Ministry of Natural Resources and Forestry has made changes to Bill 23 that place new responsibilities on municipalities for natural hazards and natural resources, weakens the ability of CAs to protect people and property from natural hazards and deliver on their core mandate, and reduces critical, natural infrastructure like wetlands and greenspaces that reduce flooding and protect water in our lakes and rivers.

CAs have been regulating development since 1956, in acknowledgement of the severe economic and human losses associated with Hurricane Hazel. CA participation in the planning process ensures that watershed science and data is being applied to planning and land use decisions. Efforts to limit their involvement in identifying constraints up front will only result in misdirected development investments and delays in approval processes for future construction. Additionally, it avoids new municipal costs for hiring additional staff or consultants to do this work.

Over the past few years, new regulations were established under the *Conservation Authorities Act* with input from a multi-stakeholder CA Working Group. The first phase of regulations only passed in October 2021 and the second in April 2022. Simply put, the changes made in Bill 23 fundamentally change a system which was not provided the time to be evaluated on its merit.

For this reason, AMO recommends that the Ministry of Natural Resources and Forestry reverse its decision and allow municipalities to enter into agreements with CAs to deliver development review and commenting services due to the efficiency it brings. Allowing 36 CAs to deliver these services promotes consistency and efficiency for the development sector. At worst, efforts to bar planning services performed by CAs may stifle creative solutions to complex, multi-jurisdictional issues, and lead to longer and more costly application review processes.

Finally, AMO recommends that the CA Working Group be re-established to discuss any decisions related to regulation development, the fee structure changes, and how the CA lands identification requirement will work. For example, CAs should be able to properly set budgets and avoid the need for municipalities to fund deficits for Mandatory programs and services. Otherwise, it will force CAs to reduce levels of service thereby increasing response times for review of applications. It supports the user-pay principle i.e., those who benefit from the service would pay for the service, not the taxpayers.

Regarding identification of CA lands suitable for housing through the mandatory land inventory, careful consideration is required when identifying CA lands to support housing development. Clear policies are needed to protect these locally significant conservation lands and land use should only be considered for housing in exceptional circumstances. The generally accepted rule should be that locally significant conservation lands are not for sale.

In conclusion the legislation will create serious risks to the environment and human health at a time when the impacts of climate change are evident and urgent. The proposed changes to how municipalities approve development and manage where and how growth occurs signal a move away from environmental protection when it is needed most.

For more specific information regarding CAs, please read [AMO's Submission on Bill 23](#).

Proposed *Planning Act* Changes (Schedule 9 of Bill 23 – the *More Homes Built Faster Act, 2022*) (ERO 019-6163)

Addressing the Missing Middle & Gentle Density

Bill 23 proposes changes to strengthen the existing additional residential unit (ARUs) which would allow “as-of-right” up to 3 units per lot in settlement areas with full municipal water and sewage services. See AMO’s additional comments below on ERO 019-6197. The changes to zoning for transit supportive densities is also supported in principle.

AMO supports proposals that increase the overall supply and diversity of housing types in Ontario while maintaining strong protections for public health, safety, and the environment. Having appropriate land use planning safeguards in place is essential for the overall health of Ontario and Ontarians. This includes having access to safe drinking water, directing development outside of hazard areas and having access to high quality greenspace, including conservation areas.

AMO recommends that “as-of-right” zoning be considered carefully as Official Plans and Zoning By-Laws may not be based on the most up-to-date hazard mapping and thus, “as-of-right” zoning may put hundreds of more residential units in flood prone areas increasing the risk to life and making effective flood emergency response more difficult and costly.

It is recommended that an amendment be made to the “as-of-right” zoning to specify “except in areas subject to natural hazards”. This would help identify appropriate development locations outside of natural hazard areas, including flooding and erosion hazards and which conform to the significant threat policies and designated Great Lakes policies found within source protection plans made under the *Clean Water Act*.

Regional/County Planning

Provincial statutes and policies are implemented locally through municipal official plans and land use control instruments. Lower and upper-tier municipalities collaborate extensively on managing local planning policy matters, with upper-tier municipalities often responsible for coordinating and managing infrastructure servicing and planning.

The significant restrictions to the roles of some upper-tier municipalities breaks the logical link between planning for development and servicing development. These changes may lead to uncoordinated and inefficient growth with the potential for higher infrastructure costs. It also risks building housing without access to coordinated services, amenities and essential infrastructure.

Supporting rapid growth efficiently requires a high degree of coordination. This coordination ensures that investments made today can leverage future growth and that assets can be managed for maximum performance. Upper-tier municipalities do this currently by coordinating local plan alignment and managing servicing for maximum effect. Breaking this link is counterintuitive and will lead to inefficiency, confusion and potential gaps in the infrastructure required to support local growth.

Bill 23 should be amended to restore the growth management planning function for the seven named upper-tier municipalities. Consideration must be given to how lower-tier municipalities will be able to pay for the costs and build capacity associated with bringing upper-tier municipality and conservation authority expertise in-house.

Development Approvals Process & Third Party Appeals

The elimination of public meetings for approval of a draft plan of a subdivision and the exemption of site plan control requirements for projects with fewer than 10 residential units will impact the ability for municipalities and the public to bring up substantial issues with planning proposals. Small, rural and remote communities will be particularly impacted by the restrictions on projects with fewer than 10 residential units given the typical scale of development in these communities.

As well, changes made to allow land lease communities to be approved through site plan control instead of plan of subdivision for places outside of the Greenbelt Area is a proposal seems to provide a faster mechanism to implement. However, the site plan control must remain in place to allow municipalities who are handling these applications to ensure there is adequate servicing and protections so that municipalities do not end up with the liability if the services in these communities fail.

Third, changes made in Committee now make any applicant able to amend a new official plan, secondary plan and zoning by-law within the "2-year timeout" period for applications. The Bill seemed to allow for aggregate applications (and now all others) to request amendments, even if these changes are not municipally supported. This will not speed up the process and in fact may have the unintended consequence of adding uncertainty to a process that has not even started to change.

Regarding third party appeals, AMO appreciated the reinstatement of third-party appeals for certain types of planning applications and the change to retroactively dismiss existing appeals if a hearing date had not been set by October 25. It still remains unclear, however, how the reduction in public input will speed up development of projects in the long-run.

When considered in isolation, these changes may seem to improve the process, but the cumulative impact of less public consultation, limiting third-party appeal rights, and the steep reduction of regional coordination and service planning will significantly and negatively impact how municipal governments conduct land use planning.

Therefore, AMO recommends that the government refer these the Bill's implementation plan to its Housing Supply Action Plan Implementation Team before they are passed into law. Secondly, that guidance be developed to encourage early pre-consultation with the municipality and other commenting agencies to identify and work through any issues with the proposed development, including issues associated with natural hazards or the protection of sources of drinking water.

Green Standards

We are also concerned about Bill 23's impact on municipal green development standards. Specifically, it appears that the legislation reduces site planning authorities used by municipalities to require sustainable design performance measures and address energy efficiency and climate change in new buildings. Where municipal councils have approved sustainable design standards across Ontario, they may be required to redesign existing processes at a time where climate change impacts are being felt more at the local level.

Municipal energy and sustainability standards are well established parts of the planning process that happen concurrently with other review and approvals. These standards improve housing affordability in the long-term as energy efficiency provides lower operating costs without sacrificing a building's quality.

That is why AMO is asking the Ministry of Municipal Affairs and Housing to ensure that sustainable design matters remain within a municipality's site plan control and that related changes be made to the Building Code to allow municipalities to protect the sustainability of Ontario communities. This will reduce the current confusion and uncertainty in the development process for both development departments and developers across Ontario.

Conservation Authorities

See AMO's comments on ERO 019-6141 above.

Proposed Changes to Ontario Regulation 299/19: Additional Residential Units (ERO 019-6197)

AMO is supportive of creating gentle intensity and believes that providing as-of-right permission for up to 3 additional dwelling units (ADUs) in serviced settlement areas is a good idea. Permitting these units as-of-right in the *Planning Act* reduces the administrative burden of updating local planning documents.

Given the financial incentives provided to builders of these units, it is hoped that permitting ADUs as-of-right will not have a major financial impact and may assist in making housing affordable for existing and new homeowners, as well as providing additional rental options in our primary settlement areas.

We believe that housing affordability and a full spectrum of housing is critical for all communities, as was mentioned in our [AMO Housing Blueprint](#). Part of the solution is to create more supply in existing neighborhoods that are already serviced.

Seeking Feedback on Municipal Rental Replacement By-Laws (22-MMAH017)

AMO does not support a change in legislation to enact a Minister's regulation-making authority under the *Municipal Act, 2001* to enable the Minister to make regulations to standardize and clarify municipal powers to regulate the demolition and conversion of residential rental properties.

Municipal governments are closest to their residents and do not require further provincial regulation to determine what will work best to meet the needs of renters and homeowners in accordance with local circumstances and the housing market. In short, consistency and streamlining the construction and revitalization of new housing supply is a 'one-size fits all' solution.

There is a risk that changes could result in the loss of rental units that are so critically needed to meet the wide spectrum of housing needs in Ontario. While measures to support home ownership are important, rental housing is the only viable option for many people. There is scarce rental supply in most communities, and it is often unaffordable for moderate and low-income people. New rental housing needs to be built, and existing stock, especially affordable units, must be preserved. AMO continues to call for a comprehensive 'made in Ontario' [provincial rental strategy](#).

Proposed Amendments to the *Ontario Land Tribunal Act, 2021* (22-MAG011)

The changes made to the *Ontario Land Tribunal Act, 2021* may have the intended impact of prioritizing hearings that focus on applications that contribute significantly to the provision of housing. However, the Ontario Land Tribunal's new powers to dismiss appeals 'due to unreasonable delay by parties', and ordering an unsuccessful party to pay a successful party's costs, may not result in building housing faster.

AMO is asking the Ministry of the Attorney General to work with stakeholders – including municipal governments – to ensure the new Minister's regulations that create "priority criteria" on cases that create the most housing, and service standards for specific case resolution activities are effective and balance the need to hear public input.

We also recommend the province consider opportunities for preventive measures, delivered through local processes, which are closest to the people served and can avoid increasing the caseload at the Landlord Tenant Board for disputes related to the *Residential Tenancies Act*.

Proposed Amendment to O. Reg 232/18: Inclusionary Zoning (ERO 019-6173)

Inclusionary zoning is a critical tool in the municipal toolkit to facilitate more affordable housing in communities. AMO does not support the proposed changes to this regulation. It would work best to continue to afford municipal governments the flexibility to meet local needs and circumstances to enact viable and effective inclusionary zoning by-laws. This includes the discretion to establish an affordability period, to determine the percentage of total units to be set aside as affordable, and to develop an approach to determining affordable prices/rents for inclusionary zoning units.

Otherwise, it will reduce the adoption of inclusionary zoning by-laws in Ontario's municipalities, thereby counter to the shared municipal-provincial goal of increasing affordable housing units, both rental and home ownership.

Further, the application of inclusionary zoning should be broadened in scope to make it feasible for smaller and rural communities without major transit areas to use this tool within their local context on a scale that is appropriate to their size and geography.

Seeking Input on Rent-to-Own Arrangements (22-MMAH018)

A rent-to-own program would create another path to attainable home ownership. AMO is supportive of the provincial government establishing and administering such a program. However, this must not draw existing resources away from creating opportunities for more affordable community and supportive housing, both rental and home ownership, for low and moderate-income households.

While not envisioning a mandated role for the 47 municipal service managers, including municipalities that are designated as Consolidated Municipal Service Managers (CMSMs) and District Social Service Administration Boards (DSSABs), a program should allow all these service managers the ability to apply for funding if they choose to implement a rent-to-own program in their communities.

If deemed a promising practice, it could potentially be modelled along the lines of the eligibility criteria and program design of the federal program administered by the Canadian Mortgage and Housing Corporation (CMHC). Consider that it would be worthwhile exercise for the provincial government to first learn more about the uptake and effectiveness of the federal program to apply lessons learned to any new provincial program and to determine the need for a provincial program that is not duplicating efforts.

Conclusion

On behalf of municipal governments across Ontario, thank you for your consideration of the comments provided in this submission.