

May 31, 2019

Joint Response of Eight Toronto Residents' Associations to Provincial Bill 108 and to Proposed Changes to the Planning Act, the Development Charges Act, and the Ontario Heritage Act

Jointly submitted by: Annex Residents' Association, Garment District Residents' Association, Grange Community Association, Harbord Village Residents' Association, Huron-Sussex Residents' Organization, Long Branch Neighbourhood Association, Palmerston Residents' Association, and Parkdale Residents' Association.

We jointly comment below and make the following recommendation on Bill 108.

Bill 108 undermines the capacity of cities to deliver facilities such as community centres, parks and libraries and has significant financial implications. We ask the province to delay consideration of this matter so both Bill 108 and its regulations can be given the widest possible public consultation.

Toronto is among the top 10 most liveable cities in the world, despite the pressures of unprecedented growth. This success has not happened by accident. It reflects the valuable contribution to the city building process that City Council and our citizens have brought to the rules around planning our City, in partnership with the province. We believe there must be a reasonable balance between the interests of landholders to build as they wish, and cities and their residents to define what is appropriate development, including measures to ensure the community has adequate services and public amenities.

On May 8, 2019, with minimal consultation, the Minister of Municipal Affairs introduced a bill which would overturn the way Ontario cities are planned, sharply curtailing the power of residents to participate in determining the future shape of their cities.

The changes in Bill 108 now place the powers of cities to deliver liveable communities under the control of the Minister and limit the ability of residents to influence decisions both directly and indirectly through their councillors.

The omnibus Bill covers 13 distinct areas of municipal laws. It was designed to cut red tape, speed development and solve the housing shortage. With no metrics provided, the province has offered no proof it will do anything other than serve the interests of developers. Viewed in the context of multi-year capital plans that have been carefully crafted by municipalities to support growth and liveability, such change, in haste, without full transparency as to consequences, is reckless.

Radical change without full public consultation on the final shape of a bill *and* its regulations is irresponsible.

We join with Toronto City Council which voted 25-1 in support of an exhaustive City Staff report outlining several dozen serious objections to the Bill. We urge this government to hit the pause button, to publish the regulations and begin a measured and full public consultation with civic stakeholders across the province.

The Liveable City

As density has increased, Toronto developed strategies to ensure residents have access to essential community facilities, such as libraries, child-care facilities, recreation centres and parkland, in addition to hard services such as water and sewers and roads. This balance has been defined as liveability.

Bill 108 overturns the present system. Today, growth-related infrastructure costs are financed by developments themselves under the principle of growth pays for growth. Charges on developments included new parkland, community centres, day cares, as well as sewers and water.

Under Bill 108, development charges will become a separate item, restricted to a narrow list of hard services, such as sewers. They will be computed using a method yet to be determined. Currently, development charges are revised every five years following an external review that is integrated into the growth plan of each city. They are predictable, not susceptible to change by Cabinet decision. The Bill removes this predictability.

Under Bill 108, cities themselves will be required to pay for infrastructure such as power, sewers, water up front, recovering the costs from developers over five years. This puts cities in the business of being involuntary lenders to developers. That is not sound fiscal management.

While the combined effect of these changes is stated to be revenue neutral, without knowing the regulations which will implement the changes, it is impossible to confirm this statement. Common sense would suggest that the effect will be to reduce the amount of growth-related costs borne by developers, and/or the cutting of community facilities intended to support the liveable city. There is no free lunch.

Second, community benefits and parkland secured under s. 51, s. 37 and s.42 for each development are to be consolidated and charged at a rate yet to be determined by the Minister. This leaves the city's ability to build new parks, and to secure community benefits at the whim of whoever happens to be the minister at the time.

Bill 108 undermines municipalities' ability to protect critical but dwindling heritage resources in Ontario's cities and towns. Changes to the Ontario Heritage Act limit the preparation of designation bylaws to 120 days, far too short a period to do proper due diligence to international standards. Preparation of fair, accurate, transparent, and thorough designation bylaws often takes up to a year. By setting such a short designation period, the Province is setting conditions to which municipalities simply

cannot comply, giving developers free reign to plow ahead with impunity over heritage assets that are so integral to the liveability of communities across Ontario. Critically, changes remove Councils' final authority over heritage and transfer all appeals from the Conservation Review Boards to LPAT which is already seriously overburdened with planning and development appeals (with many more to come as a result of other provisions in Bill 108).

Direct Loss of Voice

We now seek to draw attention to the direct and negative impacts of the Bill's provisions on residents if it is not amended.

Residents affected by a proposed development will no longer have the right to appear and testify as participants at the LPAT, as they can today. Instead only written testimony will be allowed—though they might be called in to be cross examined.

Clearly, the proposed limitations to the powers of the City of Toronto and other Ontario municipalities diminish the ability of residents to help build their cities in a way that ensures a healthy balance of development with the necessary community infrastructure.

Ability To Influence the Shape of Change

City Council's control of final appeals of its planning decisions have been revoked, stilling the voices of residents who contribute to the shaping of City planning rules—often involving in depth consultation—sometimes over years.

Under the previous government, the Ontario Municipal Board (OMB) was replaced by the Local Planning Appeal Tribunal (LPAT) to almost universal acclaim. This change has been reversed and many of the issues of concern with the OMB process have returned. Now the tribunal, not City Council, will again be the final arbiter of good planning for rezonings and official plan amendments.

De novo hearings will return, in which developers have the right to change plans to be presented at the appeal hearing itself, as though there had been no municipal process before.

As well, developers have the right to appeal if the City has not dealt with their applications in 90-120 days (90 for OPAs and 120 for rezonings). These deadlines cannot be met without sacrificing essential consultation and good planning. These timelines almost ensure the right of appeal will be exercised by developers who do not wish to engage the City and/or community in reasoned consultations. Inevitably, this will create more, not fewer, cases for the LPAT.

The current backlog at LPAT, created largely by developers who preferred getting in under the old OMB rules, will not be solved by \$1.4 million in temporary funding for additional members. With the majority of the tribunal members being part-time, this will likely result in inconsistent decision-making.

Is there a solid basis for these recommendations?

We believe the objective of Bill 108 suffers from a credibility gap.

Under the rubric of cutting red tape and fees, the Plan asserts that more housing will be built and that housing will be more affordable *while maintaining protections for existing stable communities, cultural heritage and the environment.*

Bill 108 is not accompanied by a single performance metric to validate the assertions as to the number of additional units that will be built, their type, or their affordability, or the growth-related costs to be downloaded on the property tax base. It is grounded in the belief in supply side economic theories but without any empirical analysis.

According to the provincial Growth Plan, the number of housing units approved but not yet built and currently under review in Toronto, satisfy 96% of the units required to accommodate household growth to 2041. In Toronto, supply is not the problem.

The Bill ignores the significant increase in cost of materials and scarce labour availability in construction.

No modelling has been done of the impact of proposed changes to development charges and the new Community Benefits Charge has likewise not been modelled.

Importantly, there is no indication that the savings developers might realize through changes in process would be put to reducing rents or creating affordable housing.

Take a time out

We urge the Minister to step back and engage the affected communities of interest in a meaningful way. Before imposing change of this dimension, the government should model the consequences of the Bill and Plan and place those findings before the public.

Simply put, the case has not been made that the changes proposed by the Bill will have the results claimed by the government.

To receive essential public input, we urge you to work with not just our City, but with residents through our neighbourhood associations. As a 'government that listens', you should not do less. We want to maintain stable, healthy and livable communities while enabling intensification to occur. Amenities including parkland and community facilities are essential for the wellbeing of our neighbourhoods. Ensuring the right mix, proportional to planned development, is critical.

Only through community engagement will the voice of the people be heard.

Respectfully signed,

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cc: - Premier Doug Ford
 - Minister Steve Clark
 - Attorney General Caroline Mulroney
 - signatories