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Official Report of Debates (Hansard)

SP-26

Standing Committee on Social Policy

Building Better Communities and Conserving Watersheds Act, 2017

2nd Session
41st Parliament

Tuesday 17 October 2017

Chair: Peter Tabuns
Clerk: Jocelyn McCauley

Journal des débats (Hansard)

SP-26

Comité permanent de la politique sociale

Loi de 2017 visant à bâtir de meilleures collectivités et à protéger les bassins hydrographiques

2e session
41e législature

Mardi 17 octobre 2017

Président : Peter Tabuns
Greffière : Jocelyn McCauley

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Tuesday 17 October 2017

Mardi 17 octobre 2017

The committee met at 1500 in committee room 1.

The Clerk of the Committee (Ms. Jocelyn McCauley): Good afternoon, honourable members. In the absence of a Chair and Vice-Chair, it is my duty to call upon you to elect an Acting Chair. Are there any nominations?

Mr. Ernie Hardeman: Madam Clerk, I'd like to nomination Cindy Forster as Chair.

The Clerk of the Committee (Ms. Jocelyn McCauley): Does the member accept the nomination?

Ms. Cindy Forster: I do.

The Clerk of the Committee (Ms. Jocelyn McCauley): Are there any further nominations? There being no further nominations, I declare the nominations closed and Ms. Forster elected Acting Chair of the committee.

BUILDING BETTER COMMUNITIES AND CONSERVING WATERSHEDS ACT, 2017

LOI DE 2017 VISANT À BÂTIR DE MEILLEURES COLLECTIVITÉS ET À PROTÉGER LES BASSINS HYDROGRAPHIQUES

Consideration of the following bill:

Bill 139, An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts / Projet de loi 139, Loi édictant la Loi de 2017 sur le Tribunal d'appel de l'aménagement local et la Loi de 2017 sur le Centre d'assistance pour les appels en matière d'aménagement local et modifiant la Loi sur l'aménagement du territoire, la Loi sur les offices de protection de la nature et diverses autres lois.

The Acting Chair (Ms. Cindy Forster): Good afternoon to all committee members. We're meeting this afternoon for public hearings on Bill 139, An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act, the Conservation Authorities Act and various other Acts.

Mr. Ernie Hardeman: If I could indulge the Chair just for a moment before we hear the delegations: Yesterday, at the start of the hearings, I made a presentation about the process of getting here and I made some inferences to how it was done, and I'd like to apologize to the Clerk if, in any way, it would have inferred that somehow she wasn't doing an adequate or an outstanding performance. I was just frustrated with some of the events that happened, and I just want to sincerely apologize to her and say that we look forward to a long time to work together on behalf of the people of Ontario. Thank you very much, and thank you for allowing me time to apologize.

The Acting Chair (Ms. Cindy Forster): Thank you, Mr. Hardeman.

Mr. Percy Hatfield: Madam Chair, I wonder if we can turn up the volume on the microphones because of the noise from the air conditioner. It's hard to hear in here today.

The Acting Chair (Ms. Cindy Forster): Mr. McMeekin.

Mr. Ted McMeekin: Chair, I didn't hear a word that my esteemed colleague said because of the noise here. I wonder if he might repeat what he said speaking into the microphone.

Mr. Ernie Hardeman: Madam Chair, I would be happy to repeat it. I said that yesterday, as we started the meeting, we had some discussions about the process and about how we dealt with the subcommittee report and I questioned the appropriateness of not having scheduled all the meetings, and I want to apologize because the Clerk did exactly as a Clerk should do. She had done the job perfectly, and it was my misunderstanding or my urge to find fault that caused me to say that, so I want to apologize to her for my having done that.

Mr. Ted McMeekin: Thank you. That's very honourable.

The Acting Chair (Ms. Cindy Forster): Please note, members, that the written submissions have been distributed to each of you. Each witness will have up to 10 minutes for their presentation, followed by 10 minutes of questioning from the committee, divided equally amongst the three parties. Are there any questions from the members before we begin?

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Acting Chair (Ms. Cindy Forster): I will now call upon the Canadian Environmental Law Association to come forward. If you can please state your names for

the record, you will have 10 minutes for your presentation. The remaining time will be allotted to the members of the three parties.

Ms. Theresa McClenaghan: My name is Theresa McClenaghan, and with me is Jessica Karban, who is a student at law at the Canadian Environment Law Association. We thank the committee for the opportunity to attend today.

CELA was founded in 1970. We're provincially mandated as a specialty legal aid clinic, focused on environmental law. Our services include representing qualified families, environmental groups and First Nations on many types of matters, and we do find ourselves appearing before the Ontario Municipal Board frequently in our practice. We also work on law reform and public legal education.

We have two main submissions to make to you today. The first is that, in our view, most of Bill 139 relating to planning matters should not be passed in its present form. Rather, we recommend that the government should withdraw these schedules to the bill and conduct further public consultation on how Ontario's land use planning system should be reformed.

On the other hand, we do support the proposed schedule 4 relating to the Conservation Authorities Act, with some minor recommendations that we'll mention.

Let me say we do agree that land use decision-making does deserve ongoing improvement in the province of Ontario, but we don't think that Bill 139 in its current form remedies the issues; in fact, it may compound or exacerbate several current problems within the land use planning system and may include new pressures for judicial review and pressure on our court system.

We also wish to note that CELA has never supported the abolition of the Ontario Municipal Board because we've argued that it provides an important forum for citizen participation in reviews of land use planning and protection in terms of compliance with law, with good planning and with the public interest.

Looking at the bill itself and starting with the planning matters schedules, we have no concern about renaming the tribunal. We're focused on the substantive and procedural issues that it raises compared to current processes. In our view, the four schedules will reduce or eliminate important procedural rights and substantive protections that Ontarians currently enjoy under existing land use law and policy.

The major concerns we have are that:

—It would constrain and reduce the board's jurisdiction and powers, and reduce the types and number of matters that may be appealed to the new Local Planning Appeal Tribunal.

—It would limit the grounds of appeal that could be advanced before that tribunal.

—It would restrict who can participate in those hearings and constrain how they will be conducted; for example, no testimony under oath, no cross-examination by parties and so on.

—It would eliminate de novo hearings before the tribunal and narrow the decision-making authority.

—The as-yet-unwritten rules of practice of the new tribunal would prevail over the province's Statutory Powers Procedure Act where there is a conflict over those procedural safeguards.

We think that all of these matters would make it much more difficult for CELA's client community to play a meaningful role in land use decision-making processes in the province or to ensure that decision-makers are held accountable through appropriate appellate procedures.

For the purposes of fairness, transparency and credibility, we would suggest that Planning Act appeals continue to be adjudicated in traditional oral hearings with procedural safeguards such as testimony under oath and being subject to cross-examination by parties. These offer the highest and most effective form of public participation, in our experience, and should not be sacrificed for reasons of political expediency or efficiency. We're alarmed by subsection 42(3) in particular, which states that even if an oral hearing is held under section 38, "no party or person may adduce evidence or call or examine witnesses."

We strongly object to the attempt in the bill to transform the current de novo process into a much less robust type of appellate review. We also object to the manner in which Bill 139 is proposing to tightly circumscribe the nature of the board's current jurisdiction.

It strikes us that fundamentally there is a misunderstanding on the part of the drafters of the bill, who see municipal land use decisions as analogous to expert tribunal decision-making. We submit that planning appeals should be decided on their merits, and there should be no presumption by the tribunal that the impugned decisions are always properly reached, unassailable on the facts, or in accordance with applicable law and policy. We don't think appeals to that tribunal are analogous to judicial review, where there is deference to a specialized administrative decision-maker and the principal issue is whether the decision was made in a way that's defensible on a ground of reasonableness.

Since the Planning Act usually involves one or more matters of provincial interest and provincial planning policies, we submit that the tribunal should be empowered to make the best decision available on the hearing record, rather than determine whether the decision was merely "reasonable" or "defensible" on the basis of the documentation placed before the municipality. We also submit it should be decided on the best available information and evidence available at the time of the tribunal's decision.

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We also do not support sending the decision back to the municipality. Rather, once the tribunal is seized of the matter, they should ultimately decide the matter on the basis of the information in front of them.

We also are concerned that Bill 139 contains no new provisions aiming at reducing or removing the financial barriers currently faced by residents, which was one of the questions posed by government in its discussion paper. We see that there is a proposal for a Local Plan-

ning Appeal Support Centre, which has many details to be provided, but we are assuming it won't be the kind of entity that will provide the type of resourcing needed by citizens to fully participate in land use planning decisions, such as by planners, hydrogeologists and other experts. If that is the intention, that should be made more clear. Otherwise, in our submission, the better model is the former Intervenor Funding Project Act, albeit with an expansion to land use planning decisions.

We have an alternative submission. If the tribunal is not going to hold any hearings de novo under the Planning Act, then we submit that the bill should be amended to send all environmental planning appeals, such as greenfield projects involving natural heritage and healthy communities, to the Environmental Review Tribunal for de novo hearings instead. In our view, the public interest is best served with a full oral hearing on development proposals that may adversely affect public resources or public health and safety. We note that there are other stakeholders who have made that suggestion.

We do support the Conservation Authorities Act provisions provided in schedule 4 and would recommend that that schedule proceed to passage. We're pleased to see proposed provisions that clarify the purpose of that act, although we would encourage further clarification of the terms "development" and "management" in that purpose statement to ensure that they are aimed at overall watershed health. We are also supportive of the provisions in that schedule that would improve membership and governance of CAs in Ontario, although we encourage that qualifications of appointees include specified criteria representative of various aspects of the public interest in watershed health.

In conclusion, we submit that it's in the public interest to have an independent, specialized, quasi-judicial tribunal empowered to hear and decide disputes arising under the Planning Act. In our view, these should not be confined to the record that was before the municipality in the first instance. There should be a continuation of de novo oral hearings on most matters that are currently appealable to the act.

Accordingly, we suggest withdrawing schedules 1, 2, 3 and 5 and returning to consult the public on better mechanisms to improve public planning in Ontario and passing schedule 4 with some additional clarification on the terms.

The Acting Chair (Ms. Cindy Forster): Thank you so much for your presentation. Each party will have just over three minutes to ask a question and get your answer.

We'll start with the official opposition.

Mr. Ernie Hardeman: What was the time?

The Acting Chair (Ms. Cindy Forster): Just over three minutes—about three minutes and 20 seconds.

Mr. Miller.

Mr. Norm Miller: I'll be quick, then, to give time for my colleague.

On the conservation authorities part of the act, you're generally in favour of that part, from what I see.

Ms. Theresa McClenaghan: We are.

Mr. Norm Miller: Do you have any concerns with the changes to warrantless entry onto private property that make it easier to go onto private property without a warrant?

Ms. Theresa McClenaghan: We don't oppose the provisions because there's a robust body of law about when it's reasonable to exercise those types of provisions. Those would be subject to regular judicial review to make sure that those authorities are not abused.

Mr. Norm Miller: Okay. I'll pass it on to my colleague.

Mr. Ernie Hardeman: Thank you very much for your presentation. I want to go quickly to the crux of the matter here, the tribunal, and your suggestion that it needs to do more—a larger hearing with more ability to take evidence and so forth.

The government's position, the ministers yesterday explained to us, is that this was to make sure that the decision was a decision made by municipalities, not by other boards and commissions. What's your concern about having municipalities make those decisions, that technically, only on certain issues, are they appealable? The rest are—the decision of the municipality is final. Do you have concerns with that?

Ms. Theresa McClenaghan: Municipalities can, should and do make those decisions. The question is: What happens if people have a serious concern about the decision that was made and is there any avenue to call for its review? If there's not a robust tribunal system, such as we have currently with the Ontario Municipal Board, then we will end up inevitably falling to judicial review-type approaches in the courts. That's what the Ontario Municipal Board was introduced to avoid in the first place. It does a good job of that, and we don't think these disputes belong in the courts. It's a very, very time-consuming costly mechanism of proceeding, with a great deal of uncertainty. So we think the tribunal, as a specialized decision-maker, should exercise that review.

Mr. Ernie Hardeman: The other thing I just quickly wanted to ask: You suggested that if we're not changing the tribunal, the environmental concerns should go to the Environmental Review Tribunal. How would you decide which applications went there, because the environmental part is part of the whole application in almost every case?

Ms. Theresa McClenaghan: Well, that's generally our view, and for that reason, over the years, we have strongly encouraged good environmental credentials on the part of the OMB board members too. But if the appeals specifically pertain to natural heritage, environmental, health and safety issues—because there are many, many OMB appeals that routinely proceed that actually don't deal with those issues—those ones that do deal with those high-value matters of environmental resources and health and safety should go to the ERT, which is a specialized tribunal that can hear those matters, as it does already.

Mr. Ernie Hardeman: Thank you.

The Acting Chair (Ms. Cindy Forster): We'll move to Mr. Hatfield.

Mr. Percy Hatfield: Thank you for coming in. Tell me why you think a de novo hearing is better than a decision made by a municipal council, a 10-year or a five-year review of an official plan that is sanctioned by the provincial government, that follows all provincial planning policies and statements—tell me why you think a de novo hearing is better than that process.

Ms. Theresa McClenaghan: In your scenario, if it follows all provincial statements and policies, in that case there might not be very much of a ground for review, but often the argument is—

Mr. Percy Hatfield: You must be aware of the Waterloo region complication, which I believe led to this abolition of the OMB.

Ms. Theresa McClenaghan: Yes. So it's exactly the argument that sometimes decisions are made that are not consistent with the provincial policy statement or with other legal requirements or good planning requirements. When that happens, there needs to be an appellate decision-maker, and who should that be is the question.

It's not that we don't think municipalities have a strong voice and need to make the decision in the first place, but it doesn't always happen that way.

Our clients, as I mentioned, are all over the province—

Mr. Percy Hatfield: Let me interrupt and get to another question, thank you.

On the conservation authorities, many people believe that the Niagara Peninsula Conservation Authority is a rogue conservation authority that's not living up to the mandate of protecting watersheds, for example. Do you believe, if such is the case and it was proven, that a supervisor should be appointed to step in and take over, much as the government appoints supervisors to take over school boards that are in trouble or hospitals that are in trouble?

Ms. Theresa McClenaghan: I'm not familiar at all with the statements you're referring to, but like any statutory body, if it's not following the law that sets it up, then there is a potential for either judicial review, and in order for them to follow the statute that sets it up or the potential for the supervising minister to exercise other responsibilities that he or she would have.

Mr. Percy Hatfield: I believe somewhere in there you said, "the highest and most effective"—isn't that also the most expensive process that we have now?

Ms. Theresa McClenaghan: We agree that the process needs to be made less expensive, absolutely, and there are ways to do that. There are lots and lots of ways to make the hearings more efficient.

We also think citizens' groups should be provided with funding to help equalize the resources, but we're talking about, many times, proposals that are going to be irrevocable and irreversible in terms of the impact on the land use in the community. Sometimes the natural heritage resources that are impacted will never come back in our lifetime, so those kinds of things deserve very strict scrutiny with rules of evidence.

The Acting Chair (Ms. Cindy Forster): We'll move on: Mr. Rinaldi.

Mr. Lou Rinaldi: Thank you for being here today and for your presentation. Can you outline for the committee, under the present system, how successful your organization has been in dealing with the OMB under the present structure?

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Ms. Theresa McClenaghan: First of all, our clients do have the right to participate if they choose to do so, whereas under the proposal, that would very much be in question. That's number one.

Number two, in terms of the outcome, we often have success at the board—not every time, but often—and we would be the first to say that those decisions are being made in terms of the evidence in front of the board.

For example, there was a recent case involving an asphalt plant. Our clients are extremely happy that we were able to help get a good decision made, where it would have been adverse to the health of the community if that plant had continued in the spot where it was proposed.

We absolutely agree that decisions can go both ways—that's part of the point—but it needs to be based on rigorous testing of the evidence and the rule of law.

Mr. Lou Rinaldi: So if the current system was going to live, is there anything in particular that you'd want to see changed?

Ms. Theresa McClenaghan: Yes. We do call for something like an intervener funding project, because the inequity in resources is a really major problem. We are only representing small citizens groups and financially eligible groups, so they can't go to bat, so to speak, with well-resourced developers. That's a big issue, and we think that could help a lot, with appropriate criteria and controls on that system.

We also think there are many things that can be done in terms of reducing the length of hearings, better allowing for participant participation and controlling the risk of adverse costs, which right now are scaring well-intentioned groups away from the playing field. We think that the recently introduced SLAPP legislation is going a long way to helping groups voice their properly merited concerns, as well. That was a really important piece of the puzzle in this sphere.

Mr. Lou Rinaldi: Under the conservation piece of the legislation that we're talking about, do you feel comfortable that the increased provisions to protect vulnerable areas are adequate, or do we need to strengthen that even more?

Ms. Theresa McClenaghan: Well, the bill, as proposed, is leaving quite a bit to regulation-making power, which is not in itself unusual, so we would very much want, along with all the other groups, to be part of the process of making sure that those regulations are very, very protective of watershed basins. We made a couple of comments in our submission about the terminology, making sure that they're interpreted consistently with protection of watersheds. But yes, we are supportive of the direction of that bill, and it's consistent with recent initiatives that are strengthening water protection in the province.

Mr. Lou Rinaldi: Thank you, Chair.

The Acting Chair (Ms. Cindy Forster): Thanks for your presentation.

Ms. Theresa McClenaghan: You're welcome.

CITY OF MISSISSAUGA

The Acting Chair (Ms. Cindy Forster): We'll now call upon the city of Mississauga: Marcia Taggart. Welcome to committee. You've got 10 minutes. Please state your name for the record.

Ms. Marcia Taggart: Thank you. My name is Marcia Taggart. I am the deputy city solicitor for the city of Mississauga. Good afternoon to the Chair and members of the committee, and thank you for having us here today. I am here today on behalf of Mayor Bonnie Crombie, along with members of council for the city of Mississauga, to express the city's support for Bill 139, the Building Better Communities and Conserving Watersheds Act.

Over the past several years, the province has undertaken a broad consultation with respect to the land use planning and appeals system in Ontario. The city of Mississauga has participated in every step of this process, and has advocated for reform to the Ontario Municipal Board, in order to give municipalities more control over making local land use planning decisions.

We have submitted to the committee in writing a cover letter from our mayor, along with a report from the city solicitor that has been endorsed by council. The report expresses council's overall support for the bill, along with some technical comments and suggestions for amendments.

It is the city of Mississauga's position that the current bill helps to achieve the goal of improving the land use planning process in a number of significant ways. First, the city supports the bill's proposal to change the standard of review to only allow the tribunal to overturn a municipal decision if it does not follow provincial policies or upper-tier plans. This change removes the ability of the board to second-guess council decisions that have been arrived at following extensive local review and consultation. It's important that this work done by municipalities be given the deference it deserves and not be undermined by a de novo standard of review.

In our view, an important step in this proposed process is the requirement that the tribunal return a matter to the municipality where it is found that it does not meet the test for conformity. In the city's view, this is entirely appropriate and allows the municipalities the opportunity to reconsider their decisions where warranted rather than giving this power to an outside appeal body.

The proposal to change the standard of review is in keeping with previous submissions put forward by Mississauga to accord more deference to the decisions of council. In our view, the current system undermines the powers that are given to municipalities under the Planning Act, and needs to be changed.

Second, the city supports the expansion of matters that are exempted from appeal, including plans to support growth in major transit areas and the limitations placed on appeals to interim control bylaws.

While the proposed changes are a positive step in the right direction, in Mississauga's view, further exemptions should be considered for matters where decisions are more appropriately made at the local level. This includes, in our submission, municipal tools such as community improvement plans and decisions related to section 37 benefits.

We further believe that expanding the items that are exempt from appeal is in keeping with the province's proposal to limit the tribunal's mandate and for effective decisions to be made at the local level.

The city of Mississauga further supports the establishment of the Local Planning Appeal Support Centre. We believe the centre will provide an important and much-needed resource to the residents wishing to participate in the land use planning process.

Finally, the city supports proposed changes to the manner in which planning appeals are conducted by reducing the length of hearings and the way in which evidence is introduced, as well as the renewed emphasis on mediation. In Mississauga's experience, board hearings are becoming increasingly complex and too expensive for municipalities and the public to participate in effectively. We believe that a move towards a less adversarial system of review is a positive change and will ultimately result in a more stable and predictable system.

In our review of the proposed bill, it appears that many of the procedural aspects of the tribunal's operation are to be left to regulation. We would encourage the province to ensure that there is appropriate pre-screening for written hearings so that the requirement for hearings to be conducted in writing does not exclude certain parties from participating in the process by making it over-technical or a drain on resources.

Finally, the city would encourage the province to ensure that appropriate transition provisions are included in any forthcoming regulations in order to ensure a smooth transition and to avoid unnecessary appeals. This should include transitioning any matters in early stages of the appeal process to the tribunal for consideration.

In addition to these submissions, our council has endorsed a number of other technical comments that have been submitted in writing to the committee. These issues include a recommendation that the province confirm or clarify how the new test for conformity will apply to appeals for non-decisions under the Planning Act. It further includes a request that clarification be provided as to what the requirements are for climate change policies and how appeals of these policies would be dealt with.

The city of Mississauga is very excited by the prospect of achieving long-awaited reform of the Ontario Municipal Board. Our council has advocated at every step for amendments that will place greater authority in the hands of local municipalities. We are happy to support Bill 139 and to continue to work with the province to ensure that the proposed bill becomes a reality.

Thank you again for giving us the opportunity to appear before you today. Those are my submissions.

The Acting Chair (Ms. Cindy Forster): Thank you so much for your presentation. We'll start with the official opposition.

Interjection.

The Acting Chair (Ms. Cindy Forster): Do you want to rotate? Okay, then we're going to rotate. Mr. Hatfield.

Mr. Percy Hatfield: Thank you. I like the promotion.

Thank you for coming in on such short notice, as it turns out. The delegation in front of you, to put words in their mouths, thought de novo hearings were the greatest thing since sliced bread. They didn't say that; I'm saying it.

Mr. Ted McMeekin: You were pretty close.

Mr. Percy Hatfield: I was close. And you obviously like that appeals are limited and a decision won't be undermined by de novo hearings.

1530

What has been your experience with de novo hearings in Mississauga? How has that impacted your community?

Ms. Marcia Taggart: I think the main concern that has been raised with de novo hearings is the fact that there are extensive public consultation and planning processes undertaken for many months, and sometimes more than a year, leading up to a decision by our council. We believe that that process should be given deference. The idea of a de novo hearing essentially presses "start" all over again on the application, and the work done by the community, by our planning staff and by our council is accorded very little deference under the current system. We believe that more authority should be given to the local municipality to make these decisions.

Mr. Percy Hatfield: What has been your experience on the cost of site plan control, for example?

Ms. Marcia Taggart: Of the cost?

Mr. Percy Hatfield: Yes.

Ms. Marcia Taggart: I would have to refer back to planning staff to answer that question, but if it's something that's of interest, I understand. We are still given the opportunity to make written submissions until tomorrow, so that's certainly something I can look into.

Mr. Percy Hatfield: I understand from the architects' association that hundreds of millions of dollars a year are spent by the industry on site plan control. They were hoping for things in this bill that would resolve some of that, but they tell me they don't see it, so I'm just wondering whether Mississauga has had a similar experience.

Ms. Marcia Taggart: Unfortunately, I can't make any particular submissions on that issue.

Mr. Percy Hatfield: All right. Thank you. Do you like the idea of the support centre as well?

Ms. Marcia Taggart: Absolutely. We definitely support anything that would give our residents greater access to the process and make it easier for them to have their concerns heard, or their support heard, for applications.

Mr. Percy Hatfield: If I heard you correctly, the old way at the OMB was too expensive and too adversarial?

Ms. Marcia Taggart: That's correct.

Mr. Percy Hatfield: Thank you.

The Acting Chair (Ms. Cindy Forster): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much, Ms. Taggart, for your presentation. Throughout the consultation process of this bill, we heard criticism from the development stakeholders about municipal land use planning decisions. Can you outline the approach to considering development applications in the city of Mississauga?

Ms. Marcia Taggart: Our approach to considering development applications?

Mr. Vic Dhillon: Yes.

Ms. Marcia Taggart: Well, that's a very broad question. Certainly we have a process in place whereby development applications are circulated and reviewed by all appropriate departments for comment. They're subjected to rigorous testing in terms of whether they represent good planning and meet all of the various requirements of the municipality. At that point, a recommendation is made by our planning staff to our council with respect to the application. Then, of course, ultimately it's the council's decision to make.

Mr. Vic Dhillon: Okay. How do you think the changes in this bill would impact the land use planning process in your city?

Ms. Marcia Taggart: I think that's something that we don't necessarily 100% know the answer to yet. As I said, a lot of these matters, and the details of it, are being left to regulation, so it's something we're grappling with. But I believe that, to a certain extent, our intake and processing of development applications will essentially remain the same; it's just a question at the end of the day as to whether the board or the tribunal will then have an opportunity to overturn that decision, and on what grounds.

Mr. Vic Dhillon: In your view, does the new proposed legislation support or not support consultation and compromise in the planning process?

Ms. Marcia Taggart: The city already undertakes a very rigorous process of consultation, and I certainly don't see anything in the bill that would diminish that consultation. If anything, I think it could only improve upon the current system. But as I said, we do believe that quite extensive consultation is already undertaken under the current process.

Mr. Vic Dhillon: Thank you very much.

The Acting Chair (Ms. Cindy Forster): You have about a minute left, and we also have about five minutes left from the presenter's presentation, so if you have any more questions—

Mr. Vic Dhillon: We're fine, Chair. Thank you.

The Acting Chair (Ms. Cindy Forster): Okay. Mr. Hardeman?

Mr. Ernie Hardeman: Thank you very much for your presentation. I think you were here when the previous presenter made their presentation. Not everyone is as sure that public participation is going to be improved with this bill.

I just want to put to you: Do you envision that your municipal structure will be enhanced enough to make

sure that applications that presently go through the system and still have a community group objecting—it has nothing to do with the official plan; it has other issues, but they still are unhappy—no longer have an appeal beyond that? How do we address the fact that it doesn't really increase public participation? They've already had all that ability to participate at the local level but they don't believe they're getting the proper hearing. How do we deal with that going forward if the appeal process is not there for them beyond that?

Ms. Marcia Taggart: I think at the end of the day, any decision that council makes under the new proposed system will be still subject to compliance with provincial plans and upper-tier plans as well. I don't think the bill suggests that council can make a decision in absence of those standards.

In terms of the public consultation process, many of the submissions that we've heard from residents within Mississauga are in support of the proposed amendments. They feel that decisions should be made at the local level. I think many of our residents are frustrated that council decisions, made in light of consultation, are then overturned at the Ontario Municipal Board. I think there is support within the community for decisions of council.

Mr. Ernie Hardeman: If I could just go there for a minute: Many decisions that the community is involved with are presently going to the municipal board. What is going to change, except that they can no longer go to the municipal board at the front end to make sure that their concerns are still addressed?

In some of those, the municipal board makes a decision against the municipality and for the community group or the association that took them to the appeal. How do we deal—it may very well have been a legitimate appeal, but we're just cutting that off; there's no alternative route other than the courts, I suppose. I guess my suggestion would be that somehow that appeals board has to have some authority to hear what the public has to say as to why they believe the municipality is not following the rules.

Ms. Marcia Taggart: I think those concerns that are being raised at the local community level are more properly heard by the municipal council, and they are heard by the municipal council. I think they're addressed through that front-end part of the process.

Mr. Ernie Hardeman: Thank you.

The Acting Chair (Ms. Cindy Forster): Mr. Hatfield, do you have another question?

Mr. Percy Hatfield: Sure. Thank you. When I was on city council in Windsor, I know that if the planning department made a recommendation and city council went in the opposite direction, if it went to the OMB, we had to hire an outside planning consultant because of the conflict of interest we would have with our own planning department. Is there anything in this new bill that handles that type of situation? Or should there be something in there that handles that type of situation?

Ms. Marcia Taggart: I suppose that, in a roundabout way, the bill does address that situation in that that scenario would not arise as regularly, given that the type of evidence that would be before the tribunal would be different and would be limited. So you wouldn't see the situation where an outside planning consultant would be hired to conduct a de novo hearing. In that sense, I think it is responding to that type of situation.

Mr. Percy Hatfield: I would think, being in a regional government, there could be times when your municipality may be at odds with a decision taken by the regional government. Should there be something in there that gives one a higher authority in planning matters?

Ms. Marcia Taggart: Unfortunately, I don't think I have a submission on that. I don't believe I personally have come across that situation, and that's not something we've addressed through the consultation and our submissions that we've made so far.

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Mr. Percy Hatfield: It's an unfair question, knowing that Mississauga controls the regional council anyway.

The Acting Chair (Ms. Cindy Forster): Thank you, Mr. Hatfield. Mr. McMeekin.

Mr. Ted McMeekin: The law is clear on that, but just for the record, the regional decision would supersede the local. But as you say, Mississauga already is in control. That's not a problem for Mississauga.

My question is a really simple one. I'm concerned, as a former Hamilton councillor and former mayor of a small, suburban municipality, about the galloping cynicism around planning, politics and engagement. Do you think these changes will encourage people to be less cynical and, perhaps, more proactively engaged in ensuring that their councils take planning more seriously and listen to them more carefully?

Ms. Marcia Taggart: We can only hope so. I would say that if municipal council decisions are truly given the level of deference that has been suggested by this bill, citizens and everyone participating in the development process will have no choice but to focus their efforts and their advocacy towards council, rather than putting it off to an appeal level.

Mr. Ted McMeekin: So the buck is going to stop with the council now?

Ms. Marcia Taggart: Correct.

Mr. Ted McMeekin: That's going to make a difference, isn't it?

The Acting Chair (Ms. Cindy Forster): Thank you so much. Thank you for your presentation.

TORONTO AND REGION CONSERVATION AUTHORITY

The Acting Chair (Ms. Cindy Forster): We'll move on now to the Toronto and Region Conservation Authority: Brian Denney, CEO. If you'd state your name, please, for the record, and you'll have up to 10 minutes.

Mr. Brian Denney: Thank you very much, Madam Chair and members. My name is Brian Denney, and I am the CEO of Toronto and Region Conservation Authority. The TRCA has made several submissions throughout the

process of the review of the Conservation Authorities Act. I will not reiterate previous comments today. We do have some suggested improvements with respect to the enforcement and offences provisions that are included in the submissions from Conservation Ontario. I know you will be hearing from Kim Gavine, the general manager of Conservation Ontario, later this afternoon. TRCA did provide input and supports the proposed amendments as submitted by Conservation Ontario.

I am appearing today to encourage you to proceed with the passage of this bill. TRCA appreciates all of the time and effort expended by several ministers, other members of the Legislative Assembly of Ontario as well as staff of MNRF and numerous other ministries in the review of the CA Act. The consultation process was broad and inclusive. A wide spectrum of groups and individuals made submissions. It is encouraging for TRCA that the review concluded that the mandate for CAs in the management of natural resources should remain broad and that the language should be updated to include some of the current challenges of climate change.

When the CA Act was first adopted over 70 years ago, it addressed the resource management pressures at that time. Many of those pressures continue today and are made more complicated by extreme weather. The proposed amendments to the CA Act will both enable and challenge CAs to continue to provide relevant services to the communities we serve. Equally importantly, the proposed amendments will inspire CAs to work aggressively to protect, restore and conserve the vital natural resources of our province for future generations.

I have been fortunate to enjoy a long career at TRCA. During that time, I have had the privilege of working with many different governments. All of those governments faced different challenges and set different priorities. However, over those decades we have accomplished many resource management objectives and established a rich legacy of parks, open space systems and resilient water resource systems. All of those governments realized that natural resource conservation was important and found ways to advance some aspects of the work of TRCA.

Although we live in one of the most blessed parts of our planet, we still face many challenges to ensure that our communities are safe from natural hazards, that our rivers and lakes are healthy and that we can still experience the rich biodiversity that is unique to this part of the world. Our communities are slowly becoming more sustainable but we have a long journey ahead to a low-carbon future that meets everyone's needs.

The wisdom embedded in the original Conservation Authorities Act contained several essential elements. It stressed that resource management decisions needed to be made and evaluated within a watershed context. It challenged CAs to maintain strong community connections of all types. It highlighted that progress at significant scale and pace could only be achieved by investments through partnerships.

The proposed amendments to the act build on and contribute to that original wisdom. They acknowledge that to succeed in resource management today, we also need to be addressing the current and anticipated challenges of climate change, both on the mitigation and adaptation sides. They acknowledge that organizations that are empowered to do natural resource management need to be strategic and administered professionally, with transparency and accountability. The amendments also recognize that the protection of natural resources includes mechanisms to ensure that abuses of natural resources can be stopped quickly or, better yet, prevented by the reality of serious consequences. Our municipal partners expect that their CAs will have enforcement tools that complement municipal powers and processes.

TRCA's programs and projects involve a wide array of activities.

We begin with efforts to understand and celebrate the wisdom of indigenous peoples.

We seek to protect and restore the health of our nine river systems as part of broader efforts with our municipalities and neighbouring CAs to conserve Lake Ontario as one of the best sources of drinking water in the world.

We are building a green space system that now exceeds 18,000 hectares and hosts over one million visitors per year.

We host Greening Health Care, which has helped 43 hospitals in Ontario to achieve $4 million per year in energy savings.

We have installed 132 EV charging stations through our Pearson eco-industrial zone, where member companies have also avoided over 100,000 tonnes per year of CO_2 production and saved 900 million litres of water annually.

We have provided our technical expertise in the review of over 1,200 planning applications of various types and issued 1,300 construction permits in 2016 in support of growth management and economic development within our member municipalities.

Construction is about to start, through Waterfront Toronto, on the flood control components of the Portlands development project.

We will start construction of a six-storey timber office building in 2019 as part of the province's plan to advance this form of construction.

These are just a few examples of important projects.

These projects and activities are enabled by the Conservation Authorities Act and supported largely by our member municipalities. We also receive support from many provincial ministries. That is why we are encouraged by the recommendations associated with the review of the CA Act that will see a renewed effort to coordinate the involvement of many ministries to ensure that CAs are the best possible partners for a wide array of provincial priority efforts.

In conclusion, on behalf of TRCA, I thank the province of Ontario for 70 years of support through the Conservation Authorities Act and respectfully request that you proceed to approve the amendments to the act through the adoption of Bill 139. We look forward to ongoing dialogue about funding opportunities as well as

the anticipated new regulations. Future Ontarians deserve our best possible collective efforts to conserve our natural resources.

Thank you for this opportunity.

The Acting Chair (Ms. Cindy Forster): Thank you, Mr. Denney. We'll start with the government members. Mr. Dickson?

Mr. Joe Dickson: Just a couple of quick questions for Mr. Denney. By the way, Mr. Denney, congratulations on a career that has very proudly served the people of Ontario, as you ride into the sunset, I might say. I just have a couple of quick questions, and then I'll pass to two eloquent mayors at the other end of this table with me.

In reference to resource management today, do authorities consider all of the climate change mitigation and adaptations that are going on in the world today—is this publicly owned land only that you oversee?

Mr. Brian Denney: The TRCA does own a large amount of land. Some of the regulatory capabilities that are afforded to conservation authorities extend onto private lands, and we provide comments to our municipal partners on all sorts of planning applications that are on private lands.

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Mr. Joe Dickson: What's the public-to-private ratio, Mr. Denney?

Mr. Brian Denney: I'm sorry, sir. I don't have that number on the top of my head.

Mr. Joe Dickson: Okay, sir. I'll catch you in your retirement.

Mr. Denney, I just want to ask one little question about a hypothetical example, really. Does a cottage-type residence, for lack of a better term, have the authority, if they're anywhere adjacent to a ditch, a stream or a lake, to have conservation authority, and would that be the overriding authority to have residential improvements made to the residence on that property?

Mr. Brian Denney: You're asking specifically—

Mr. Joe Dickson: That is private property. I'm just using that as a general term.

Mr. Brian Denney: It all depends on the limits of the regulation administered by the authority. There are maps that define the areas that are regulated. Beyond that, in areas where there is not actually a regulation line mapped, there is still a permit required for an alteration to a waterway.

In some more rural parts of the province—my career took me away from that 40-some years ago, so I'm not sure of the details in some of the smaller authorities, but I know that in the case of TRCA.

Mr. Joe Dickson: The last part of that question, through you, Madam Chair, to Mr. Denney: Is that particularly public and/or private that we're referencing? Just because of your answer.

Mr. Brian Denney: There are lots of instances of private lands that are subject to regulation by conservation authorities, yes.

Mr. Joe Dickson: Do you have any authority at any municipal level to override a municipality?

The Acting Chair (Ms. Cindy Forster): I'm sorry; your time is up at this point.

Mr. Joe Dickson: Thank you, Madam Chair.

The Acting Chair (Ms. Cindy Forster): I will move on to the official opposition: Mr. Miller.

Mr. Norm Miller: Thank you, Mr. Denney, for your presentation. So you're basically in favour of the amendments to the Conservation Authorities Act?

Mr. Brian Denney: Yes, we are, sir.

Mr. Norm Miller: Okay. I have a question with regard to entry onto private property. Do you feel the existing legislation gives your officers enough access to properties to inspect for permits and contraventions?

Mr. Brian Denney: Probably in most situations, it does. But there are rare circumstances where there may be some activity going on that people would prefer to be kept from view and that may be endangering very significant natural resource features.

Our conservation authority, along with others, has advocated for some improved powers of access for some time to deal with the rare circumstances where there are serious problems potentially occurring.

Mr. Norm Miller: That was my second question, which you pretty much answered. So you did advocate for a change to warrantless entry. Were there situations where there has been environmental damage because you haven't been able to get access to private property?

Mr. Brian Denney: Yes, there have been some, often involving the loss of wetlands.

Mr. Norm Miller: Okay. In terms of expertise for board members, that's something that changes in the bill. I note that you're a professional engineer and you've been 44 years with the Toronto conservation authority. What sort of expertise would you see required by this change?

Mr. Brian Denney: We have a long history of very successful operation, I think, of a conservation authority, where we rely on the members that municipalities want to appoint to our board. That has worked very effectively for us.

Mr. Norm Miller: So you're not saying that—

Mr. Brian Denney: It's not something that my board has chosen to comment on.

Mr. Norm Miller: Okay. Thank you for that. I would think that probably the Toronto conservation authority is one of the more sophisticated ones in the province in terms of the number of people involved. You're probably involved in more things, including, I see, timber office buildings. What is your involvement with timber office buildings—which I happen to think is a very positive thing, I should add.

Mr. Brian Denney: As part of TRCA's involvement in climate change, which goes back now 25 years, one of the first things we got involved in was the energy performance of buildings. That got us into green building, and green building rating systems. With the province's

support, we were able to host the World Green Building Council.

Mr. Norm Miller: Is that the George Brown building that you're speaking of, this timber-frame building?

Mr. Brian Denney: That is another one that's in the market and moving forward. But this would be the head-office building of Toronto and Region Conservation Authority.

Mr. Norm Miller: Okay. I know I have limited time. What do you think the role of conservation authorities is to comment on development projects? I believe you mentioned that in your submission as well, that you—

Mr. Brian Denney: Our commenting on development projects usually deals with issues of natural hazard and natural heritage, and we provide comments to municipalities to guide them on development limits, appropriate stormwater management provisions and things of that type.

Mr. Norm Miller: Is that—

The Acting Chair (Ms. Cindy Forster): Thank you. We'll move on to Mr. Hatfield.

Mr. Percy Hatfield: Thank you for coming in, sir. I take it that the member from Ajax is rushing you out the door into your retirement, but how much longer do you have?

Mr. Brian Denney: The member from Ajax has been working on that for some time. I've worked with him for 40-plus years. I think that campaign started early on in that period, but I am at TRCA until the end of this year, sir.

Mr. Percy Hatfield: Of the 36 conservation authorities in Ontario, I would like to believe that they're all on the same page when it comes to protecting our wetlands, and keeping development off our wetlands and natural areas. Do you share that opinion or are you aware of some, if you will, rogue conservation authorities that seem to be now more in line with development ahead of wetlands?

Mr. Brian Denney: I'm not familiar enough with that situation to provide any helpful comment. I have my hands full with what we deal with in the TRCA area of jurisdiction, sir.

Mr. Percy Hatfield: A question arose about the expertise of appointed board members. When I served my seven years on the Essex Region Conservation Authority, all the members were appointed by the municipalities, the funding partners. I'm struggling with trying to understand a bill that says, "We're going to start appointing members to the board who hold expertise in certain areas: biodiversity, water planning"—whatever it is. But if those people are making decisions that are going to impact a tax rate or a tax increase at a local municipality, do you think there's not going to be conflict between the municipal funding partner and the conservation authority?

Mr. Brian Denney: In my experience, and I believe it's also the position of my board members—they feel that the municipality should be appointing the board members and that the technical expertise that those board members would rely on would come from the staff of that organization.

Mr. Percy Hatfield: From the staff, but not from the board members?

Mr. Brian Denney: We have other opportunities to engage advisory boards, if we feel they're necessary or if the board feels they're necessary. My board has chosen not to get into the issue of the qualifications of board members.

Mr. Percy Hatfield: Right. So are all of your board members appointed? Are they all elected representatives?

Mr. Brian Denney: We have a 28-member board; 14 of those are from the city of Toronto. Of those 14, nine are elected officials and five are citizen appointees selected by the interview process that the city administers.

Mr. Percy Hatfield: Oh. So you already have the mechanism in your municipality, in your conservation authority.

Mr. Brian Denney: Yes.

Mr. Percy Hatfield: I was surprised to hear the member from Renfrew–Nipissing–Pembroke recently say that he has no conservation authority in his riding. I didn't realize. I thought all of Ontario would have had conservation authorities.

Mr. Brian Denney: No, there are large areas of the province that are not covered by conservation authorities.

The Acting Chair (Ms. Cindy Forster): Thank you for your presentation.

Mr. Brian Denney: A pleasure. Thank you, Madam Chair.

BUILDING TO INC.

The Acting Chair (Ms. Cindy Forster): We will now move on to Building TO Inc.: Stephen Diamond and Jack Winberg. You have 10 minutes for your presentation. Please state your names for the record.

Mr. Steve Diamond: Thank you very much, Madam Chair and members of the committee. We appreciate the opportunity to be here. My name is Steve Diamond. By way of background, I practised municipal law for about 30 years. The last 10 years, I've been a real estate developer and am president of a company called Diamond Corp. With me is Jack Winberg, who also has a legal background and practised for many years as well and runs a company called the Rockport Group. We intend to each speak for approximately five minutes, if that is acceptable to the committee.

I should also add that Building TO Inc. is a group of 20 of the most responsible developers in the province who have come together to meet on various issues regarding this particular bill.

I would like to start off by acknowledging, right from the outset, that as developers we are certainly in business, but the business that we are in is the business of providing housing for the people of the province of Ontario. In light of the enormous influx of people that has been anticipated and is required to be accommodated over the next 10 to 15 years, while there's a lot of resistance from

existing communities to development, we are the voice of the people that don't have a home. Our companies represent those people that need a home, and so we are working to ensure that there is an adequate supply of housing so that there will always be affordable housing, and an adequate supply of housing is also critical to companies making economic investments in the province and in creating new employment opportunities.

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Having said all that, I also wish to add that our company takes great pride in its ability to work with citizens, city staff and municipalities. We have processed approximately 15 million square feet in the last 10 years, and we have utilized the Ontario Municipal Board for only two days.

We also recognize that any institution, such as the OMB, can always be improved and made better. It is not my intention today to criticize or critique in any detail the substance of Bill 139 that is before you. Our concern—being the ones that have to deal with the outcome of the bill—is really with respect to one issue, and that is implementation. We are concerned that enough thought has not been put into the consequences of the legislation and how it will operate in reality.

Just very briefly, just to give you some idea of the type of concern that we have, the bill is quite dramatic in that it limits the rights of appeal, not only of developers but all citizens of the province of Ontario, when land use matters are concerned. For example, if a municipality today passed an official plan amendment—say, in the city of Toronto—that said, "We want on a strip of land"—on an avenue, as they call it—"six-storey buildings that are going to accommodate housing for people of the future," but we in the industry know that six-storey buildings may not work, we want to ensure that there's a proper forum—because we can't go to the OMB anymore—to make sure that those issues can be properly tested.

Who is going to ensure, under this system, that applications will be dealt with on a timely basis? That also contributes to the cost of housing. Our region and the city today is considered one of the best-planned areas in the world, and yet the Ontario Municipal Board has been around for over 70 years and has been part of that process. Even though our company has not gone to the Ontario Municipal Board—very rarely, in fact—it has acted as a watchdog and provided an open and transparent forum to test policy decisions. Our concern is: How is that responsible decision-making going to take place at the local level in terms of the implementation of this bill?

The problem and the issue that confronts us is that you have removed the watchdog over municipal policy but you haven't replaced that tension that exists in the process to ensure that there will be responsible decision-making at the local level.

I have to deal with these issues on a day-to-day basis and it's particularly complicated because we live in a ward system. Most of my work is done in the 416 area, and there are 47 councillors. One has to understand that no one is allowed to speak directly to council. All the work is done at the committee level, and deputants are only allowed five minutes to speak. We could have a billion-dollar project and have five minutes to convince someone that our project is worthwhile. It's also clear and apparent that the ward councillor's opinion is what usually prevails.

If the intent and purpose of the bill is to eliminate these rights of appeal, how is the system going to function in reality? We just want to make sure it's going to work. Under the current regime, the courts have ruled that a municipality does not have to hold a fair hearing at the local level, because a right of appeal exists to the OMB. I am very concerned that there may be a myriad of court challenges as we go through—what is the hearing process that's going to take place at the municipal level? And even if the courts were to say tomorrow morning that, "You know what? The cities don't have to hold a fair hearing," is that really the result that we want to achieve in planning for the future of the province of Ontario?

I truly believe that our local representatives at the city level are extremely hard-working and well-meaning individuals, but I do not believe that they are equipped today with the necessary support and infrastructure to ensure a well-reasoned and responsible decision-making process.

We have not seen any of the regulations that are intended to go hand in hand with this bill, which we think are important to ensure that this bill can be properly implemented.

My view is that if Bill 139 is going to proceed, we believe that our municipalities need the time to adapt to these dramatic changes. The failure to do so could lead to chaos and a lack of affordable and market housing in the province. We believe that if the province is going to proceed, we must clearly establish, either in the legislation or regulations, how the concept of basic procedural fairness is going to be determined to be implemented at the local level to ensure that we will have an adequate supply of housing.

I turn the floor over to my friend.

Mr. Jack Winberg: I'm conscious of the time, Madam Chair, but I thank you and the members of the committee for hearing us today.

You've heard from many others about the substantive changes that are presented by the bill. Just so it's clear, I want you to know that we do support them, particularly OHBA, BILD and the advocates for reform. As well, I was very impressed by the presentation made by the woman on behalf of CELA. They raised very important questions. But as my friend Steve has said, we're here to ensure that you and the legislation understand that you're making very significant changes to the planning process, and that you have to be cautious and careful to make sure that the resources are available to municipalities when it comes to the new world.

For example, we know that many of you were mayors or members of local council. You know there are few

issues on the municipal scene that can generate as much interest or engender as much of a potentially chaotic process as a contentious development application. We do hope that you realize that a lot of what allows that to go on and not be criticized is the fact that a fair hearing is provided by the board. When you take that board away and the ability for that board to hold the de novo hearings, as has been mentioned, you pose a real risk but, more importantly, you impose a huge burden on the municipality to make sure that there will be a fair and proper process.

For example, under the current regime, it's acceptable for an applicant who has got a very substantial project providing housing for people—he only gets five minutes before the committee to make his presentation. People can stand up and make hysterical or wild remarks. He doesn't get a chance to respond to them. Very often, the record doesn't reflect very much of what took place. This is all going to have to change under the new legislation.

Going forward, our municipalities are going to have to accommodate fuller hearings. They're going to have to compile more complete records. The councillors who are charged with making the decisions are going to have to attend much longer hearings, and they're not going to be able to get up, go and come back, because if they're going to make a fair decision, they've got to hear it all.

One thing is for sure: Our municipalities are going to have to devote much more of their limited resources to the planning process, and these are not trifling matters.

We therefore recommend, given the diversity of the municipalities in this province, that the legislation, once the regulations are done, require that council hold public consultation on the process that's appropriate for that community, pass a bylaw setting out what those procedures are going to be, and get those procedures approved to the minister prior to Bill 139's rules and regulations coming into effect in their municipality.

These are important matters, and we urge you to take them into consideration. We've got to get it right.

The Acting Chair (Ms. Cindy Forster): Thank you so much for your presentation. We'll move to the official opposition. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your presentation. I just wanted to check: You mentioned the appeals going to the Ontario Municipal Board now. Did you mention what percentage of your applications for your developments have to go to the board for an appeal as opposed to being settled locally?

Mr. Jack Winberg: I did this for 12 years as a lawyer—I spent most of my time at the OMB—and I've been 30 years a developer. I've developed all over the GTA. I've only been to the OMB once, and that was on a file in the city of Toronto where the city and I agreed on the development, but the ratepayers were not happy that the city supported it.

We take great pride in consultation and community involvement. I can tell you, for example—I'm the developer of the old post office at Yonge and Eglinton. One of your colleagues led a protest the day that Canada Post sold it to me, to make sure that we did a proper job. When we got it approved, we had the presidents of the five ratepayer associations in our community come to community council and support our plan. We did a plan and we did it right. But the fact that the OMB existed is an important part of the whole process, because we did a good job, and everybody knew it.

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Mr. Ernie Hardeman: Well, it was kind of a loaded question. If you're able to work it out under the present structure locally, why do you envision that a much more robust planning structure is created locally if most of it is already done under the present structure?

Mr. Steve Diamond: I think what we've been trying to say is that the reason we are able to accomplish our objectives is because everybody knows—city planners, residents, politicians and developers know—that there's a forum you can go to that's unbiased, provincially appointed, where if anyone is aggrieved, whether it's a ratepayer or a developer, there's a hearing in an open and transparent forum where your grievances can be heard. As a result, that keeps everybody on a fair, even, level process going through the municipal process.

Mr. Jack Winberg: It's even more than that. When a planning staff member writes a report, he knows that somebody like an OMB may read that report. It gives him caution when he writes it. He writes it carefully. When a ratepayer makes an objection, his objection is tempered because of the fact that there's going to be somebody independent who is going to listen and say, "Wait a minute. That's not right."

What you're doing by taking the ability for the board to have that review process is that you're taking away that tension and that oversight, the ability for people to temper their remarks and, as well, their willingness to compromise, because they can take wild positions and they're not accountable for them.

Mr. Ernie Hardeman: With that, what would we need to change through the committee with amendments to the tribunal to make it not as cumbersome as what the OMB is, but to actually create a tension in the system that would work?

Mr. Jack Winberg: Well, the first thing is that you're going to have to broaden the rights of appeal. Most of you know—certainly members of council will know—that usually the biggest concerns that people have about a development are its height, its shadow, what it looks like, the number of units it's going to be, the traffic. Well, none of those items are grounds for appeal going forward, and, believe me, none of those items are referred to in very many official plans around the province, so—

The Acting Chair (Ms. Cindy Forster): I'm sorry. I'm going to have to cut you off and move on to Mr. Hatfield. Maybe you can finish your—

Mr. Percy Hatfield: Thank you, Chair. Mr. Diamond, I think you said you're the voice of the people who don't have a home. How many homes have you built over your career?

Mr. Steve Diamond: Thousands.

Mr. Percy Hatfield: And how many of those would you consider to have been affordable homes?

Mr. Steve Diamond: A good portion.

Mr. Percy Hatfield: Were they rent-appropriate or rent-geared-to-income?

Mr. Steve Diamond: A portion of them have been affordable and sponsored by the province.

Mr. Percy Hatfield: What portion? What percentage?

Mr. Steve Diamond: I'd have to go back and check, but maybe 10% or 15%.

Mr. Percy Hatfield: Thank you.

You talked about only having five minutes to speak. Does that mean you're not allowed in advance to submit written submissions so the councillors would have read everything about your development?

Mr. Steve Diamond: Not necessarily. That's one of the things we want to make sure of: that you are allowed to make written submissions and that they are going to be read by individuals. I'd love to take you down to city hall. This committee is very polite, and everybody is here and paying attention. That's not the way it works, because of the volume of work that is down at that municipal level.

I'm not trying to argue with your bill, sir; I'm just trying to make sure it works, so—

Mr. Percy Hatfield: I appreciate that, and I'm not trying to argue with you, either. I'm just trying to figure it out: You built all of these homes, and you've only had five minutes to make a presentation, and yet you've only been to the OMB once or twice. So you must be getting pretty well what you want.

Mr. Steve Diamond: We've been doing that, sir, because—what I'm trying to explain is that because everybody knows that there is that forum that is transparent and open that you can go to in the event that there is a dispute, it keeps everybody honest throughout the entire process.

Mr. Percy Hatfield: As opposed to, if you follow your official plan and hold your public hearings and your official plan gets approved by the province, then, unless you're in contradiction of that planning process—then there's an appeal. But if you haven't violated that planning process and everything has been in lockstep for five or 10 years to develop the plan, doesn't that make sense as well?

Mr. Steve Diamond: No, and the reason it doesn't make sense is: If you allowed appeals on the broad structure of an official plan, it would work. But the problem with the current system that you have is that you've said there are no longer appeals on official plans.

Let's take affordable housing, for example. What if a municipality passes an official plan that there shouldn't be any affordable housing in Rosedale? What are we going to do about that? What's going to happen to the non-profit housing user who comes to council and wants a site-specific official plan? What causes the planning department to be objective is that they know now that if everyone is not dealing with the application fairly there is a place to go.

The problem is that in the new system there isn't a place to go. What we need to do is look at the way the system—if we're going to put things down at the local level, how are we going to make sure that that responsible decision-making will take place under the process? That's what we're worried about.

The Acting Chair (Ms. Cindy Forster): Thank you. We'll move on to the government member. Ms. Malhi.

Ms. Harinder Malhi: Thank you for your presentation. As we've heard, you've both had very long and successful careers advancing development and building in the housing community through the OMB. Is it possible that proposed changes could encourage developers to work more collaboratively with municipalities and local communities?

Mr. Steve Diamond: I was just going to say that I think there are a lot of really good things in the bill. That's what we said. I'm not here to trash Bill 139. I think some of the things are very positive.

The idea of mediation is a great idea. I think there should be mandatory mediation. I think that those types of concepts should be excelled. I also believe that amendments to the act where developers can leap over the municipal process and go to the board today are wrong. Those are problems that this bill will achieve. I think there are many positive benefits that have been put forward, as the province has put forward many affordable housing programs in the last year that have also been terrific for the people of the province. Our concern is when you get to the other parts of the bill, in terms of the detailed implementation; we could be doing a hardship.

Mr. Jack Winberg: And I think you're also underestimating the importance that the existence of the board is there to support the collaboration and to encourage the collaboration and to encourage people to be reasonable and to understand the other side's point of view. The possibility, the concept that there could be a day when you have to present your position in public in front of an independent tribunal is what makes the collaboration and the consultation and the mediation so successful. You've taken that element of the negotiating process away by removing the de novo hearing before the OMB on a broad range of good planning issues.

Ms. Harinder Malhi: Is it possible that the current approach to development and the role of the OMB has inflated location-specific land values by making it easier for developers to maximize height and density at certain locations by the OMB, with OMB approvals? Because the city or the municipality may not want them to be high density, but because of laws and specifications, is the OMB being used to an advantage, to make sure that we can build high density at certain places where the community might not want—

Mr. Steve Diamond: I think that's what potentially has happened. The one time that we did end up at the Ontario Municipal Board was when we were sitting with a piece of land that was on top of a new transit station. The city planning department had actually strongly recommended the project but the local municipality was having some difficulties with it. It ended up being

referred to the board and it actually went to mediation and it got resolved, and that was our one-day hearing. But if it wasn't for the board, that particular number of units being built on the subway line may not have ever been approved. In fact, the one other case we did have at the Ontario Municipal Board was actually involving a provincially funded affordable housing project in Scarborough that had to go to the board. Those were the two.

The Acting Chair (Ms. Cindy Forster): Thanks so much for your presentations.

Mr. Steve Diamond: Okay. Thank you very much for your time.

1620

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Acting Chair (Ms. Cindy Forster): We'll now move on to the Association of Municipalities of Ontario: Lynn Dollin, president. You'll have 10 minutes for your presentation, or up to 10 minutes. Please state your name

Ms. Lynn Dollin: Thank you, Madam Chair. My name is Lynn Dollin. I'm the president of the Association of Municipalities of Ontario. With me today is Cathie Brown. Cathie is a senior policy adviser with AMO.

The Acting Chair (Ms. Cindy Forster): Welcome to committee.

Ms. Lynn Dollin: Thank you.

The Association of Municipalities of Ontario, or AMO, appreciates the opportunity to contribute to your deliberations about the reform of the Ontario Municipal Board appeal process and the role of service delivery by conservation authorities.

This bill addresses many municipal government concerns in ways that we can support. Nonetheless, there are several recommended amendments. You have a copy of my remarks, as well as our specific amendment requests, beginning on page 6.

Let me start with the Local Planning Appeals Tribunal part of the bill. There are several positive changes which speak to stability in the local planning process and create efficiencies. These include:

—A tribunal which will focus on the conformity of a municipal planning decision with a provincial policy statement, a provincial plan or an applicable official plan.

—The tribunal is to focus on provincial interest where a notice from the minister responsible for the Planning Act considers its interest may be adversely affected.

—It will not hear the application for the land use change as if the application had not been previously made.

—Certain types of planning amendments would be sheltered from appeals.

—Case management conferences are to be used to scope issues at the tribunal.

—A Local Planning Appeal Support Centre would help citizens through the appeal process. We support the province paying for this centre and providing it.

The new process will continue to focus on complete applications from developers, public input, professional planning advice, reflection of relevant provincial interests and municipal council decisions, and scoping of appeals to official plan conformity and provincial policies. The bill's changes continue to build on previous changes to the process. They should lead to significant savings in time and in legal fees.

This approach will also require upfront effort from provincial staff to offer complete comments and ensure proper understanding of local conditions and ambitions within the framework of provincial policy and plans.

AMO is aware that some developer stakeholders feel that the changes in this bill will alter a council's role from that of a policy or legislative one to that of a judicial one. We note that section 61 of the Planning Act currently says the role of council is a legislative one. It would be unfortunate that an emerging contrary view might attempt to sideline the role of the new tribunal.

The question of legislative versus judicial arose in 1983 when public meetings were introduced, and was resolved by section 61. Let me quote from Hansard and the Waterloo North MPP of the day, Mr. Epp:

"[Public meetings] was addressed by a number of municipalities coming before the committee, and had to do with making the councils perform what they feared was going to be a judicial function.

"They were going to have hearings. The way the legislation was originally interpreted was that if they had a hearing on a planning matter or a zoning change, they would not be able to even leave the hearing at any time—to have a coffee, go to the washroom or anything. If they did they would not hear the full extent of the testimony before the committee. The minister will recall, having read a lot of the briefs that came before the committee and letters that I am sure came to his office, that the councils felt they would be performing a more judicial function than a legislative function.

"I was glad to see, during the course of those hearings, that matter was clarified. The councils, under the new Planning Act, will be performing essentially a legitimate legislative function rather than a judicial function."

We ask this committee to ascertain whether this bill, which shelters land use changes from appeal to the LPAT, brings into any doubt a council's current legislative role. The Ministry of Municipal Affairs should be available to provide information on this.

At the end of the day, this committee has a responsibility to recommend to the Legislature a bill that is clear and achieves the policy intent.

AMO is asking for two amendments.

First: Some years ago, the province intentionally consolidated all of its land use policies into the Provincial Policy Statement so that everyone involved could have all of the policies in one place. This bill, schedule 3, section 3, reverses that. Any participant in the planning process will have to hunt through other legislation to find provincial policy. We recommend that the bill be amended to remove references to other legislation and,

instead, the provincial policy statement be written to include these other policies and plans.

Second: Where a decision is returned to a council by the Local Planning Appeal Tribunal for a second decision, 90 days is not sufficient to undertake all the processes required by Bill 139. A municipal government would have to organize and provide notice of a public meeting, perhaps have planning committee review, and then have a council decision. We think that a 120-day period is recommended.

The bill does rest on some regulatory authority, such as transitional rules and LPAT procedural rules, and we believe the ministries will continue their outreach to us on their development.

Let me now turn to conservation authorities, schedule 4 of the bill.

Schedule 4, which amends the Conservation Authorities Act, is also largely supported by municipal governments. We appreciate that the purpose of the conservation authority is clearly stated. The bill clarifies that there are regulated, mandatory activities of a conservation authority and that discretionary activities are to be by local memoranda of understanding with municipal governments on services and their costs. The bill also adds clarity to the permit process.

The bill wisely harmonizes the language used in conservation authority budgets and accounts with similar language used by other public sector organizations, such as for capital and operating expenses. This will increase transparency and the ability for the board to understand financial information in terms they already use.

We also appreciate that the processes for enlargements, amalgamations or dissolutions are also clearer and easier to understand.

It also brings conservation authority meeting procedures in line with municipal government procedures, such as notice of meetings, open and closed meetings, certain staff roles, and freedom of information. Procedural bylaws that provide greater clarity around the appeals processes for fees apportioned by the conservation authority for capital costs and operational costs are all welcome changes.

Clearer articulation of enforcement procedures and authority is also better harmonized with other legislation. Specifically, the power to issue stop-work orders is added. Without this tool, conservation authorities have been prevented from enforcing their policies.

There are some areas where greater clarity is needed. For example, advisory boards appointed by the province are introduced in this bill. The circumstances under which the minister would exercise this power are unknown. It is not clear how the outcomes of such committees would be used by the conservation authority or how this would impact local service agreements and costs. Providing such broad authority seems less transparent than desired.

The minister may also intervene on the amount of fees and how they are calculated. The conditions under which a minister may choose to exercise these powers need more clarity. They impact municipal costs, as lower fee revenues most often mean higher levies to municipal governments.

Part IV, section 12 of the bill states that municipal councils continue to have the authority to appoint conservation authority board members. This makes sense. Municipal councillors are representative of all walks of life in an area, and it is the council that pays the greatest proportion of the conservation authority's funding. However, section 40(1)(a) of the bill indicates that the Lieutenant Governor in Council "may make regulations governing the composition of conservation authorities and prescribing additional requirements regarding the appointment and qualifications of members of conservation authorities." AMO has consistently maintained that until the province reinstates significant funding to conservation authorities, municipal government, as the major funder, should have sole right to appoint board members.

The Acting Chair (Ms. Cindy Forster): You have about one minute.

Ms. Lynn Dollin: Thank you.

AMO will not support appointees to the conservation authority board from the province. We understand that several conservation authorities have not been functioning well. The power to improve the functionality of any board is unlikely to rest with an "outside" appointment. Perhaps the threat of provincial oversight, as with the Municipal Affairs Act, might be a better route.

In summary, we support much of what is contained in Bill 139. We would just point out in summary the points that we're making: Keep all provincial land use policies in the provincial policy statement, provide 120 days for second decisions, and delete the reference to regulating the composition of conservation authority board members. Thank you.

1630

The Acting Chair (Ms. Cindy Forster): Thank you so much. We'll start with Mr. Hatfield this time.

Mr. Percy Hatfield: Welcome. Thank you for coming in. I was intrigued by your suggestion that back in the 1980s council had a legislative role, and now some people are suggesting that it's going to be a judicial role. Chair, I'm just wondering whether, at any point, there's anybody in the audience from the ministry who could clarify that point for us, or whether the ministry at some point—

Interjection.

Mr. Percy Hatfield: You're going to do it? Oh, I look forward to that.

Mr. Lou Rinaldi: Absolutely.

Mr. Percy Hatfield: All right. I hope it's all there in your speaking notes, buddy. Okay, so I'll get that clarified.

But before he clarifies it, your point is that it's been ensconced in law since 1983 and it should stay that way. Is that the way I take it?

Ms. Lynn Dollin: Yes, MPP Hatfield. Understanding how the changes brought about by Bill 139 would be understood, in light of section 61 of the Planning Act,

would avoid answering the question in court. As with other committee hearings, it may be helpful for the committee to hear from municipal affairs legal counsel.

Mr. Percy Hatfield: So at some point—Ken, is that going to be you? Who's going to do the policy on it? Lou's going to do it? You've briefed him well? I look forward to it.

The other thing we talked about earlier was from the point of the members being appointed having certain expertise as opposed to elected representatives. I think we'll get to that at some point, but can you remind me of the funding cut that a previous government made to conservation authorities? It isn't stated.

Ms. Lynn Dollin: MPP Hatfield, I don't recall the year, but I believe it was somewhere around 1996. I was a relatively new councillor at the time. At that point, most of the funding, as in our submission, came from municipalities. We feel that with that funding should also come the opportunity to be represented and to appoint representatives to the board.

Mr. Percy Hatfield: But previously there was a huge funding cut, as I recall, from a Conservative government that took it, I don't know, from $50 million down to $8 million or something like that—I'm making up numbers now.

Ms. Lynn Dollin: And that's when municipalities, to their credit, understanding that conservation authorities and the work they do are important, stepped up to the table and began funding the majority of the work that conservation authorities currently do.

The Acting Chair (Ms. Cindy Forster): Thank you, Mr. Hatfield.

Mr. Percy Hatfield: Thank you.

The Acting Chair (Ms. Cindy Forster): Government members? Mr. Rinaldi.

Mr. Lou Rinaldi: Are you paying attention?

Mr. Percy Hatfield: I'm going to take notes.

Mr. Lou Rinaldi: Good. If you can't keep up, I'll give you a copy.

Madam President, welcome. It was a very thoughtful presentation. I want to say thank you for AMO's commitment to this particular function because it really impacts municipalities. Thank you for all of your support and contributions.

To clarify the question that you asked and to satisfy Mr. Hatfield, I will read to the best of my ability that definition. During your presentation, you raised a concern about proposed reforms and whether council will function as a legislative body or a judicial body. Since 1983, the Planning Act has expressly provided that municipal decisions to adopt official plans and pass zoning bylaws are a legislative decision. While Bill 139 will impact the tribunal's consideration of appeals of these decisions, there is nothing in the bill that detracts in any way from the existing provision confirming that council is making a legislative decision. I hope that helps clarify your question.

Ms. Lynn Dollin: Thank you, MPP Rinaldi.

Mr. Lou Rinaldi: I'll pass it on to my colleague. He has some questions.

The Acting Chair (Ms. Cindy Forster): Mr. McMeekin.

Mr. Ted McMeekin: Thanks very much, Ms. Dollin. This was a long and winding road we started down together a couple of years ago, and we're finally at the point where some substantive changes are being proposed. I appreciate your input.

By the way, I agree with you that there should be one place where all of the provincial policy statements are so as to eliminate confusion. I also like your idea about the 120 days, and I say that because I think this passage of this bill is going to require municipalities to do a lot more work. I'm hoping, and I believe it will come to fruition, that some of the cynicism that we see—citizens vis-à-vis the municipal councils—will be replaced with an enhanced involvement, an enhanced listening and an enhanced taking seriously the concerns, as we shape municipal policies. I guess my question is: Are you ready for that?

Ms. Lynn Dollin: Absolutely 100% ready for that. I can tell you that municipalities go to great lengths trying to engage the public, development interests—everyone in our official plan process. Sometimes that can be a little difficult because people, particularly the members of the public, are a little bit cynical that everything may be overturned anyway, so why bother getting involved at this point? I think that we need to work with everyone to come to a process that's going to work. That involves the development interests and the public at large.

Mr. Ted McMeekin: Okay. I want to thank you for your years of wise counsel and your stick-to-it-iveness on a lot of issues, your sharing boldly and straight-up with the government your concerns. I appreciated that as minister, and we appreciate that as a government. Thank you very much.

The Acting Chair (Ms. Cindy Forster): Thank you, Mr. McMeekin. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much, Madam President, for your presentation. I just quickly want to touch on the legislative and the judicial situation. I appreciate the explanation, but the question becomes: Presently, it's divided between the municipalities making decisions legislatively and then if I don't agree with it I can appeal it to the board that is going to hear the hearing. With that gone, who is going to make the legal decisions, as opposed to the legislative ones?

Ms. Lynn Dollin: Well, my understanding is that Bill 139 requires that we follow the provincial policy statement, that we follow our official plan. All of those decisions are done long before. And if the council does not approve something that's in their own official plan, then it will be appealed.

Mr. Ernie Hardeman: Okay. The other one—I totally agree, and I know my colleague would agree with it—is the appointment of the conservation authority. I think there was some discussion of the fact that if municipalities pay the bill, they should have the say. I think it's really strange that we would have a system that says that the municipality believes their local councillor should go and represent their interests at the board and the province

says, "No, no, no, no, he doesn't have the right qualifications to do the job; we want so and so. We want someone with these qualifications." If the people in the area believe that's the right person, I believe that the conservation authority and the province should believe that, too. So I totally support it.

One of the things that I think we really need to know—first I want to say, the difference. We've heard a lot of complaints about the fact that from the development side, the hearings are not a good place to actually bring out the whole story because everybody gets five minutes, and that's the end of the story. In most of the province that I deal with, they have a much more robust process to hear the applications. I would hope that most of them, as you said, will be ready to take over that responsibility without having to go to the appeal.

I just wondered if you could talk a little bit about the transition. We've heard a lot about that. How should that take place? Some people said if everything that's in the hopper now stays with the OMB, we could have two, three or four years of OMB function still left before we actually got to the ones that are going to the tribunal. What's your suggestion on the appeal?

The Acting Chair (Ms. Cindy Forster): One minute left.

Ms. Lynn Dollin: Thank you, Mr. Hardeman. First of all, I want to say we have a great deal of respect for the development industry. There's so much negotiation and engagement with proponents, much before it even comes to the council table, and the staff are quite involved in that, too. Every municipality does it a little bit different. But, as far as the implementation, any implementation date—it doesn't matter what date you pick—creates extra work. So we see no reason to delay it.

The Acting Chair (Ms. Cindy Forster): Thank you for your presentation.

1640

CONSERVATION ONTARIO

The Acting Chair (Ms. Cindy Forster): We'll now move on to Conservation Ontario: Kim Gavine, Hassaan Basit and Bonnie Fox. Good afternoon. You'll have 10 minutes. If you could please state your names for the record.

Ms. Kim Gavine: Good afternoon. My name is Kim Gavine. I'm general manager with Conservation Ontario. With me today are Hassaan Basit, the chief administrative officer with Halton Region Conservation Authority, and Bonnie Fox, our planning and policy manager at Conservation Ontario.

We represent the 36 conservation authorities. We are before you today to provide comments and suggest amendments to schedule 4 of Bill 139, which pertains to the Conservation Authorities Act. These proposed amendments were circulated to our members and discussed at our September 25, 2017, council meeting. As well, these proposed amendments have been discussed with Ministry of Natural Resources and Forestry staff, and their constructive feedback is acknowledged.

Conservation Ontario supports the leadership demonstrated by the province in addressing the need to modernize the Conservation Authorities Act, and encourages the government to move forward with the passage of this bill. Conservation authorities play an important historical and successful role in addressing many of today's environmental and resource management challenges, particularly in light of the growing impacts of climate change and rapid urbanization.

Overall, we are very pleased with the proposed changes to the act, and we appreciate that the province acknowledges the broader watershed management role of conservation authorities and the effect it has on protecting the sustainability of our important natural resources.

We also welcome the proposed improvements to governance and accountability. These will provide a baseline standard for all conservation authorities, improving the transparency and effectiveness of our operations.

Our comments today focus on two key areas that are intended to strengthen the proposed amendments in schedule 4 of Bill 139: (1) enforcement and offences provisions and related issues, and (2) liability protection for conservation authorities.

My comments will provide you with an overview of what we're requesting today. Of course, more details are available in our written submission, which has been handed out to you.

Conservation authorities regulate development and other activities in areas of water-related natural hazards, such as flood plains, shorelines, wetlands and hazardous lands, in order to protect people and prevent costly property and infrastructure damages. In order to do so, the Conservation Authorities Act provides a number of regulatory and enforcement tools.

We have been waiting for some time for modernization of the enforcement provisions. Conservation authorities have been struggling to find efficient ways to address significant non-compliance issues in the absence of the legislative tools required to fulfill their mandated legislative roles. They desperately need the new tools, such as the stop-work orders and increased fines being proposed in Bill 139.

Without these, costly injunctions, legal proceedings and countless staff time are being allocated to address issues that could otherwise be handled effectively with the timely enactment of the proposed enforcement provisions in part VII.

Stop-work orders help conservation authorities to address illegal work threatening natural resources. An example is to quickly prevent the illegal filling-in of wetlands. Wetlands provide many benefits, but one of the ones you will be most familiar with is their ability to prevent flooding. They absorb and store excess flood waters, slowly releasing them over time.

Despite this, wetlands continue to be filled in across Ontario. One way that conservation authorities currently try to prevent this work is with injunctions. However, it takes time and money for them to actually get the in-

junction, and while they are doing so, many contractors continue to work. By the time the conservation authorities finally get the injunction, the damage has often already been done and can be irreparable.

Even if contractors are fined afterwards, many see this just as a cost of doing business. The $10,000 fines that are currently imposed need to be much more significant in order to have an impact.

Attachment 1 of our written submission provides a number of photos of a provincially significant wetland in the Grand River watershed that was illegally filled in. The Grand River Conservation Authority spent $28,000 on a court injunction to stop the activity. In this case, the use of a stop-work order might have been sufficient to prevent extensive damage to the wetland and would have prevented the need for a costly injunction.

The Sault Ste. Marie Region Conservation Authority is also battling work currently under way in an important wetland in their watershed. They are a smaller conservation authority and cannot afford the legal costs of an injunction. Consequently, an important wetland continues to be destroyed as we speak.

Another recommendation we are suggesting in our submission is that amendments be made so that part VII's "Enforcement and Offences" clauses can come into force quickly. Training of conservation authority staff and updates to regulatory compliance implementation guidelines can be delivered within three months of enactment. Ultimately, this will help to reduce taxpayer burden, provide better customer service to watershed residents and modernize the act to be consistent with comparable pieces of legislation.

Another area we would like to address in Bill 139 is around the appeal mechanism for stop-work orders. It is recommended that an amendment to the appeal mechanism for the stop-work orders be directed either to the courts or directly to the minister, who could appoint a hearing officer instead of the conservation authority board. Option 1, being directed to the courts, is currently used for the building code, and option 2, going directly to the minister, is used for the Endangered Species Act. An amendment in support of one of these options would provide for a fair and impartial process for people who request an appeal of the stop-work order.

The appeal mechanism, as currently proposed, could potentially place the conservation authority board or executive committee in a conflict position for two important reasons. First of all, the proposed right to a hearing before the authority board or executive committee may lead the applicant to question whether the hearing was fair and impartial. Secondly, authority boards or their executive committees are the decision-makers when it comes to permissions granted under section 28 of the act. Subsequent decisions based on a proposed development could be perceived as being swayed by a previous stop-work order hearing pertaining to that particular property or individual. In both cases, this will lead to an appeal to the minister in circumstances where a stop-work order has been confirmed.

Finally, to maximize the effectiveness of and further modernize part VII, it is recommended that provisions be included to support orders to comply and/or take remedial action, court orders on title following conviction and officers defined by regulation. Of course, more detail on this is provided in our written submission.

The last item I want to bring to your attention is around liability protection for conservation authorities. As we experience stronger and more frequent storms and flooding, the liability risk for conservation authorities and their government partners grows. Conservation authorities are mandated responsibility for this role on behalf of the province, and should be provided some form of statutory immunity for the goodwill operation of this essential flood-erosion infrastructure. The province of Saskatchewan provides this form of indemnity for a similar agency, and we've provided their wording as an example in our written submission.

I wish to thank the standing committee for the opportunity to speak with you and to make a written submission. You can review more detailed explanations of our recommendations in that written submission.

As I mentioned at the beginning of my remarks, overall we are very supportive of the province's initiative to modernize the Conservation Authorities Act, and your consideration of our suggested amendments is greatly appreciated. We look forward to working with the province and our watershed stakeholders to implement this new legislation.

The Acting Chair (Ms. Cindy Forster): Thank you for your presentation. We'll move to government member Mr. Bradley.

Mr. James J. Bradley: I'm not a member of this committee, but I'm delighted to be here today. First of all, I want to thank you for outlining the role and responsibility of your authority members. Does your organization have any provision to police your members or to take any action on members who are rogue in terms of the role that they're playing, instead of the role that they're supposed to be playing, such as suspending the membership or ending the membership of any authority which does not comply with your policies and principles?

Ms. Kim Gavine: We do not have that ability, Mr. Bradley. We actually work for the conservation authorities. We have no oversight of their operations.

Mr. James J. Bradley: So you would not, then, have taken any action against any rogue authority, since you don't have that authority?

Ms. Kim Gavine: Correct.

Mr. James J. Bradley: There have been complaints in certain parts of the province about some authorities. There has been much controversy taking place, and people have asked that the provincial government play a more central role in dealing with it, because your authority obviously doesn't have that authority, or haven't decided as an organization to exercise it because you don't have it. Do you have any suggestions as to what powers could be placed in this bill to ensure that an outside authority would be able to take action against an authority that is clearly not living up its mandate?

1650

Ms. Kim Gavine: I'll start by answering that and suggesting that, in my presentation, I said that we are open to improvements around openness and transparency. I think that conservation authorities do take many steps in terms of public sector accountability, best management practices, templates and things of that sort, where they can do thing on their own. It's my understanding that, if the bill was passed, there would be an opportunity perhaps for the province to step in.

Mr. James J. Bradley: In fact, you are correct in saying that there are provisions within the legislation, as it exists, for the province to be active in terms of dealing with local authorities that may not be living up to their mandate. Can you think of any circumstances, in your mind, that would justify the province taking significant action against an authority, such as taking over the authority?

I know how you guard your independence and I know this is a difficult question for you because you're representing authorities. But do you see anything that could be placed in the legislation that would be valuable in permitting a government, as people have asked, to be able to, for instance, appoint a supervisor of an authority if, in the opinion of the government, after receiving input from people in a specific area, they would then take such action?

Ms. Kim Gavine: Perhaps if I was a conservation authority, I might be able to answer that question. But as Conservation Ontario, who represents the collective—these types of discussions are brought forward to our council meetings, where positions are taken. The notion of the creation of someone who would be able to step in and take over has not been discussed at council, so I would not be prepared to provide an answer on that.

The Acting Chair (Ms. Cindy Forster): Thank you. We will move on to Mr. Hardeman or Mr. Miller.

Mr. Norm Miller: Yes, thank you.

The Acting Chair (Ms. Cindy Forster): Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. First of all, I guess I wanted to ask about warrantless entry. Did you ask the government to increase the rights to warrantless entry? If so, what situations brought about that request?

Ms. Kim Gavine: We were looking for more modernized provisions. We provided the photos to give you some examples of some of the situations that we're dealing with. I'm going to pass it over to Bonnie Fox to provide more details around that.

Mr. Norm Miller: Sure, thanks.

Ms. Bonnie Fox: In our submission, we didn't get into details around powers of entry. I believe that Toronto and Region Conservation Authority did. But regardless, in the review of Bill 139, there was full support across the conservation authorities with what was being proposed with regard to powers of entry.

There are examples of where that is something that is an important tool for us to have for protecting life and property. If there's a hazard situation or an environmental degradation occurring, if there are extreme circumstances, then that is something that could be used.

Mr. Norm Miller: But under the current rules, you do have the ability to have warrantless entry; you just have to give a reason. Am I not correct with that?

Ms. Bonnie Fox: Yes. I think, with the proposed amendments, it's basically a modernization of that and making it consistent with what municipalities are able to do with some of their enforcement officers.

Mr. Norm Miller: We just had a presentation from AMO, the Association of Municipalities of Ontario. One of the issues they had was with regard to the province's ability—and I'll read from their submission: "may make regulations governing the composition of conservation authorities and prescribing additional requirements regarding the appointment and qualifications of members of conservation authorities."

AMO doesn't like that. They feel, seeing as they're the main funder, that they should be able to appoint members and this shouldn't be required. Do you have thoughts about that aspect of the bill?

Ms. Kim Gavine: Conservation Ontario has not taken a position on the appointment of members. Again, it's our understanding that there could be a regulation that could be created regarding that. Perhaps I'll pass it over to Hassaan to talk about some of the experiences that you have with your local municipalities.

Mr. Hassaan Basit: Thank you for that. Of course, everybody is familiar with the model of governance for conservation authorities, and for us, it works quite well. We have bylaws; we have policies and procedures. Our board serves their purpose. Their governance, responsibilities, transparency and accountability—we feel it's a good model.

I understand that there are times when any good model perhaps doesn't work, and we're sensitive to that as a conservation authority—one of 36—but I do feel that in most cases, it's a good model and it works. It certainly works at Halton.

The Acting Chair (Ms. Cindy Forster): Mr. Hatfield.

Mr. Percy Hatfield: Thank you for coming in. When is your next meeting of Conservation Ontario?

Ms. Kim Gavine: Of council?

Mr. Percy Hatfield: Yes.

Ms. Kim Gavine: December 11.

Mr. Percy Hatfield: Would you consider putting on that December 11 agenda, for a discussion item, the issue that Mr. Bradley has raised?

Ms. Kim Gavine: Perhaps.

Mr. Percy Hatfield: Perhaps. Thank you for that.

I think the reputation of conservation authorities is somewhat at stake here, if serious claims are levied that there's an abuse of power or someone is not carrying out the mandate that all conservation authorities have. It seems to me that if you have a medical society, they can discipline, and lawyers can be disciplined.

I'll just read—it's perhaps another avenue here—an email that just came in from a Toni Chahley:

"Please amend the Conservation Authorities Act to require conservation authorities to consider submissions from the public with respect to developers' proposals to destroy provincially significant wetlands; and allow citizens to appeal conservation authority decisions that allow developers to destroy provincially significant wetlands to the Mining and Lands Commissioner. If developers are allowed to appeal decisions that protect wetlands, citizens should be allowed to appeal decisions that permit wetland destruction."

What do you think about that?

Ms. Kim Gavine: I'm going to pass this over to Hassaan.

Mr. Hassaan Basit: Thank you, MPP Hatfield. The conservation authority does protect wetlands. It is part of our regulation. We have policies in place to protect those. If a wetland that is regulated by a conservation authority is impacted, then we have avenues to pursue that.

Mr. Percy Hatfield: But if a local conservation authority board is impacting it, what authority do you have to do it then?

Mr. Hassaan Basit: When I look at the amendments that are proposed to the CA Act in front of us, I do see that there are a lot of tools in there to protect us against that. There is an acknowledgement, an overall narrative and some specifics with regard to conservation authorities playing a role on a broader systems basis.

Yes, we have the hazards program, but there are areas, such as watershed-based planning, such as support for provincial priorities in the areas of the new wetland conservation strategy, natural heritage systems and climate change.

So I do feel that there are tools that are in these enabling legislative amendments that will allow us to serve our function more thoroughly, moving forward.

The Acting Chair (Ms. Cindy Forster): Thank you so much for your presentation.

MS. JENNIFER KEESMAAT

The Acting Chair (Ms. Cindy Forster): We will now move on to Jennifer Keesmaat.

Good afternoon. You will have up to 10 minutes for your presentation. If you could state your name for the record, please.

Ms. Jennifer Keesmaat: Fabulous. Thank you very much. My name is Jennifer Keesmaat, and I am the former chief planner and executive director of the city planning department in the city of Toronto.

I have practised planning for over 20 years in the province of Ontario and have attended many OMB hearings and mediations. I have overseen, over the course of the past five years, over 5,000 development applications in the city of Toronto alone, and have led a team that has been fully engaged in the consultation process on behalf of the province for reform of the OMB system.

I want to begin by saying that it's important to recognize the proposed changes to how the OMB will function in the context of a pro-growth context.

Since 2009, approximately 140,000 housing units have been completed within the city of Toronto. This is an astronomical amount of new housing growth, by any measure, to the extent that the greatest challenge we face is the infrastructure to keep up with the new housing units that have been built, including water capacity, parks, schools, neighbourhood facilities, and all of the components that are essential to creating a sustainable, thriving, complete community over the long term.

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By any measure, we are a beacon in the world with respect to our planning process, and we recognize that a key part of our success is the provincial planning framework within which we operate, including Places to Grow and the Greenbelt Act, which have fundamentally transformed land use planning in the region, directing our growth to existing built-up areas in such a way that we are beginning—beginning—to transform our region to become transit-oriented and a fundamentally more sustainable place.

In the absence of these policy frameworks, the dream of being a transit-oriented region will not materialize. We need density. We need to be transforming and adding growth to existing built-up areas that currently do not have the growth to support high-frequency transit. We know that this is not only critical to our quality of life in reducing congestion times but it is also critical to reducing our environmental footprint and becoming a more sustainable region.

It's important to note that our planning needs to be proactive. We need to be thinking about the future that we want to create, and creating policy frameworks that will result in that future. That is our objective: to not create a city or a region one building at a time, but to have a clearly articulated planning framework that will result in the future that we have, in fact, chosen.

This bill focuses on evaluating municipal actions in terms of their conformity with provincial plans and policies. It's difficult to state how transformative that is. Currently in the city planning department, thousands and thousands of hours are spent at the Ontario Municipal Board—following council approval, following extensive consultation processes with the public—in order for one individual to fight to represent their specific interest. This is not a proactive way to plan a city or to plan a region. In fact, I would argue it's an inherently problematic way. It is based on very narrow interests.

Our policy frameworks take into account the bigger picture. They look at how we are seeking to link together transit and transit densities with creating walkable, sustainable places. The vision for our region is clearly articulated through Places to Grow, with density targets.

We frequently have conversations with city councillors who will ask us, with respect to a specific proposal, about our success at the OMB: what we feel, as planners, will be achieved through the OMB process. Now, if we had a process that was driven primarily by policy, we could give a straight answer. But, in fact, we do something different: We frequently say to that councillor

asking that question, "It will depend on the chair." This demonstrates how this is not currently a quasi-judicial process. This is currently a process whereby unelected, unaccountable individuals make critical planning decisions that shape neighbourhoods. Despite living in Kingston, being appointed to your position, it might be possible to fundamentally transform a neighbourhood in Toronto.

My question to you today is this: How much does respect for democracy matter? It's not just local democracy. It's about democracy. It's about accountability. The changes proposed in this bill represent a fundamental shift. They are a fundamental shift because they will change the way planning departments do their job. Rather than spending hours and hours writing witness statements and concocting arguments as to how to address a specific proposal, planning departments across this province will re-shift their efforts into creating the proactive planning frameworks that will shape and direct growth.

You might be afraid, and I'm sure you've heard today about a risk, that suddenly we will see growth stop. It's important to note, first of all, that we are a pro-growth region in any scenario. The vast majority of applications that come forward through the city of Toronto are not, in fact, contested at the OMB. The ones that are have ripple effects and important implications, but the vast majority of projects are in fact in keeping with the provincial policy frameworks, with Places to Grow and are accepted by local communities as being an important part of creating a more sustainable region.

Some of the biggest, most significant and important developers in our city, like Westbank and First Gulf, don't go to the OMB, and they don't go to the OMB for a very important reason: They want to work collaboratively with communities and locally elected officials to create plans that are recommended and approved by city council.

One of the most recent and best examples to articulate this is the Westbank proposal for Bloor and Bathurst, or what you may know as the former Honest Ed's site. A significant amount of density has been accommodated on this site, and it has been generated through a collaborative process with the community for a very simple reason: The developer made it clear that he was not interested in a fight. He wasn't interested, from the outset, in going to the Ontario Municipal Board. He wanted to be a good corporate citizen. The community, in fact, rewarded him, and he rewarded the community with 28 heritage buildings that are now restored as part of that project, new park space and daycare on the site, and 20% affordable housing as part of that overall new development.

There was a collaboration that took place, as is always the case in our best city-building instances. That does not take place when a project gets punted to the Ontario Municipal Board. It's a very difficult dynamic. At the Ontario Municipal Board it's a bit of a crapshoot.

The opportunity with the changes that you see before you today is about reinforcing the importance of policy as being the way that we articulate in a democracy our shared objectives and what we are seeking to achieve. If you have a problem, take it up with the policy. If you have a problem, take it up with your local elected official, who will now be accountable. I'm sure you've heard stories of elected officials who don't take responsibility for the decisions that are being made in their communities because they know it will be shunted off to the Ontario Municipal Board. That's not a good way for us to plan our cities. It is better for municipal politicians to take responsibility for the decisions that they make and for the implications on the communities around them.

When we were undertaking our planning process for the Eglinton Crosstown, where 19 kilometres of LRT are currently being built, one of the things we heard loud and clear from the development industry was to put as-of-right zoning in place. This is a very important part of the narrative that needs to be understood, in this city in particular, so we did. So 25% of that corridor was transformed through as-of-right zoning, where you can now build an eight-storey building by pulling a permit; you don't need to go through a community process because we did it all at once through the two-year Eglinton Connects process.

An interesting thing has happened that is one of the absurd outcomes of the OMB. The development industry said to us, "Give us as-of-right zoning," and so we did. We want to see new development and intensification along our transit corridors. This is a critical part of combatting congestion. What's happened is, even though we have in fact done so, we have seen developers coming back and asking for more. This is the speculative nature of development in a high-growth city that the OMB enables. If we create policy that's based on sound planning principles, should that not be the policy that directs how we change and grow? The community really made a social contract in that process. They supported as-of-right zoning, recognizing that it was going to be compatible with the city's guidelines around creating a walkable city, mitigating the shadow impacts. But, in fact, what we've seen as a result of the opportunity of an OMB that doesn't currently respect the policy of local councillors is a whole industry that has been built on speculation. This is not in our best interests.

The Acting Chair (Ms. Cindy Forster): Thank you. We'll start with Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for that presentation. It was much appreciated. I think it's consistent with a lot of the things we've heard from both the development side and from the municipal side that the OMB system is broken and needs to be fixed.

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I think in your presentation you pointed out that if you work together you can come up with the right decisions with the industry that wants to build and the municipality that wants it built. The developers told me today, the one group that was here, that they had only gone to the OMB once and the rest were all negotiated, but they said that the reason it was negotiated was because both sides realized that that was the best way to facilitate what should happen. That created tension in the system.

How do you envision that that would remain if there was no place to go, if there was nobody who had a risk of it going totally off the rails—"We have to come up with a compromise or it will go off the rails"? Could you comment on that?

Ms. Jennifer Keesmaat: Yes, thank you very much for the question. There are two answers that I'll give in response to it. The first is that it's important to recognize that the proposed changes to the OMB simply bring us in line with other jurisdictions across the country. They're not radical; they in fact bring us in line with a more typical planning process. That's the first.

The second is that I would argue that that question of negotiation should not be happening on a site-by-site basis with the lawyer and the developer for a specific project; it should be happening in the context of an area plan, where we create planning frameworks at the area plan level—like we did in Eglinton Connects. We in fact looked at the entire corridor, density targets for the entire corridor, the character of the corridor, and then put a planning framework in place to respond to that character, as opposed to the negotiation you're talking about, which is really one specific interest. Many people are cut out of that process and are not at the negotiating table.

Mr. Ernie Hardeman: If I could, I talked to a major developer in Toronto—I'm not from Toronto—and that's exactly the same thing he said about what was necessary: "We can accept whatever the community wants, but we need to know up front." Most of the appeals that I've had concerns expressed about were density issues, the developers wanting more density and not being able to get it, and yet you say that the lack of density is the problem for creating that city that we want. I just wonder how we deal with that.

Ms. Jennifer Keesmaat: Well, one of the challenges that we face right now—and it's important to note that in Toronto we have 19 corridors that are pre-zoned for mid-rise development. Let's say that we never approve another application over the next 50 years. We'll continue to grow at the rate that we're growing at, because we have approvals in place along those mid-rise corridors. It's very important to recognize that we already have an environment that can accommodate the significant amount of growth.

The Acting Chair (Ms. Cindy Forster): Thank you. We're going to have to move on to Mr. Hatfield.

Mr. Percy Hatfield: Thank you for coming in, Jennifer. If I understand correctly, you're enthusiastic about the bill and you see the future for planning based on policy or based on sound planning principles. You expect planning departments will re-shift their framework. Can you expand on that?

Ms. Jennifer Keesmaat: That's correct. I believe that the way the bill is structured, where the emphasis is placed on ensuring that planning policy will be the driver behind decision-making, will in fact change the way municipalities plan, re-shifting our efforts from being proactive and reacting to applications to doing more secondary plans, area plans, neighbourhood plans that put in place the policy framework that clearly articulates what it is that we're looking for.

Today, there's a disincentive to putting those proactive plans in place. As I explained with Eglinton Connects, we put it in place, and because it's a highly speculative environment, we simply got proposals for something different. But if we have an environment that uses policy to drive decision-making, it will in fact change the way municipalities plan.

Mr. Percy Hatfield: I think enough of us around the table have served a bit of time on municipal councils that we've seen how locally elected officials sometimes play the board politics, but I'm encouraged by you saying that local elected officials will now have to take more responsibility for their decisions. Will that, through this bill, again, make better, sound planning policy?

Ms. Jennifer Keesmaat: Absolutely. It's also a critical part of democracy. Currently we have people making decisions who have no accountability. In fact, the public doesn't even know who they are. They can't be voted out; they're not held accountable for the mistakes that they made.

The whole dynamic of democracy is that it must happen in a transparent environment—that you must take accountability for the decisions that you make as an elected official. You must defend those decisions; you must believe in those decisions. I believe that the way this is now structured reinforces municipal politicians ensuring that they have their eye on the policy. Right now, you can be kind of flippant about policy because you know that someone you don't know is going to make a decision behind closed doors and they're going to accountable for it. I think that is a very dangerous way for a democracy to make decisions.

The Acting Chair (Ms. Cindy Forster): Thank you.

We're going to move on to the government member: Mr. Rinaldi.

Mr. Lou Rinaldi: Thank you, Ms. Keesmaat, for being here today. Wow, the power and the enthusiasm you have—it's overwhelming. Thank you for the work you did for the city of Toronto. I lived some part of my life in Toronto; I don't anymore, but certainly I was here.

Anyway, back to Bill 139: I think the comment that you made along the way was that Bill 139 proposes fundamental changes to the way we plan, and it's a different way for municipalities or elected officials—and staff—to deal with the planning process.

What do you think the greatest impact of these changes might be to a community—not necessarily Toronto, but in general?

Ms. Jennifer Keesmaat: I believe the greatest impact is that there will be an opportunity and a re-engagement by communities in the planning process, precisely because policy will become a key driver in how decisions will be made. That will be good for our cities; it will be good for democracy.

I'm not concerned about NIMBY constraints that you may have heard about today, for the two reasons that I stated: (1) We have so much that's already approved, and

(2) because we've overwhelmingly seen that we are a pro-growth region. We see the value of growth, and the vast majority of projects, even with the OMB playing the role it does today, have gone forward completely unappealed.

Mr. Lou Rinaldi: I'm not sure if you were here today, or even the other day when we were here. We've heard from some sectors that if Bill 139 were to go through, we won't see any more development; we won't see the density that's needed to support transit; and we won't see more affordable housing. How would you help us defend that?

Ms. Jennifer Keesmaat: It's really, really important to go back to what has already been approved, and the provincial policy framework. The provincial policy framework would prevent that from happening. If local councils said, "We want no growth," they would lose at the OMB, because they have a provincial policy framework in places that grow that already makes it clear where they are to accommodate growth. The policy actually works both ways. It works to promote growth.

In a corridor like Eglinton, I believe one of the positive outcomes is that we would see developers building according to the policy framework we have put in place. Right now, I have developers that come to me and say, "You up-zoned to eight storeys. I want to build an eight-storey building. I go to bid on a piece of property, and someone comes in and bids way more money. I want to build what the policy allows, but someone who is speculating, who is taking a gamble that they can make more money by asking for more than they're permitted, is outbidding me. I want to build mid-rise buildings, but I'm getting bumped out of the process because of the way speculation works in the system." I believe this will reward developers who want to build mid-rise development in the city of Toronto.

I was just in Auckland recently, and a mid-rise building in Auckland is four storeys. We're very generous in Toronto; it's anywhere between eight and 12. In most cities, that's considered a tall building.

The Acting Chair (Ms. Cindy Forster): The time is up.

Mr. Lou Rinaldi: Thank you.

The Acting Chair (Ms. Cindy Forster): Thanks very much for your presentation.

Ms. Jennifer Keesmaat: Thank you.

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ONTARIO SOCIETY OF PROFESSIONAL ENGINEERS

The Acting Chair (Ms. Cindy Forster): We're going to move on to the Ontario Society of Professional Engineers: Patrick Sackville and Robert Muir.

Good afternoon. If you can please state your name for the record, and once you settle in there, you'll have 10 minutes for your presentation.

Mr. Patrick Sackville: Chair, members of the committee, thank you for inviting the Ontario Society of Professional Engineers, or OSPE for short, to provide expert input on behalf of Ontario's engineers regarding Bill 139, the Building Better Communities and Conserving Watersheds Act.

My name is Patrick Sackville. I am joined to my right by Mr. Robert Muir. Mr. Muir is the manager of stormwater environmental services for the city of Markham and he is a licensed professional engineer in the province of Ontario. He has more than 20 years of private consulting practice, and advises on core public infrastructure resiliency and adaption for the National Research Council and local conservation authorities. He is currently the Water Environment Association of Ontario stakeholder representative on the province's low-impact development guidelines. Mr. Muir is a member of OSPE's policy advisory group that has spent the past year conducting groundbreaking research regarding Ontario's stormwater, waste water and broader asset management strategies, culminating in our July 2017 report Weathering the Storms: Municipalities Plead for Stormwater Infrastructure Funding. We are pleased to be here today to speak on behalf of our membership to offer an engineering perspective to the discussions on Bill 139.

For your knowledge, OSPE is the voice of the engineering profession in Ontario, with more than 80,000 professional engineers and 250,000 engineering graduates, interns and students. We advocate on behalf of important public policy issues that impact engineers and society.

We recognize the pressing need to strengthen and improve Ontario's existing land use planning system. However, it is our view that Bill 139 does not resolve widespread concern about the efficacy and fairness of Ontario's land use planning regime. Reflecting on feedback we have received from engineers across Ontario, we reasonably anticipate that Bill 139 may in fact compound or exacerbate several current problems within the current land use planning system and may create new difficulties or unintended consequences, as Mr. Muir will now explain further.

Mr. Robert Muir: Thank you, Patrick. Members of the committee, Bill 139 represents the fourth time the province has proposed substantive amendments to the scope, powers and function of the Ontario Municipal Board since 2003, reflecting the general consensus that change is necessary to modernize Ontario's land use planning regime.

However, it must be understood that Bill 139 represents the most far-reaching and significant set of changes in decades to Ontario's land use planning appeals process. If enacted, these legislative changes will have considerable implications for land development, municipalities and growth communities all across Ontario.

Analyzing Bill 139 through the lens of the engineering profession, our comments focus on the technical functionality of the proposed legislation and highlight areas for improvement, specifically the need to strike a balance between interference for restoration versus conservation; the appropriate role of conservation authorities—CAs; and the true cost of resiliency. Bill 139 proposes the

replacement of the OMB and broadly expands the powers, duties, governance structure and geographic jurisdiction of CAs across Ontario.

There are a number of positive examples where the OMB has worked to expedite development. In these cases, the OMB has possibly saved years by not perpetuating CA studies which would not have necessarily enhanced planning or better science, but merely more studies. In other instances, CA objections that should have carried more weight have failed to make an impact at the OMB.

Overall, the proposed changes under Bill 139 have the potential to reduce municipalities' costs related to appeals of planning decisions. For example, eliminating de novo hearings would result in lower costs to defend against appeals.

From an engineering standpoint, to strike a better balance between restoration and conservation, any expansion of CA powers requires greater oversight of CA decision-making and a critical review of their mandate. As an example, to support dense, sustainable, walkable, transit-friendly communities that align with a number of the government's broader strategies, it is sometimes actually advisable to interfere with natural features; for example, as just one example, headwater drainage features. Under Bill 139, intermittent headwater drainage features, essentially surface depressions, may be regulated as watercourses. The act states that watercourses are the domain of CAs, which may result in inefficient land use planning options and infrastructure service constraints by prohibiting the re-engineering of simple drainage functions.

To this end, the act does not lend clarity to how CAs should be expanding jurisdiction; for example, treating small features through permitting processes to promote watershed health. Nor does it lend clarity on how CAs should be facilitating interference with watercourses where, in legacy service areas, such interference is essential for flood control remediation to protect property or erosion prevention to protect critical infrastructure in valley systems.

Section 28.1 of the bill acknowledges, however, that an authority may issue a permit to a person to engage in a prohibited activity. This means that CAs would have a monopoly over these important decisions. This could result in restricting rightful interventions that equally achieve land development objectives and maintain a high level of environmental stewardship.

CA fees further highlight the issue of mandate which is not remedied by Bill 139.

Section 21.2 of Bill 139 requires the minister to determine classes of programs and services where a CA may charge a fee. Some existing fees pose a burden to low-risk, routine maintenance, and it is not uncommon for permit fees to exceed the cost of minor repairs to municipal stormwater facilities in regulated areas. These fees, and the lengthy permitting process, frequently impede timely and cost-effective infrastructure maintenance. To better focus mandate and to streamline administration, permitting and fee exemptions for minor operational activities should be identified for those activities with low environmental risks. For the committee's reference, this idea is similar to the recently streamlined federal Fisheries Act self-assessment process that reduced permitting requirements.

Lastly, to improve the accounting of services received for fees rendered, routine review fees could be budgeted by CAs as a core service, as opposed to separate project-by-project review fees. If it is the committee's interest to empower CAs, this could be better encouraged with a focus on flood and erosion control and multi-ministerial engagement. This could involve the Ministries of Environment and Climate Change; Infrastructure; Natural Resources and Forestry; and Municipal Affairs and Housing, to achieve desired outcomes.

In the pursuit of greater resiliency and watershed conservation, Bill 139 may place significantly greater costs on municipalities and developers. New technologies and environmental services are effective ways to protect watersheds and natural environments, but these come with increased costs. These technologies include green infrastructure or low-impact development measures for climate resiliency. I note that in Bill 139, section 16 of the Planning Act is amended by adding that, "An official plan shall contain policies that identify goals, objectives and actions ... for adaptation to a changing climate, including through increasing resiliency."

Estimates suggest that green infrastructure adaptation costs could be as high as $400,000 per hectare, based on recently tendered construction projects, meaning that long-term province-wide costs to developers and municipalities—and, ultimately, the end consumer and economy—totals hundreds of billions of dollars. Conservation authorities are not accountable for these capital costs. The Ministry of the Environment and Climate Change is not accountable for these costs. In fact, draft green infrastructure policies now being developed by the ministry indicate that "excessive cost" alone shall not be a constraint to green infrastructure implementation. It is municipalities and developers and then, ultimately, the homebuyer and taxpayers, who will have to pick up this bill.

Ultimately, these new service costs have an inverse relationship with other provincial priorities, like improving housing supply and affordability, or the delivery of new transportation and transit infrastructure, as in: the greater overall cost burden, the less that will be built.

This concludes our prepared remarks. Thank you again to the committee for the opportunity to present. We welcome your questions.

The Acting Chair (Ms. Cindy Forster): Thank you so much for your presentation. We'll start with Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Madam Chair. Patrick, why did you choose such a boring tie today?

Mr. Patrick Sackville: I almost picked out a pink one for you today, sorry.

Mr. Percy Hatfield: We were having a tie-exchange conversation last night, Madam Chair.

Mr. Muir, you talked about the unintended consequences. I'm not sure I heard all of them that you have in mind. Could you just give me a few?

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Mr. Robert Muir: Unintended consequences—I believe that one example is in terms of providing greater climate resiliency or adaptation to climate. In our field, we typically see that as something that promotes green infrastructure, to reduce watershed impacts. Some unintended consequences are the impacts of these measures on existing infrastructure, or interference with municipal water supplies.

Recent examples in York region have resulted in the implementation of green infrastructure installations—parking lots with permeable pavement—that have been constructed in a municipal wellhead protection zone. Under the Clean Water Act, this is a vulnerable area.

I think what it shows is that we have to have a balance between recognizing the constraints to implementation of new resiliency measures—recognizing that there are benefits, but there are also potential impacts and certainly high costs to consider in terms of long-term life-cycle maintenance and the financial sustainability of green infrastructure.

Our view is that green infrastructure should be viewed in the same way as conventional infrastructure, in terms of a fulsome life cycle, asset management and financial planning.

Mr. Percy Hatfield: Thank you. I noticed that at one point you also talked about reducing municipality costs, but I wasn't sure if you meant that that was a good thing or a bad thing.

Mr. Robert Muir: In terms of municipal board changes, it's a good thing in terms of streamlining processes. We would look for streamlined permitting requirements and fees, ideally to support cost-effective infrastructure maintenance in municipalities, looking at the Conservation Authorities Act regulations.

Mr. Percy Hatfield: And—

The Acting Chair (Ms. Cindy Forster): Thank you.

We'll move to the government: Ms. Malhi.

Ms. Harinder Malhi: Hi. Thank you for your presentation. I just wanted to ask you a little bit about your interest in this bill. We've had extensive consultations on the updates that are proposed in this bill. Have you participated in any of the prior consultations?

Mr. Patrick Sackville: To this point, no, we had not. Part of the reason why that is is that our organization has a committee structure which is fairly intensive in terms of the feedback outreach that we do, so that only culminated at a nearer date.

Ms. Harinder Malhi: Thank you.

The Acting Chair (Ms. Cindy Forster): Any other questions, government members?

Mr. Lou Rinaldi: No, we're good.

Ms. Harinder Malhi: We're good.

The Acting Chair (Ms. Cindy Forster): Okay. We'll move on to Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. You talked about concern, if I heard you correctly, with expansion of powers for conservation authorities. Can you talk a little bit more about that, if I did in fact hear you correctly?

Mr. Robert Muir: I guess the devil's in the details in terms of how powers are applied. I provided an example of concern with overregulation of small, low-risk features such as a headwater swale in a watershed. We are able to, and we do, work every day effectively with conservation authorities as a partner for effective management of regulations.

I think that in the bill itself, we do not see significant concerns with overregulation, but we caution that as we go forward, in terms of implementation with regulations and guidelines, we have to be cognizant of the potential impacts.

The example that I provided is that it can result in inefficient built forms of our communities, or inefficient transportation systems, if we overregulate and prevent an adequate number of stream crossings or efficient subdivision layouts.

Mr. Norm Miller: I note that you are manager of stormwater, environmental services. for the city of Markham. My colleague sitting beside me, Ms. Jones, has a private member's bill with regard to reporting spills in municipalities to the Ministry of the Environment, or having the Ministry of the Environment report on them. Is that something you would support?

Mr. Robert Muir: Reporting of spills? It seems reasonable to me.

Mr. Norm Miller: Thank you for that. You cover the entire province. The area I represent actually doesn't have a conservation authority—a good chunk of it is in Muskoka—and has had some issues with flood control. Do you see a difference with how the Ministry of Natural Resources and Forestry deals with flood control versus areas that are controlled by conservation authorities?

Mr. Robert Muir: Are you referring, sir, to the lake flooding, for example?

Mr. Norm Miller: Yes, lake and river flooding.

Mr. Robert Muir: I see there has to be integration between the municipal flood management and the riverine flood management and, as I mentioned, more ministerial co-operation so that we address infrastructure improvements and then also proper lake and river water level regulation.

My understanding is that the lake flooding is related to an operational concern which could be improved in terms of better rule curves and evaluating more extreme scenarios in terms of managing lake outflows.

I believe that conservation authorities can certainly help in terms of more proactive management of water levels. In some cases, however, it may be just the natural extremes that we would experience, whether that's Lake Ontario this year—some folks would say that this has been a very extreme water level year when, in fact, looking back at the records, this May's and June's levels in Lake Ontario were only five centimetres above the

previous maximum values in earlier decades. We have to be able to prepare for the wide range of water levels and conditions that we can expect in the province.

The Acting Chair (Ms. Cindy Forster): The government hadn't used all of its time. Mr. Rinaldi, you have a question?

Mr. Lou Rinaldi: Sure. Thank you for being here today. Certainly we value all input that we have, but just a question for you: If this legislation is passed, it requires that a municipality include climate change policies in their official plans. Can you tell us what kind of benefits may result from including climate change objectives in official plans?

Mr. Robert Muir: Certainly. I believe they will provide for some additional resiliency, especially in new development areas. As an example, in north Markham, there is a 1,000-hectare block redevelopment. We would be encouraged through the official plan to ensure resiliency in the new subdivision designs.

The caution I do have, however, is that the majority of flood damage in Ontario municipalities is not focused in new developments. We have only one fiftieth of the flooding in new subdivisions as we have in old subdivisions. Further to that, we have very limited flooding in the riverine system. The flood plain regulations in Ontario have been very effective, such that if you were to look at the last three floods in Toronto—May 2000, August 2005 and July 2013—only one twentieth of the flooding is in regulated river valley areas.

If we want to be proactive about increasing resiliency to reduce flood damage, we have to focus outside the Conservation Authorities Act, outside regulated areas and outside new developments, which are well regulated by planning processes. We have to focus on improving level of service in legacy areas, where the majority of flood occurs. Bill 139 does not provide the means to address legacy flooding areas in old developments.

The Acting Chair (Ms. Cindy Forster): Thank you so much. We're out of time. Thanks for your presentation, gentlemen.

TOWN OF OAKVILLE

The Acting Chair (Ms. Cindy Forster): We'll move on to our last presentation: the town of Oakville, Rob Burton, mayor.

Good afternoon. You'll have 10 minutes. If you could all state your names for the record, please.

Mr. Rob Burton: Thank you, Madam Chair. I'm joined by the commissioner of community development and the town solicitor. The commissioner is Jane Clohecy and the solicitor is Nadia Chandra.

Chair, members of the Standing Committee on Social Policy, thank you for your interest in Oakville's strong support for Bill 139. We hope Bill 139 will move forward with the all-party support that we saw in the second reading vote. I believe our experience will show why it is critical that Bill 139 be enacted to ensure that decision-making that is compliant with provincial policy directions shall rest with local councils.

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In 2009, Oakville's council unanimously adopted a plan to reach 255,000 by 2031. We expect to reach 285,000 by 2041. That's the population forecast that the province's growth plan says we are to accommodate. In my time as mayor, already Oakville has grown 20%.

We are not anti-growth. We do like growth to be planned and led by publicly achieved policy. I'm very proud of the work done by our community—our residents and our businesses—and our staff and council to create our Livable Oakville official plan. Over 1,000 residents and business owners made contributions to developing the Livable Oakville Plan in many public meetings and engagements over a two-year process.

After our official plan, as we were required to do, we did a comprehensive update of our zoning bylaw to implement our Livable Oakville Plan. Over 700 residents and business owners were involved and provided input into developing our new zoning bylaw.

The result is that our official plan and zoning bylaw conform provincial requirements and reflect our community's vision of itself.

In fact, Oakville was the first municipality to achieve the June 2009 date that the province set for growth plan conformity of official plans. This achievement cost our town millions of dollars over eight years—so far—to complete the work required to ensure that we have a plan and a zoning bylaw that are evidence-based, meet provincial and regional requirements, and fulfill the expectations of our community. We did this eagerly. We were motivated by the promise of the growth plan that we would get a more complete community, a more livable community, as a result.

We did not reckon on getting 56 appeals, all of which were either defended at Ontario Municipal Board hearings or were settled with minor modifications. Two of those appeals stand out in my memory as little more than simple extortion, although the appellants saw them as bargaining. Bargaining, in Oakville's view, is not planning.

These appeals did not raise issues of provincial or regional conformity. This appeal process on our official plan took an additional two years and added significant additional staff time and legal costs. The appeal process of the zoning bylaw has not yet finished three years later. The approval of the zoning bylaw resulted in 80 more appeals.

We've spent, and are still spending, tax money defending what is essentially a provincial plan. Who can justify that? It creates extraordinary expense for the town to defend well-conceived and publicly achieved policies that conform to provincial requirements against site-specific appeals that do not conform.

There is no incentive for developers to participate in the creation of local official plans if they can appeal and effectively start all over with little regard for the extensive public consultation process undertaken by a

municipality, and hope, instead, at a minimum, to split the difference at the Ontario Municipal Board. Splitting the difference is not good planning. If it is, then official plans have no good purpose.

When I attended one of my first OMB hearings, it resembled some kind of marketplace of haggling, not planning. I thought the hearing resembled the scene about the pirate code in the 2003 movie the Curse of the Black Pearl, because the official plan turned out to be no stronger than the pirate code turned out to be. With only small changes to the movie, it was like, "You must be a planner to read the official plan and you're not a planner; and the official plan is more what you'd call 'guidelines' than actual rules."

Mr. Percy Hatfield: Arrr!

Mr. Rob Burton: Arrr!

We must end de novo hearings. De novo hearings are confusing for, and unfair to, the public. They devalue local council decision-making. They put a huge burden on planning and legal staff and the taxpayer. We need—and the public demands—stability, credibility and predictability in the local land use planning process.

I believe in the rule of law and in clear, evidence-based policy and in fair procedures. I am a businessman and entrepreneur who founded YTV. Believe me, I know the world works best when it is not arbitrary.

I have heard critics of Bill 139 say that decision-making is too political at the municipal level. I think critics of Bill 139 are forgetting that we have a team of professional, certified planning staff who provide council and the community with professional advice on provincial and regional planning requirements. Also forgotten are the stated purposes of the Planning Act, and in particular section 1.1(f), which is "to recognize the decision-making authority and accountability of municipal councils in planning."

Renowned planners Gerald Hodge and David Gordon state in their textbook that, "NIMBYism is frequently a sign of citizens taking responsibility for their own neighbourhood when it may seem that such a voice has not been allowed for. This can also indicate that more active, inclusive participatory methods, such as consensus building, are required." Bill 139 will make that possible.

The two-stage appeal mechanism of Bill 139 recognizes and respects the stated purpose in section 1.1(f) of the Planning Act that I just quoted, and it elegantly solves the theoretical claim that local councils will be too political or, for any other reason, be unable to make sound decisions. This is elegant because it's both efficient and brilliant in creating a wake-up-call kind of teaching moment for any council that makes a bad decision under Bill 139.

We have no problem in Oakville with developers or the public or any stakeholder seeking a review of any council decision that does not conform to provincial policies. We welcome the policy-led planning approach of the province of Ontario, as promised in the growth plan and in the Planning Act.

I strongly encourage this committee to give very serious consideration to the challenges that are created by the transition to this new system. Since the introduction of Bill 139, municipalities across Ontario have seen developers file "protective" or pre-emptive appeals at the Ontario Municipal Board. There have been six such appeals filed in my municipality, and the same thing is happening across the province. These appeals have been filed for strategic reasons by parties seeking to enter their applications into the appeal stream before the OMB reform comes into effect. They are seeking to preserve the room for speculation that Jennifer Keesmaat so perfectly described.

To ensure a smooth transition and to avoid unnecessary appeals, the province should and must adopt a transition provision that would only permit appeals to be heard by the OMB if the appeals had been filed prior to first reading—May 30, 2017—of Bill 139.

All planning applications and appeals should have the benefit of the latest in good planning. No planning applications should be allowed to sneak past the new standard. To allow such a bypass will result in an even more cynical public because it will appear that the OMB will not really have been replaced. The OMB will have years of work ahead of it under the old rules. If the OMB is seen to keep going with these kinds of sneaky appeals, you will see charges of the whole exercise having been a case of a "now you see it, now you don't" change. You will see a loss of public confidence.

I believe Bill 139 will improve the planning process by ensuring that council, staff and the public have access to all the information required to make good legislative planning decisions and by creating a more streamlined process, with less administrative burden and cost and shorter time frames.

I believe the changes proposed by Bill 139 are critical to ensuring that growth takes place in a planned and orderly manner that respects the province's priorities and reflects each community's priorities. This will allow us to maintain the character of our communities, ensure transit-friendly communities, and create resilient and inclusive communities that are efficient and sustainable. Further, the proposed changes provide a renewed recognition of the stated purposes of the Planning Act.

Thank you for your attention. Questions are welcome.

The Acting Chair (Ms. Cindy Forster): Thank you very much for your presentation. We'll start with the government: Mr. McMeekin.

Mr. Ted McMeekin: I want to say at the outset, Your Worship, that I have come to a level of deep respect for your wise counsel over the years. I have appreciated that, even when I served as minister, you would always take my calls when I was looking for some guidance. You, sir, I respect a great deal. I particularly appreciate your presentation here.

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You used the word "cynicism." My sense is, this is a long and winding road, and we're here now. De novo is gone; right? Thank God. We're in a situation where mu-

nicipal councils—not all, because your council is pretty darn good, but a lot of municipal councils are going to have a lot more work to do now, and hopefully there will be less cynicism as citizens buy into a process that is more meaningful, with a feeling that they're actually being heard.

I'd like you to comment on how this will affect land use planning in Oakville and how you envision future development.

Let me just footnote, before you answer that question, that I concur with you that this needs to be retroactive. I don't think we should be allowing people to beat the system when this whole bill is about fixing the system.

Anyhow, I'll ask you the question about future planning in Oakville.

Mr. Rob Burton: The people of Oakville long for the land use planning process in the province to be, as I said, credible, predictable and clear—

Mr. Ted McMeekin: And stable.

Mr. Rob Burton: And stable. If you'll work with me for a second here, not having it retroactive, and allowing these sneak-through applications, is basically preserving a game of beat the clock. Right? What I'm trying to say is that the people of Oakville don't want planning to be a game. They recognize planning as being a serious business.

I can't tell you how much I and every member of Oakville's community who may hear what Jennifer Keesmaat said about the speculation society, and the speculation economy part of planning—maybe that's not a complete sentence. She nailed it: That is the problem.

Mr. Ted McMeekin: She sure did.

Mr. Rob Burton: I remind you that earlier this year, there was quite the controversy about all the housing units that Toronto has approved but that have not been built, and all the housing units that we in Oakville have approved and that have not been built. I'm infamous for saying that an industry is hoarding permissions in order to drive prices up.

I think that with Bill 139, we in Oakville are going be able to give our residents what they want, and that is a clear path forward, where you know what's going to happen and you've actually participated in shaping it, so that you have what we think of as a social contract animating the planning of your community.

It's very important in any town. I will say that in every town and city in this country, the citizens want nothing more or less than to feel like they have a social contract with their government, that they know what they're going to get and they were fully consulted in the designing of it.

The Acting Chair (Ms. Cindy Forster): Thank you so much.

We'll move on to Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much, Mr. Mayor, for your presentation. At the start of your presentation, you made a great case of the problem that exists with the OMB as it presently is structured, where you have a new official plan all done and so forth, and you get 56 people who decide that that's not sufficient.

Having said that, one of the challenges we face as a committee is that we've had a lot of presentations, and we keep talking about the inability for developers and so forth of the appeal process—and this bill will take that a long way to fix the problem.

But we've also had presentations from citizens' groups and environmental groups and so forth who believe that they need something in here to make sure that when a council makes decisions—not necessarily in the official plan—contrary to the best interests of what they're looking at, their special interests, that they need something or someplace to go and question council's decision.

Have you got any idea how we could accommodate that? I don't suggest that the present system is sustainable. But how would we deal with the groups that tell us this has taken their right to appeal away and they will no longer have a say in the planning in local communities?

Mr. Rob Burton: They will have a say, and it may be a case that they just don't like the say that the system that Bill 139 will help create will provide. They will have the democratic say, and they will have the right to participate in the process, and they will have the ultimate democratic right to change the council if they don't like the way the council behaves.

I know some of the folks who have made those representations. They know that in Oakville, I am in fact the leader of a group of people who were unhappy 17 years ago with the way planning was being done by our council. We had no access to the board, we felt, because it was expensive and we saw it as arbitrary and we didn't trust it.

Actually, this procedure, where Bill 139 allows everything to be framed against provincial policy, is a better system than what it was before—or is now, before Bill 139, where these groups can go to the OMB if they want. But they don't have a very good track record there, for all the reasons that we've seen in terms of the disparity of finances, the disparity of resources, the preference of the board for the opinion of registered planners and the disregard of the board for the opinion of citizens.

The Acting Chair (Ms. Cindy Forster): Thank you.

Mr. Hatfield—last question.

Mr. Percy Hatfield: Thank you for coming in, Mayor Burton, Your Worship—always informative and, in this case, very entertaining with the Black Pearl, talking like a pirate there. I don't know if, at the OMB, you've been forced to walk the plank at these de novo hearings when the developer wants a mulligan, or a do-over, and it comes with a new map to the buried treasure, and he just wants to start the exercise over.

When you talk about retroactivity—I know that when the Premier brought in rent control—was it last spring?—she put a date on it as a few days before it was even introduced in the House, when she was first musing about it and saying it was coming very soon. In this case, the city of London went through a lengthy process, and now they're looking to the government to say, "Any new appeals, once this is in front of us, should be under the

new rules, as opposed to the old rules, which limit what can be appealed."

So, a softball question: I take it you're on the same page as London on this?

Mr. Rob Burton: London, and many other cities. In fact, I don't know a mayor who disagrees with this position.

Making it retroactive will go a long way towards chasing the speculation out of the system. We've got a crisis on our hands in terms of affordability of housing, and it's because we permit so much speculation in our system. You cannot look at the incredible inflation in housing prices that we've had over the last two years—no matter what your political view, you've got to be astonished at what a terrible problem that is in terms of the affordability of housing for our citizens.

Mr. Percy Hatfield: Those appeals—you've called them protective or pre-emptive appeals—that came in when we started talking about this bill. In your opinion, are they headed to, under the old system, de novo hearings?

Mr. Rob Burton: It appears to me, if I understand what the Attorney General was quoted to say in the Toronto Star today, that everything that's in the hopper is going to be under the old rules and in front of the OMB, and not under the new rules and in front of the LPAT.

I believe that we would have a much better result for the public of every political persuasion—because there is no colour to the municipal life. The water doesn't come out orange, blue or red. The water comes out clear, if you're doing it right. That's what we want. We want an affordable, livable community, no matter where we are in the province.

The Acting Chair (Ms. Cindy Forster): Thank you so much. The time is 6 o'clock. Thank you very much for your presentation.

The deadline to send written submissions to the Clerk of the Committee is 5 p.m. on Wednesday, October 18. The deadline for filing amendments to Bill 139 to the Clerk of the Committee is noon on Thursday, October 19.

We stand adjourned until 2 p.m., Tuesday, October 23, when we will meet for clause-by-clause consideration of Bill 139. Thank you.

The committee adjourned at 1800.

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