



October 18, 2017

Peter Tabuns, MPP (chair)
Committee on Social Policy
Ontario Legislature
Queens Park, Toronto
email: comm-socialpolicy@ola.org

RE: Bill 139 — Building Better Communities and Conserving Watersheds Act, 2017

Dear Mr Tabuns and Members of the committee,

We wish to state our support for adoption of Bill 139.

FoNTRA (Federation of North Toronto Residents Associations) strongly supports the creation of a new tribunal (the Local Planning Appeal Tribunal) to hear appeals of municipal planning decisions, the abolition of de novo hearings, and the introduction of hearing procedures that will put residents and property owners on more of an equal footing with developers. We also support the establishment of a Support Centre to aid residents and others who do not have access to sufficient resources to participate effectively in the tribunal hearing process.

We wish particularly to express our support for the prohibition of site-specific Official Plan amendments (OPAs). We do not believe that the current version of the bill, in proposing a 2-year moratorium, goes far enough. We urge that the Committee consider amending the Bill to provide a complete ban on site-specific OPAs, or, failing that, to adopt the City of Toronto proposal for a 5-year moratorium on OPAs following the adoption of a secondary plan.

We attach a copy of additional FoNTRA comments on the Bill that we request the Committee consider.

Respectfully submitted,

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The Federation of North Toronto Residents' Associations (FoNTRA) is a non-profit, volunteer organization comprised of more than 30 member organizations. Its members, all residents' associations, include at least 170,000 Toronto residents within their boundaries. The residents' associations that make up FoNTRA believe that Ontario and Toronto can and should achieve better development. Its central issue is not *whether* Toronto will grow, but *how*. FoNTRA believes that sustainable urban regions are characterized by environmental balance, fiscal viability, infrastructure investment and social renewal.

Federation of North Toronto Residents Associations

FoNTRA POSITION ON KEY REFORMS

1. Limitations on privately-initiated OPAs

— **WHAT WE SUPPORT:**

- total prohibition on privately-initiated site-specific OPAs, so long as relevant secondary plan is regularly updated as required by Planning Act
- failing that, City proposal for 5-year moratorium after passage of area-wide OPA (normally as updated secondary plan)

— **WHAT WE OPPOSE:**

- no check on failure of City to update secondary plan
- we propose right of appeal to tribunal to require City to update OP
- this is implicitly provided by City proposal for 5-year moratorium

- NOTE: We also do not favor City proposal to subject applications for rezonings to these prohibitions, provided that rezonings are controlled by Official Plan maximums and criteria.

— Official plans should be evaluated holistically as a set of interacting area-wide policies.

— Site-specific OPAs have too often been decided by the OMB without regard for area-wide issues or precedents such decisions create.

2. Rights of appeal

— **WHAT WE SUPPORT:**

- restricting grounds for site-specific appeals to non-conformity of municipal decisions to provincial planning policies
- allowing appeals regarding area-wide policies, including appeals regarding boundaries of areas to which specific policies apply.
- also allowing appeals on grounds of failures in municipal process (lack of notice, inadequate review, conflicts of interest, etc.)

— **WHAT WE OPPOSE:**

- total prohibition of appeals of any kind on OPAs involving “matters of provincial interest” such as secondary plans for major transit station areas (MTSAs)
- total prohibition is overkill

3. Elimination of de novo hearings (in first round of two-round process)

— **WHAT WE SUPPORT:**

- Bill 139 as written, as applied to first round
- tribunal rejection of municipal decision sent back to municipal council with reasons, council decides on response
- original applicant can appeal municipal response back to tribunal

— **WHAT WE OPPOSE:**

- absence of check on tribunal powers in second round hearing
- some form of “tie breaker” is needed, we accept that
- but dislike unfettered power of tribunal in second round
- our proposal: allow municipality to appeal unfavorable second-round decision to Minister
 - final decision would at least be by elected representative
 - right of appeal would put some check on tribunal, provide some incentive for politically defensible tribunal decision

— **NOTE:** Importance of this issue depends on how legislation deals with items 1 and 2:

- prohibiting site-specific appeals eliminates most of the worst (most egregious) OMB decisions
- restricting grounds for appeal reduces (but does not eliminate) scope for private appeals

4. Change in tribunal hearing procedures

— **WHAT WE SUPPORT:**

- reliance on written submissions, reduced role of oral hearings
- elimination of presentation of evidence from oral hearings
- oral hearings should be restricted to oral argument, based on written submissions and evidence introduced in such submissions
 - tribunal procedures should be more like procedures of Court of Appeal
 - evidence can be tested in ‘discovery’-like procedures

— **WHAT WE OPPOSE:**

- reversion to current form of proceedings in second-stage hearings

5. Establishment of Local Planning Support Centre (SC)

— **WHAT WE SUPPORT:**

- establishment of SC, provided it is adequately funded
- equivalent of legal aid for residents associations (RAs)
 - financial assistance needed to redress imbalance of resources
 - ideally, RA able to choose and hire legal and planning aid, with financial assistance provided by SC

6. Making Bill 139 effective quickly

— **WHAT WE SUPPORT:**

- as early an effective date as possible
 - Bill 139 has caused surge in OPA applications by developers trying to appeal under old rules
 - change in rules is like Income Tax amendment: should be effective as of announcement date (30 May 2017)
 - old rules should apply only to OPA applications made prior to date of first reading
- for applications filed between May 30 and proclamation date:
 - grounds for appeal should be as specified in Bill 139 section 49.1 (no *de novo* first-round hearing) should apply
- changes in hearing procedures
 - should apply to hearings on OPA applications filed after May 30 that are heard after new rules of procedure are established for tribunal