April 11, 2022

Hearing on Bill 109

the proposed ***More Homes for Everyone Act 2022***

Submission by the Federation of South Toronto Residents Associations (FoSTRA)

FoSTRA currently represents 25 residents' associations in Toronto's five (5) downtown wards – 4, 9, 10, 11 and 13. FoSTRA is in favour of increasing the supply of appropriate and sustainable housing. However, speeding up the supply application processes alone will not solve our ongoing housing crisis, nor will it make housing for everyone more affordable.

FoSTRA applauds and welcomes several of Bill 109's Schedules, Sections and Subsections of Schedules:

Schedule 2, concerning *The Development Charges Act* and the publishing of related financial statements;

Schedule 3, regarding *The New Home Construction Licencing Act* and its crackdown on unscrupulous builders; and

Schedule 4, re *The New Home Warranties Plan Act* and a further limitation on builders who attempt to wait out warranty expiration periods before full delivery.

In **Schedule 1,** Subsection 114 (15), we approve of the extension of the review period for site plan applications from 30 to 60 days. Also in **Schedule 1**, we welcome the permission for the City of Toronto to require a pre-application consultation with its Planning Department as this will support and expedite the application process. Designating an authorized person to approve site plans is also a positive step, provided consultations with the immediate community are included.

In **Schedule 5**, "the Community Infrastructure and Housing Accelerator" introduces new procedures for municipalities requesting Ministerial Zoning Orders (MZOs). The municipality would have to notify its citizens and hold a public meeting before passing a motion in council requesting an MZO. This is indeed a significant improvement over the non-transparent process currently in place.

These are positive contributions, for responsible developers and for the protection of consumers and our communities.

However, FoSTRA does have concerns with other Sections and Subsections of **Schedules 1** and **5**.

Schedule 1 deals with **The City of Toronto Act** and imposes rigid reporting deadlines for the approval of site plan applications, and applies severe penalties if the City fails to meet them.

1) If passed without amendment, the City must notify the applicant whether the application is complete and, if not, what information or materials are missing within 30 days of a site plan submission and full fee payment.

While pre-application consultations with the City Planning Department are permitted, FoSTRA strongly urges the inclusion of pre-application consultations with the immediate communities for any major projects. In our experience this has proven to be beneficial to developers, city planners and communities, by improving the quality of applications and speeding up the approvals process. The immediate community should always be involved in site plan approvals for major projects and zoning amendments. This is where most of the decisions of concern to the community take place and best practices can be shared.

2) FoSTRA is opposed to adjudication by the Ontario Land Tribunal (OLT) when disputes arise about the completeness of the application.

- Too often, developers delay application completion in order to go directly to the OLT.
- It may make applications more difficult to be ‘’deemed complete’’ and to get the clock running in the first place.
- Developers submit the required documentation and studies, however often studies such as traffic circulation and wait times may not reflect the critical time-frames such as peak periods, and may be misleading to the public. The definition of ’completeness’ and expectations of studies relevancy must be clearly specified and sufficient time-frames allowed for the public to thoroughly review the application.
- Eliminating the municipality input and proactive consultation early in the application process, may encourage municipalities to decide on an application prematurely. Resulting in more refusals going to the OLT which will further increase their workload, resulting in even longer backlogs.

3) The timeline of appeal of a site plan application for non-decision is increased from 30 to 60 days. The 60-day approval countdown begins only when the site application is complete and the fee paid. This extension may be sufficient for small projects or minor variations, however for major developments, it is unlikely that enough time is available to incorporate an Official Public Meeting and ensure all relevant stakeholders are well informed. Setting artificially short timelines for the review of complex developments will not be beneficial from a planning perspective or for the community; and will also significantly increase the already stretched workload of the Planning Department.

4) The penalties for the City are severe. The City must refund 50%, 75% or 100% of the application fee if it does not meet the arbitrary deadlines. Once the deadlines have passed, the refunds from our understanding will still apply, even if the City decides to reject an application that is complete but unacceptable. This is wrong. To put the onus of penalties on the City alone is not practical, as the implications of such refunds are:

- The City needs the fees to fund its planners. Rather than methodically working through all the intricacies and incorporating any community input, this will motivate all municipalities (**Schedule 5** extends to all of Ontario) to reject complex or difficult applications, and send them to the OLT if they cannot meet the deadline. This again will create even longer backlogs for the OLT.

- An increase of applications will go to the OLT as municipalities fear losing their revenue source or developers seek more favourable outcomes or both.
- There is no obligation or time-line imposed on the developer to complete the proposed approved building and make it available within a reasonable time-frame.

If penalties are introduced, they need to apply to both parties - the applicant and the City to incentivise the best possible outcome for the community in terms of accelerating the supply of housing. Developers who delay fulfilling requirements such as avoiding community consultation or following through on amendments in order to wait out the clock to receive refunds and/or have their applications referred to the OLT - must also be subject to penalties.

FoSTRA recommends that the Bill should include a provision that development approvals are forfeited if the Developer does not build and make the building available within a reasonable time frame.

Schedule 5 concerns **The Planning Act**. It strengthens the power of the Minister of Municipal Affairs and Housing as well as the authority of the OLT – measures first introduced by Bill 245 and Bill 257.

1) If passed, not only will the minister responsible be able to retroactively defer a decision about whether to approve an official plan or official plan amendment beyond the current 120 days, increasing delays, but the minister may also refer such official plan matters to the Ontario Land Tribunal.

- This would allow the Minister responsible to wash his or her hands of difficult and unpopular decisions, inevitably, leading to more planning and approval delays for a municipality.
- The minister can prohibit matters from being considered as a condition of a draft plan approval.
- The minister can demand various reports that must be provided by the municipalities.

2) The municipality must refund rezoning application fees (50%, 75% or 100%) if it does not make a decision within set times.

- Again, this is likely to create an incentive for municipalities to simply reject zoning applications and send matters to the already backlogged OLT, leading to longer, not shorter, planning time-lines.

3) A new process called "the Community Infrastructure and Housing Accelerator" introduces new procedures for municipalities requesting Ministerial Zoning Orders (MZOs). However:

- The minister is still able to revoke the motion as approved by council and/ or invoke whatever she or he pleases.
- The minister is still able to issue a MZO without a request from a municipality.
- There is no requirement for a planning justification report, no analysis from municipal planning staff, or any other due diligence.

- There is no requirement for the MZO to have the support of the regional municipality, or the local conservation authority, if it impacts watersheds.
- The MZO does not need to conform with any municipal or provincial plan – not even the Provincial Policy Statement.
- As is currently the case, it would allow a lower-tier municipality to request an MZO for a development that would oblige regional taxpayers to spend multi-millions on water and sewer infrastructure without their consent.
- It would allow a municipality to fast track a development that could flood homes downstream in a neighbouring municipality, without the approval of the conservation authority.
- It would allow a municipality to fast track a development that will use up local groundwater, dry up local wells and emit wastewater, poisoning local bodies of water – even though such irresponsible developments are prohibited under the Provincial Policy Statement.

Given that from March 2019 to March 2021, 44 MZOs were issued (Land Use Planning in the Greater Golden Horseshoe Report), while prior to this, an MZO was issued about once a year; this schedule needs to limit providing any additional powers to the Minister and the OLT. Formal processes and criteria need to be established for MZOs to ensure they are limited, as initially intended, only for special circumstances and their use clearly defined.

4) Schedule 5 requires municipalities with Community Benefits Charge Bylaws (CBCBs) to publicly consult and review their CBCB at least every five years, formally passing a resolution, whether a revision of the CBCB is needed or not. Community benefits charges allow municipalities to charge developers for certain growth-related services and infrastructure that are not fundable via development charges. Failure to do so will result in the expiry of the bylaw, placing a huge and unnecessary burden on municipalities.

Community benefits are a consistent requirement in building the necessary basic infrastructure for a vibrant, sustainable and livable city. A five-year time frame is insufficient to learn from and fully understand if future improvements are needed from any current or recent developments. A review period should be encouraged and municipalities should have the option to review and implement changes as practically required. To add value, any revisions should be aligned with significant changes to the overall City master plans. (e.g., TO Official Plan).

5) The same site plan control provisions and penalties applied to the City of Toronto in Schedule 1 would apply to all municipalities in Ontario.

We are not supportive of this as we can expect the same potential negative outcomes province wide. Suggested improvements can be found under Schedule 1 above.

6) Schedule 5 takes away the negotiating power and needs-based decisions from municipalities by limiting parkland dedication rates for land designated under the *Transit-Oriented Communities Act,* regardless of local circumstances or existing levels of intensification.

In the last few years, the City of Toronto has been increasingly concerned with the supply of parkland to meet demands from a growing population. On November 26, 2019 its "Final Parkland Strategy Report" was adopted by the City Council. We are not supportive of limiting the allocation of parkland as these spaces are desperately needed across all municipalities. This need will be critical as intensification increases for the mental health and well being of residents and their families.

7) The Minister can require municipalities to accept surety bonds instead of the current requirement of cash for subdivision agreements.

- The Association of Municipalities of Ontario has said that replacing cash deposits with surety bonds could increase financial risks for the municipality.
- This gift to the development industry, combined with allowing the reinstatement of subdivision plans that have lapsed within five years without a new application, puts developers in the driver's seat.
- Developers can sit on approved subdivisions for up to five years while these properties increase in value. Meanwhile, they can use the cash to speculate, purchasing more land and further escalating the cost of housing.

Under the proposed Bill 109, it appears that developers would receive most of the benefits, and have few obligations to communities and the municipalities (electorate). This proposed legislation further cuts out municipalities, imposes unnecessary penalties, increases the burden on the OLT and discourages true collaboration between developers, city staff and their local communities.

Application approvals are unlikely to be significantly improved with this legislation as there is no guarantee by developers that the housing supply will rapidly follow and be 'affordable.' The developers need to also be responsible and fully accountable to the communities where they are developing to truly make available "More Homes for Everyone."

Focusing on, speeding up the supply application processes alone will not solve our ongoing housing crisis, nor will it make housing for everyone more affordable.

FoSTRA recognizes the urgent need to build and supply more affordable housing, however this can only be achieved if all three levels of government collaborate on a range of other available solutions - with care and consultation. Ensuring sufficient notice is provided for robust and transparent community engagement on such significant changes to legislation will also be critical moving forward.

Respectfully yours,

Kay Dermatis
Vice-Chair, FoSTRA