



MEMBER UPDATE

June 6, 2024

BILL 185 – CUTTING RED TAPE TO BUILD MORE HOMES ACT, 2024

On June 6, 2024, *Bill 185, Cutting Red Tape to Build More Homes Act, 2024*, received 3rd reading and received Royal Assent. A copy of the final Bill can be accessed [here](#).

On May 15, 2024, OHBA CEO Scott Andison and 2nd Vice President Christina Giannone deputed before the Standing Committee on Finance and Economic Affairs and spoke to the Association's concerns related to the Bill.

[May 15 – OHBA Standing Committee Remarks](#)

On May 29th, amendments to the Bill were made by the Standing Committee on Finance and Economic Affairs. Several of the amendments, most notably concerning the 3rd party appeals, were made by the government based on extensive advocacy with MMAH staff to ensure OHBA members' interests were properly protected.

Please note the following updates:

APPEAL RIGHTS - THIRD PARTY APPEALS:

Most concerning in Bill 185 (as originally proposed) was the proposition to **prohibit third-party appeals** of official plan and zoning by-law amendments. Appeals were proposed to only be able to be filed by the applicant, minister, public bodies and specified persons. What the Bill did not properly distinguish was the difference between 1st party appeals (the municipality), 2nd party appeals (affected landowners/applicants), and 3rd party appeals (other parties who have an "interest" – e.g. OHBA or another special interest group).

Working with a group of member lawyers, through a concerted advocacy effort, OHBA and BILD had a series of meetings with both Ministry officials, and staff from the Minister's office. We discussed the consequences of eliminating third-party appeals and put forward suggested amendments for the province's consideration. We would like to thank many of our members that joined these advocacy efforts.

We are pleased to report that **amendments to the province's initial proposal to eliminate third-party appeals were made at Committee and are included in the final legislation.**

The final Bill continues to prohibit most third-party appeals but does now allow for second-party appeals. Owners will now be able to appeal *Planning Act* decisions that apply to their land (OPs, OPAs, zoning by-laws and zoning by-law amendments), such as in the instance where a municipality changes the official plan designation or zoning affecting their land. Existing second-party appeals will not be retroactively dismissed, as they will be for third parties unless an OLT hearing is already scheduled.

To emphasize, as originally proposed in Bill 185 and as passed with the final legislation, third-party appeals filed prior to the legislation coming into force and where the hearings have not started ***will be dismissed by the OLT.***

ADVOCACY AND STATUS AS AN APPELLANT:

Neighbours and organizations, such as ratepayer groups and environmental groups, are considered third parties, and their appeals to the Planning Act instruments noted above are prohibited. Associations, such as OHBA or a local HBA, who may wish to appeal a municipal OP/OPA or zoning by-laws and zoning by-law amendments, are also considered a third party. **This legislation now prohibits true 3rd party appeals.**

What this means for HBAs:

1. HBAs can continue to seek **party status** for appeals to OPs, OPAs, zoning by-laws and zoning by-law amendments but cannot be the primary appellant.
2. HBAs may also participate in an OLT matter and seek party status.
3. HBAs can also continue to appeal other by-laws, such as those related to development charges, community benefits charges, and parkland.
4. Rather than being the appellant as was historically the practice of HBAs, the potential now exists to shift and mobilize member/landowner groups impacted by municipally initiated planning instruments to file appeals and provide guidance and organization in the process.

RELATED TO URBAN BOUNDARY EXPANSIONS:

As advocated by OHBA, **Bill 185 has restored appeal rights for privately initiated settlement area boundary expansion** refusals or non-decisions outside of the Greenbelt. Combined with proposed changes to the Provincial Planning Statement, private sector applications for settlement area boundary expansions will be able to be made at any time and appealed to the OLT.

It should be noted that the proposed *Provincial Planning Statement* will replace the in-force Provincial Policy Statement in the coming months. The government is currently consulting on the Provincial Planning Statement.

FEE REFUND PROVISIONS AND MUNICIPAL PRE-APPLICATION PROCESS (BILL 109):

Related to Bill 109, in Bill 185, the province proposed to **eliminate the refund regime, allowing for pre-application consultations with municipalities to be voluntary and not mandatory** and allowing for applicants to bring a motion to the OLT **at any time during pre-consultation for a determination as to whether the requirements for a complete application are reasonable or have been met.** All provisions were passed in the final version of Bill 185, as introduced. These are welcomed amendments, however, as the province considers an eventual next legislative package related to the Housing Supply Action Plan, we will continue to advocate for a mechanism that, at minimum, ensures that legislative approval timelines are met.

What is also important to note is that these changes related to voluntary pre-application **are forward looking and not retroactive** for OPAs and by-laws that have been approved because of Bill 109. This means that all OPAs that impose pre-application requirements (such as preventing concurrent site plan applications, public meetings, peer reviews, etc.) will now come into force without any ability to challenge them.

DEVELOPMENT CHARGES:

Despite many of our member's best efforts to explain to government the financial impact on the new consumer and the resulting financial uncertainty and project instability:

- Bill 185 has **revoked the five-year phase-in period** and has reintroduced the costs of development charge background studies as a capital cost to be included in the DC charge. This applies to development charge by-laws passed on and after January 1, 2022.
- The province has also **amended the provisions for the DC freeze** which reduces the timeframe from 2 years to 18 months to obtain a building permit and benefit from the frozen rates.

Municipalities have already started to update their development charge by-laws to reflect these new provisions, with provincial authority to do so. Bill 185 indicated that municipalities would not have to wait until the legislation was passed and could commence these updates upon introduction of the legislation, without the need for a background study.

OTHER MATTERS:

Bill 185 proposed to enhance the existing municipal authority to attach lapsing provisions to approved site plans and draft plans of subdivision through a "use-it-or-lose it" legislative framework. There were no changes to this aspect of the legislation through standing committee. OHBA will be actively engaged with MMAH going forward as regulations and parameters of this framework are developed.

INQUIRIES:

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