
REPORT TITLE: **Update on Bill 109, More Homes for Everyone Act, 2022**

FROM: Kealy Dedman, Commissioner of Public Works

RECOMMENDATION

1. That Region of Peel staff comments on Bill 109, *More Homes for Everyone Act, 2022* as outlined in the report of the Commissioner of Public Works, listed on the June 9, 2022 Regional Council agenda titled “Update on Bill 109, *More Homes for Everyone Act, 2022*”, be endorsed; and
2. That a copy of the subject report be forwarded for information and consideration to the Minister of Municipal Affairs and Housing and sent to all Peel Members of Provincial Parliament, the Association of Municipalities of Ontario, the Town of Caledon, the City of Brampton, and the City of Mississauga.

REPORT HIGHLIGHTS

- Housing affordability continues to be a significant challenge facing Peel Region with increasingly limited pathways to affordable homeownership for low and moderate income households.
- On March 30, 2022, in response to the Housing Affordability Task Force report and other consultations on increasing housing supply, the Province introduced Bill 109, *More Homes for Everyone Act, 2022*. Regional staff submitted comments to Legislative Committee on April 11, 2022. The *Act* received royal assent on April 14, 2022.
- The *More Homes for Everyone Act, 2022* includes targeted policies to build homes faster and support multigenerational homes and missing middle housing. This legislation could create more housing options including affordable housing.
- While supply exceeding demand will help to reduce house prices, more demand-side solutions are needed to increase housing options and improve housing affordability.
- Regional staff have significant concerns with requirements to refund planning application fees when specific timelines are not met as these initiatives do not reflect the shared
- The Region has taken steps to better respond to the changing volume and complexity of development applications housing supply concerns and to improve development submission response efficiency.
- Potential implications of new Provincially-mandated development review timelines and fee refunds include budget implications from reduced revenues, the need for changes to internal Regional development review processes, changes to processes carried out in collaboration with local municipalities, stricter up-front technical and quality requirements for development application submissions, quick refusal turnaround timelines for applications that do not meet minimum requirements, additional Ontario Land Tribunal appeals and associated resource requirements, and an increased budget to secure additional planning and engineering development review resources.

Update on Bill 109, More Homes for Everyone Act, 2022

- Municipal representation and engagement as part of the Province's Housing Supply Working Group will be important to increasing housing supply and improving housing affordability in a manner that considers local and regional municipal contexts.

DISCUSSION

1. Background

Housing affordability continues to be a significant challenge facing Peel Region as resale home prices continue to rise faster (127 per cent) than inflation (17 per cent) and household incomes (18 per cent for renters and 20 per cent for owners) (2010 to 2020). There are virtually no pathways to affordable homeownership for low income households and increasingly limited pathways to affordable homeownership for moderate income households. In addition, there are limited rental housing options in relation to housing need. Average market rents increased by 42 per cent between 2010 and 2020, making it more challenging for households to access affordable rental options.

In May 2019, the Province introduced More Homes, More Choice: Ontario's Housing Supply Action Plan to make housing more affordable by increasing the supply of the full range of housing options. In December 2021, the Minister of Municipal Affairs and Housing (the Minister) established Ontario's Housing Affordability Task Force (Task Force) with a mandate that included exploring measures to address housing affordability by increasing the supply of market rental and ownership housing and by building housing supply in complete communities, reducing red tape, and accelerating timelines. On February 8, 2022, the Task Force report was published and included 55 recommendations.

The Region provided comments on the Task Force Report, captured in the report titled "Region of Peel Comments on Ontario Housing Affordability Task Force Recommendations", which were endorsed by Regional Council on April 28, 2022 (Resolution 2022-352). The staff report highlighted that many of the Task Force's recommendations should help to reduce some barriers and delays in adding housing supply. Some of the recommendations, however, minimize the shared responsibility between the private development industry and public agencies to address complex technical issues to allow development approvals to proceed in a timely manner.

On March 30, 2022, the Province introduced Bill 109, *More Homes for Everyone Act, 2022* in response to the report from the Task Force, public consultations, and discussions with municipalities and municipal associations. The Province has advised it is committed to implementing the Task Force's recommendations, referring to it as a long-term housing roadmap, with Bill 109 being the first of four annual housing supply action plans, beginning in 2022-2023. Regional staff submitted comments on Bill 109 to the Standing Committee on the Legislative Assembly on April 11, 2022.

Bill 109 received Royal Assent on April 14, 2022. Some provisions are immediately in force, while others will wait for a later proclamation or come into force as of July 1, 2022 or January 1, 2023.

Update on Bill 109, More Homes for Everyone Act, 2022

2. Overview and Comments on the New Act

The *More Homes for Everyone Act, 2022* includes targeted policies intended to build homes faster and support multigenerational homes and missing middle housing.

Several aspects of the new *Act* are positive and could create more market housing and create additional opportunities to provide more housing options, including affordable housing. Some initiatives may be well intentioned but could be counterproductive by hindering the ability to increase housing supply. In addition, while supply exceeding demand will help to reduce house prices, more demand-side solutions are also needed to increase housing options and improve housing affordability.

Regional staff support Provincial direction to further consult and consider recommendations from the Ontario Housing Affordability Task Force over the next four years and not immediately pursue recommendations that could be counterproductive if implemented without valuable input from municipalities.

a) Building Homes Faster by Expediting Approvals

i) Zoning By-laws and Site Plan Control

Changes will require municipalities to refund all or part of planning application fees if decisions on applications are not made within prescribed timelines are of significant concern. The refund schedule, which takes effect on January 1, 2023, is outlined below. Refunds apply to site plan and zoning by-law amendment application fees.

Refund	Planning Application		
	Zoning By-law Amendment (ZBA)	Combined Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA)	Site Plan Application
No Refund	Decision made within 90 days	Decision made within 120 days	Decision made within 60 days
50% Refund	Decision made within 91 and 149 days	Decision made within 121 and 179 days	Decision made within 61 and 89 days
75% Refund	Decision made within 150 and 209 days	Decision made within 180 and 239 days	Decision made within 90 and 119 days
100% Refund	Decision made 210 days or later	Decision made 240 days or later	Decision made 120 days or later

Staff are concerned that this approach will be counterproductive by reducing options for municipalities to work collaboratively with applicants and reducing a key funding source for resources to process and approve applications, thereby inadvertently hindering the ability to increase housing supply. In addition, delays in planning approvals to create new housing supply in Peel Region are not commonplace as municipalities generally meet approval times and adequately plan for and support intensification. These changes:

Update on Bill 109, More Homes for Everyone Act, 2022

- Require rigid complete application guidelines and checklists, thereby reducing opportunities for applicants to gain useful agency input early in the process.
- Do not reflect the shared accountability of public review agencies and applicants to address matters and move applications forward. A significant part of the application review timeline includes time required for the applicant to address areas of concern.
- Are not appropriate for applications where applicants have failed to provide satisfactory plans or reports thereby resulting in a longer review period.
- Create undue resourcing pressures that will require additional funding to support added resources and staff to facilitate expedited comments and timelines.
- Facilitate potential quick decisions of refusal rather than allowing for the ability to work through issues. This could also result in appeals to the Ontario Land Tribunal, which would further constrain resources and delay housing supply.
- Could result in reduced fee revenue for municipalities which in turn will reduce the resources and staff available to work on applications and inadvertently negatively impact efforts to increase housing supply. Refunds apply to site plan and zoning by-law amendment application fees.

Changes to zoning by-laws and site plan control could instead be focused on projects that include affordable housing, particularly those that are supported by government funding. This would generate affordable housing supply sooner, particularly since these projects work within limited scope and funding timelines. These changes would support completion of strategic community building projects within required funding periods.

Efforts are underway to better understand why development applicants have received planning approvals but have yet to apply for building permits. Based on local municipal data reporting and Regional estimates as of year-end 2021:

- Over 10,000 units in Brampton, Caledon and Mississauga have received the necessary approvals (site plan or draft subdivision) to apply for building permits and commence construction but have not yet done so. The majority (53 per cent) of these units are higher density (townhouse or apartment). Many of these approvals are from over two years ago, with some of these approvals stemming as far back as 1999.
- Approved zoning for 20,000 units in Mississauga, of which 70 per cent (14,000) are inactive due to not having an active site plan or application to lift a holding zone provision, are part of a larger development project but have not submitted a required site plan to move forward with a phase of a proposal, or have not yet applied for a conditional building permit (which would permit below ground construction) despite being eligible to do so. The City of Mississauga reports that over half of units with approved zoning received approvals more than two years ago and therefore have had ample time to receive site plan approvals and move to the building permit stage. Nearly all (99 per cent) of units with approved zoning (active or inactive) are higher density (townhouse or apartments), with over 90 per cent being apartment units.
- “As of right” zoning exists in communities, such as Mississauga’s Downtown Core, to facilitate new housing supply. City of Mississauga staff estimate that lands in the Downtown Core are pre-zoned to accommodate a further 40,000 units. These permissions have not led to a substantial increase in affordable units being built by the development industry.

Update on Bill 109, More Homes for Everyone Act, 2022

While it is understood that there is a period of time that exists between when units are approved and when construction commences, applicants not adding housing supply in a timely manner despite having approvals in place directly affects housing supply, reduces housing options, and impacts affordability. The Province should consider mandating timelines to require developments to commence construction within a certain period after receiving the necessary planning approvals.

ii) Plans of Subdivision

The introduction of Provincial plan of subdivision regulations to determine what can and cannot be required as a condition of draft plan of subdivision approval is included in the new legislation. Although details are yet to be provided, this Provincial intervention could reduce the flexibility for municipalities to use draft plan of subdivision approval conditions to address complex issues through generic Provincially-mandated conditions. In addition, this change has the strong potential to delay draft approvals or result in more subdivision application refusals or appeals to the Ontario Land Tribunal as complex issues are not resolved.

iii) Community Infrastructure and Housing Accelerator

Regional staff are supportive of tools to expedite planning approvals through an established process. The new *Act* establishes a new Community Infrastructure and Housing Accelerator order, which can be used by the Minister to regulate the use of land and the location, use, height, size and spacing of buildings and structures to permit certain types of development. This order should be targeted for strategic community building purposes and should not be used for general market housing unless there is a sufficient affordable housing component as part of the proposed development. This requirement would maximize community benefits, meet a range of household affordability needs, and support complete community objectives.

Regional staff would not support the use of this order for low density residential subdivision development, low density commercial development, and development that would require substantial public infrastructure investment (e.g., water and wastewater, transportation) where funding for this investment is not available. This could include developments with infrastructure requirements that go beyond existing plans or development that outpaces planned infrastructure capacity and investments, in turn placing a financial strain and additional pressure on Regional services. Should alternative funding arrangements be made (e.g., from the Province or development proponent), it should be satisfactory to the responsible municipality or public infrastructure agency.

Provincial efforts to streamline approval processes, such as through the Community Infrastructure and Housing Accelerator order, should be prioritized for housing options that are in particular need, such as missing middle housing, purpose built rental housing, and units that are affordable to low and moderate income households. The ability for the Minister to use discretion to impose conditions on the approval of an order to protect the public interest is an important provision. This discretion must be used to ensure that the order supports projects that enhance quality of life and mitigate any potential negative impacts such as lack of affordable housing, an inadequate range and mix of housing options, or proposals that do not sufficiently support Provincial and municipal housing objectives or reflect local housing need. Ministerial conditions on an order should be used to ensure that housing that is affordable to low and moderate income households is

Update on Bill 109, More Homes for Everyone Act, 2022

a key component of a proposed development and that these units are maintained as affordable over the long term.

Regional staff appreciate the Province's efforts to increase transparency and ensure public consultation for the Community Infrastructure and Housing Accelerator order. Public input is an important part of good planning and Regional staff support requirements to provide public notice, conduct public consultation, and ensuring the order, once issued, is made available to the public. Regional staff do not support overriding planning policy by means of an order without clear criteria, process, and consultation mechanisms in place. Providing exemptions from necessary planning-related approvals of provincial plans, the Provincial Policy Statement, and municipal official plans would be substantial and would circumvent important land use planning considerations.

The Province should also introduce formal processes for its existing Minister's Zoning Order (MZO) powers to be similarly scoped for strategic community building purposes, where the support of municipalities has been established. The Minister has advised that, moving forward, MZOs will be reserved for provincially significant infrastructure projects.

Overall, Provincial efforts to streamline approval processes should be mindful that meaningful Indigenous engagement requires relationship building that cannot be rushed. It is appreciated that the proposed Community Infrastructure and Housing Accelerator guideline specifies that the order be implemented in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in Section 35 of the *Constitution Act, 1982*. Notwithstanding this, the use of this order and the acceleration of zoning by-law and site plan timelines should carefully consider the time that is needed for adequate and meaningful engagement, particularly with Indigenous community partners.

b) Provide Increased Certainty of Development Costs

i) Regulations regarding Surety Bonds and Other Instruments

The new *Act* provides the Minister with regulation-making authority to authorize landowners and applicants to stipulate the type of surety bonds and other prescribed instruments to be used to secure obligations in connection with land use planning approvals. Surety bonds are not the strongest form of security for municipalities and the Region has historically relied on letters of credit. More information is required to evaluate the incremental risk to the ability of municipalities and conditions required to collect on the security where a developer fails to meet its obligations under a development agreement. To ensure proper risk management and protection of taxpayer dollars, the strength of the form of security should not be comprised and should offer similar ability to draw on the security when required.

c) Increase Transparency in the Planning Process and Support Dispute Resolution

i) Reporting on Planning Matters

While Regional staff are generally supportive of new regulations that outline what planning matters must be reported on, who it is to be reported to, and the frequency and format of reports, it is requested that municipalities have full access to reporting through

Update on Bill 109, More Homes for Everyone Act, 2022

open data provisions. More information is required to understand the full impact of these changes.

ii) Development Charge Statements

The new *Act* requires that treasurers' statements be made available on the municipality's website or in the municipality's office if no such website is available and in any manner as may be prescribed in future. Regional staff support the principle of enhanced financial reporting and transparency and already produce a Development Charges Treasurer Statement that is publicly posted on an annual basis.

A high-level report at a service level may help to provide an indication of the relationship between the spending and revenue collection for the services. Statutory reporting on a project-by-project comparison, however, is not recommended. Additionally, development charge capital projects such as water and wastewater infrastructure take years to plan, design, and build, over which period municipalities need to be nimble to address changing capital needs, inflationary pressures, and cash flow requirements to continue to support growth.

iii) Data Collection

Regional staff support changes regarding improved data collection and sharing including standard reporting on development applications. The new *Act* includes Ministry of Finance population projections in provincial annual reporting. More information is needed on how the Province anticipates municipalities using Ministry of Finance forecasts if there are differences from Growth Plan population forecasts.

iv) Ontario Land Tribunal (OLT)

Regional staff have concerns with the newly established ability for the Minister to refer all or parts of an official plan to the OLT for a recommendation or decision. This change erodes improvements made from previous initiatives that allowed for Municipal Comprehensive Reviews to proceed without the need for often decades long, complex, and extensive appeals processes. The delegation of decision-making powers to a non-elected body could be problematic as there is less accountability to residents than directly-elected municipal councils.

In addition, allowing the Minister discretion to suspend the 120-day timeline for making a decision on an official plan could delay housing supply, impede the efficient provision of housing, and may be inconsistent with service level demands placed on municipalities.

Regional staff support the Province's efforts to provide additional funding and resources for the OLT and Landlord and Tenant Board to reduce backlogs.

d) Make it Easier to Build Community Housing

i) Ontario Building Code

Regional staff support efforts to reflect modern building practices in the Ontario Building Code such as allowing 12-storey mass timber buildings and facilitating more infill and low-rise multi-unit housing.

Update on Bill 109, More Homes for Everyone Act, 2022

ii) Utilizing Surplus Provincial Land

Regional staff are supportive of efforts to prioritize and utilize surplus Provincial land for affordable housing and purpose-built rental projects while ensuring adherence to the goals, objectives and policies of regional official Plans and local municipal official plans.

To facilitate the development of non-profit housing, it is important that Provincial lands be sold at no or minimal cost and that capital and operating dollars be provided to ensure that projects can move forward.

iii) New Regulatory Framework Under Community Housing Renewal Strategy

The Province's commitment to encourage housing providers to stay in the system and protect existing community housing is very important to ensuring that vulnerable populations remain housed. Additional capital and operating funding are critical to support this objective.

e) Protect Home Buyers, Homebuyers, and Renters

i) Increasing the Non-Resident Speculation Tax Rate

Regional staff support efforts to limit non-resident speculation and support the increase to the tax rate from 15 per cent to 20 per cent that took effect on March 30, 2022. This could be another effective tool in the toolbox to increase housing supply and improve housing affordability. This tax rate should be outcome-based so that it can be scaled up and down depending on market conditions.

f) Future Consultations

i) Vacant Home Tax Working Group

Regional staff appreciate the Province's commitment to work with municipalities that are looking to establish a vacant home tax. Efforts are underway to consult on and explore implementing this tax in Peel Region. The Region would welcome the opportunity to participate on the proposed working group to share and learn from information and best practices towards implementation of a municipal vacant home tax.

ii) Housing Supply Working Group

The Region, as Service Manager for affordable housing and a key partner in facilitating the efficient provision of housing, looks forward to participating in the work of the Housing Supply Working Group to support efforts to create more housing supply and improve housing affordability.

While many of its recommendations could reduce barriers to adding housing supply, the Housing Affordability Task Force's report offered a limited response to addressing factors beyond supply such as demand, labour, materials, infrastructure, interest and inflation rates, and investment practices to make housing more affordable. The Task Force's report, therefore, should not be the sole input into the Province's long-term housing roadmap. Consequently, while supply exceeding demand will help to reduce house prices, it is key for the Housing Supply Working Group to also examine demand-

Update on Bill 109, More Homes for Everyone Act, 2022

side solutions and economic factors and levers to create more affordable housing supply and address housing affordability.

The Region appreciates the broad range of stakeholders proposed to be engaged as part of this working group and stress that consultations that include industry partners include community housing providers and related associations. While solutions to housing challenges are found at all levels (municipal, provincial, federal, industry, and community), municipalities play a critical role in addressing these challenges as service managers and through management and implementation of municipal official plans. Municipal representation and engagement as part of the Housing Supply Working Group is key to the success of increasing housing supply and improving housing affordability.

3. Immediate Implications and Next Steps

The new requirement for municipalities to refund planning fees based on strict timelines do not reflect the shared responsibility of public agencies and development applicants to meet review and approval timelines and will have immediate implications on Peel's planning and engineering review processes and resources. Although subdivision and site plan processes are led by local municipalities, the Region plays an important role in these processes and will need to ensure adequate resourcing and that business processes are streamlined and updated accordingly. Over the last several months, the Region has taken steps to better respond to the changing volume and complexity of development applications, respond to housing supply concerns, and improve response timelines, including:

- Completing a Development Planning and Engineering Service Review through the Province's Audit and Accountability Fund. A number of improvement recommendations were identified by Dillon Consulting through this review and efforts are underway to implement these recommendations.
- Implementing significant user and functionality enhancements to a customized software that will improve servicing connection efficiency.
- Realignment of planning and engineering development review staff to improve efficiency and accountability.
- Leveraging the Province's Streamlining Development Approval Fund to hire additional technical staff that directly participate in subdivision engineering, traffic development, and planning review of development applications.
- Working with local municipal staff to prioritize applications that have the potential to immediately impact housing supply and affordability.
- Issuing a Request for Proposal to acquire and implement modern electronic plan review software. A similar procurement process to acquire and implement a development tracking software will be initiated shortly.
- Initiating a process with local municipalities to update service level commitments on responding to development application circulations.

The ability for the Minister to suspend the 120-day timeline for making a decision on an official plan could potentially delay the Peel 2051 Regional Official Plan that was adopted by Regional Council on April 28, 2022 and is subject to approval by the Minister. As a result, implementation of new policies that would increase the range and mix of housing options, improve housing affordability, and create more complete communities could be delayed. In addition, the newly established ability for the Minister to refer all or parts of an official plan to the OLT for a recommendation or decision would delay housing supply and policy implementation and redirect and constrain resources due to the need to respond to OLT process requirements.

Update on Bill 109, More Homes for Everyone Act, 2022

Regional staff will continue to work with local municipal staff and build on the above initiatives as we respond to the new *Act*. It is expected that Regional responses will include changes to internal development review business processes, changes to processes carried out in collaboration with local municipalities, stricter up-front technical and quality requirements for development application submissions, quick refusal turnaround timelines for applications that do not meet minimum requirements, additional OLT appeals and associated resource requirements, and additional planning and engineering development review resources to meet Provincially-mandated timelines.

RISK CONSIDERATIONS

Where staff have identified a concern with the *More Homes for Everyone Act, 2022*, information about associated risks has been noted in the discussion above. Some aspects of the new *Act* are well intentioned but could be counterproductive by hindering the ability to increase housing supply and meet provincial and regional housing objectives including providing a range and mix of housing options and improving housing affordability. While supply exceeding demand will help to reduce house prices, more demand-side solutions are needed to increase housing options and improve housing affordability.

FINANCIAL IMPLICATIONS

Changes that will require municipalities to refund application fees authorized under the *Planning Act* if decisions on applications are not made within prescribed timelines will place an increased administrative burden on municipalities. Reduced fee revenue for municipalities from being required to refund application fees would result in an additional burden on property taxpayers. The new *Act* will likely require additional planning and engineering development review resources to meet Provincially-mandated timelines.

CONCLUSION

The Region of Peel supports the Province's goal of addressing housing supply and affordability and looks forward to working with the Province and all stakeholders to accelerate the delivery of housing supply and to address housing affordability in Peel Region and across Ontario. Regional staff will participate in future consultations and provide additional comments or clarification to ensure that the Region's housing goals and objectives are considered moving forward.

Authored By: Paul Lewkowicz, Principal Planner, Planning and Development Services, Public Works



Kealy Dedman, Commissioner of Public Works