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Sent: January 10, 2014 6:24 PM
To: Lockyer, Kathryn
Subject: AMO Policy Update

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TO THE IMMEDIATE ATTENTION OF THE CLERK AND COUNCIL

January 10, 2014

Land Use Planning and Appeals System Consultation

Over the past decade, provincial legislative reforms designed to improve the planning process has taken place twice. As the planning process improves, this in turn reduces the number of appeals to the Ontario Municipal Board (OMB). The uptake on reforms from 2004 and 2007 has been minimal so the impact of these improvements is not easily measured. Given this, there have been ongoing concerns that too many decisions are still appealed to the OMB.

To address these concerns, the Ministry of Municipal Affairs and Housing (MMAH) recently consulted on four themes;

1. Theme A: Achieve more predictability, transparency and accountability in the planning/appeal process and reduce costs.
2. Theme B: Support greater municipal leadership in resolving issues and making local land use planning decisions.
3. Theme C: Better engage citizens in the local planning process.
4. Theme D: Protect long-term public interests, particularly through better alignment of land use planning and infrastructure decisions and support for job creation and economic growth.

The MMAH consultation began November 7, 2013 and ends today, January 10, 2014. In addition to online participation, the Ministry held six consultation sessions throughout the province. As well, MMAH consulted with the AMO Planning Task Force.

AMO members and their communities are diverse and there are a variety of experiences and needs relating to these four theme areas. Some experience significant growth pressures while others do not. Municipal staffing for land use planning is based on typical ranges of development activity so that there are a variety of capacities in local planning departments. This means there are a variety of municipal responses to the theme areas.

An AMO response was sent to Minister Jeffrey in December 2013. The key messages identified point to the continuing concerns over the delays and costs to municipalities associated with appeals. To reduce the number of appeals, several technical changes to the *Planning Act* were identified:

• A number of decisions should not be subject to appeal. Specifically, where the Province has already given an approval (such as the inclusion of source protection policies), no appeal should be allowed.

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- While municipalities do undertake work related to compliance with provincial intensification targets, these are at the direction of the Province and should not be appealable.
- Partial approvals of larger amendments or Five Year Reviews should be permitted. Appeals should be scoped and no entire Official Plan appeals should be allowed.
- Minor variances or other matters before a committee of adjustment should go to mediation or a Local Appeal Body rather than the OMB.
- The provision of end dates for subdivision appeals should be established.
- Currently, if there has been no decision on a planning application within the prescribed timeframe, it is treated as though it has been "refused". Ending the ability to "add on" new appeals when a first appeal results from a "refusal" to address a proposed amendment, would help focus appeals to the matter which triggered the appeal.
- The timeframe for "refusal" may need adjustment where upper and lower tier decision-making cycles lengthen the legitimate process.

It is important that appeals have substance and are based on factual, planning concerns. While citizen participation is vital to a healthy planning process, in some cases ensuring citizens' groups have the financial capacity to deal with outcomes of appeals, in the form of a security deposit, should be an option. The provisions of Section 45 of the *Planning Act*, "Dismissal without Hearing", deserve more consideration. Specifically, the definitions of "frivolous, vexatious and for the purpose of delay" should be better understood and the OMB should make use of this clause. In all cases, mediation should take place before a Board hearing.

On the other hand, where positive negotiations between a developer and municipality are underway, it may be helpful to "pause" the timelines so that these changes can be brought forward prior to the "refusal to consider" provisions taking effect.

AMO will continue to analyse the outcomes of this MMAH consultation when available and provide updates to the members.

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