



May 10, 2024

The Honourable Paul Calandra
Ministry of Municipal Affairs and Housing
Provincial Planning Policy Branch
777 Bay St., 13th Floor
Toronto, ON M5G 2E5

Dear Minister Calandra,

RE: ERO 019-8369; Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 Changes (Schedules 4, 9, and 12 of Bill 185 - the proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024)

I am writing on behalf of the Ontario Farmland Trust (OFT) regarding ERO 019-8369, Bill 185, Cutting Red Tape to Build More Homes Act, 2024.

Ontario Farmland Trust (OFT) is a not-for-profit organization whose mission is to protect and preserve Ontario farmlands and associated agricultural, natural, and cultural landscapes. Ontario's prime agricultural land is a finite, non-renewable resource that comprises less than 5% of Ontario's land base. With the growing rate of farmland loss in the province, currently at a rate of 319 acres per day, it is more important than ever before that the province protects our prime agricultural areas. Ontario's farmland directly supports the agri-food sector, which is the largest economic sector in the province, employing more than 750,000 Ontarians along the supply chain and annually contributing over \$47 billion to the province's GDP. OFT protects farmland through direct land securement, stewardship, policy research and education in order to ensure a safe and sustainable agri-food sector for future generations.

Thank you for the opportunity to submit feedback on Bill 185, Cutting Red Tape to Build More Homes Act, 2024. OFT has played an active stakeholder role in other provincial land use planning policy reviews and is pleased to continue working with the Province to refine and strengthen the land use planning in Ontario.

Summary of OFT Comments and Recommendations:

- **Community Infrastructure and Housing Accelerator (CIHA) and the use of Minister's Zoning Orders (MZO)**
 - OFT supports the repeal of the CIHA
 - OFT urges caution with the development of an MZO framework
- **"Use It or Lose It" Tools**
 - OFT urges caution as there could be benefits and drawbacks to this tool
- **Third Party Appeals**
 - OFT strongly opposes limiting third-party appeals
- **Municipal Pre-Application Process**
 - OFT strongly opposes removing the requirement of the mandatory consultation and only at the discretion of the applicant.



- **Settlement Area Boundary Expansions**
 - OFT strongly opposes applicants' ability to appeal when a municipality's refusal or failure to make a decision on a privately requested official plan or zoning by-law amendment that would change the boundary of an area of settlement, outside of the Greenbelt Area.
- **Upper-Tier Planning Responsibilities**
 - OFT strongly opposes the removal of planning responsibilities from upper-tier municipalities
- **Expedited Approval Process for Community Service Facility Projects**
 - OFT strongly opposes the expedited approval process that exempts community service facilities from the Planning Act provisions or regulations

In addition, OFT is providing comment in support of OFT's recommendation for further amendments to the Planning Act to eliminate the automatic **merging of property titles**.

Community Infrastructure and Housing Accelerator (CIHA) and the use of Minister's Zoning Orders (MZO)

OFT supports the proposed repeal of the Community Infrastructure and Housing Accelerator (CIHA). We recognize that while the intent behind the CIHA was to expedite necessary housing and infrastructure development, its implementation could bypass crucial local consultations and environmental assessments, risking irreversible damage to our valuable farmlands and natural landscapes.

Regarding Minister's Zoning Orders (MZOs), we urge caution and further consultation about the new provisions for providing advance notice and facilitating public feedback, especially in instances where municipalities request such orders. This step towards transparency is commendable; however, these regulations risk further normalizing the use of MZOs as a standard tool for development. MZOs should remain a mechanism reserved for truly exceptional circumstances where typical planning processes cannot address urgent needs effectively. Tested for the requests should be built into the approval process before issuing an MZO.

The frequent and routine use of MZOs, particularly in areas with well-established planning frameworks, is alarming. Historically, these orders have led to significant losses of prime agricultural land—a trend that undermines the sustainable development goals of our province. While we acknowledge the need for expediting development in response to Ontario's housing crisis, this must not compromise the rigorous assessment and stakeholder engagement that safeguard our environmental and agricultural interests.

We recommend ensuring strategic application of MZOs, ensuring they align with provincial policies and are used exclusively where local planning frameworks are underdeveloped or absent. These orders should not override or replace the existing, robust local planning processes endorsed by municipalities and their communities.

OFT cautiously supports the development of a transparent, revised process for the application and issuance of MZOs as suggested in Bill 185. This process must prioritize sustainability and respect for local governance, ensuring that MZOs are used judiciously and only when truly necessary to address specific, critical needs that align with broader provincial interests and policies.



“Use It or Lose It” Tools

OFT acknowledges the potential benefits of the “Use It or Lose It” provisions proposed in Bill 185, but advise caution due to possible unintended consequences. This tool aims to combat land banking by developers who delay development to maximize profits. By imposing a lapsing provision, which requires that construction commence within three years of project approval, the bill introduces a much-needed accountability mechanism.

However, while the lapsing provision offers a straightforward accountability measure, it also raises concerns about additional bureaucratic hurdles and the effectiveness of enforcement. The question arises: what happens when the deadline passes and the land remains undeveloped? Requiring developers to restart the approval process could inadvertently lead to more delays rather than expedite development. This scenario could result in increased administrative costs and extend the timeline for delivering needed housing projects, contradicting the tool’s original intent.

From a farmland preservation perspective, OFT sees these provisions as an opportunity to advocate for directing development towards appropriate areas rather than expanding into prime agricultural lands. The example of Barrie, where local government is considering taxing developers who hold undeveloped farmland¹, illustrates a proactive approach to encourage the timely development of approved projects. In Barrie, despite having permits for 22,298 residential units in the pipeline², development has stalled. This has led to discussions about shifting tax rates from farm to residential to motivate developers. Similar initiatives can be found in other jurisdictions, such as Pennsylvania³ and Virginia⁴, where a change in land use triggers roll-back taxes for up to six years if the land use changes. Such measures could be readily adopted in Ontario, where the farm property class tax rate program currently provides developers with significant financial advantages.

We recommend that the province consider a balanced approach that holds developers accountable while also ensuring that regulatory mechanisms do not introduce more complexity into the development process. The potential for this tool to shift undeveloped lands back into productive use is promising, yet it requires careful implementation to avoid exacerbating current challenges in the housing market.

OFT proposes that the province conduct a thorough evaluation of this tool’s impact on both housing development and farmland preservation. Additionally, we suggest that further details be provided on how these provisions will be regulated and enforced, ensuring that the tool achieves its intended outcomes without unintended negative impacts.

¹ <https://www.barrietoday.com/local-news/no-more-tax-breaks-coming-for-massive-developers-farm-field-7915788>

² <https://www.barrie.ca/Annual-Growth-Report.pdf>

³ https://prdagriculture.pwpca.pa.gov/Plants_Land_Water/farmland/clean/Pages/default.aspx

⁴ <https://www.franklincountyva.gov/196/Roll-Back-Taxes>



Third Party Appeals

OFT strongly opposes the proposal in Bill 185 to limit third-party appeals for planning matters such as official plans, official plan amendments, zoning by-laws, and zoning by-law amendments. We believe that maintaining robust third-party appeal rights is essential for ensuring fair and democratic planning processes.

Third-party appeals serve as a critical check on municipal decisions, ensuring they adhere to provincial legislation, policy statements, and local by-laws. Limiting these appeals excluding potentially affected stakeholders, including farmers, from participating in important development decisions. This approach not only silences key voices but also creates a biased process favoring developers, who retain the ability to appeal decisions that may already privilege urban development at the expense of farmland protection.

The importance of third-party appeals is underscored by instances where municipal decisions have directly impacted agricultural operations. This includes instances of incorrect calculations of the Minimum Distance Separation (MDS) for new residences near existing livestock barns. If these instances are not able to be appealed by a farmer when seen as a third-party, significant challenges are going to be faced by the agricultural community.

In response to the government's concerns about frivolous appeals intended to delay processes, OFT recommends a comprehensive review of the Provincial development appeal process. This review should aim to streamline and expedite the process while still upholding principles of justice. A more defined and efficient system should be established to quickly determine the legitimacy of an appeal, ensuring that genuine concerns can be addressed without unnecessary delays.

OFT firmly believes that the right to appeal is a cornerstone of a participatory planning process and must be preserved. We urge the Ontario Government to maintain third-party appeal rights for all development, official plan, or settlement boundary expansion proposals to ensure that all stakeholders, particularly farmers and other rural landowners, have a voice in shaping the future of their communities.

Municipal Pre-Application Process

OFT strongly opposes the proposed removal of the mandatory pre-application consultation requirement in the planning process, as outlined in Bill 185. Mandatory pre-consultation has become an essential component of the planning framework, particularly in Ontario's fastest-growing municipalities.

The removal of this requirement would be a significant step backward, negating the progress made since the introduction of Bill 51, which established complete application requirements to streamline development review processes. Pre-consultation ensures that all necessary technical studies are considered early, supporting greater efficiency in submission and reducing the likelihood of incomplete applications. Municipalities have even developed standardized terms of reference for many studies to enhance this efficiency further.

Removing the mandatory aspect of this step risks reintroducing a less structured system, where applications may proceed without adequate initial scrutiny. This can lead to more applications being deemed incomplete, increasing the workload on planning staff and potentially leading to more appeals



before the Ontario Land Tribunal (OLT). Such scenarios could create significant backlogs, undermining the very objective of Bill 185 to expedite the development process.

Moreover, pre-consultation serves as a crucial checkpoint to ensure that large-scale developments or significant land use changes are adequately reviewed before formal submission. Without this requirement, there is a risk that applications lacking proper technical review will proceed, potentially resulting in planning decisions that do not meet established standards. This not only weakens the planning process but also diminishes the capacity of the OLT to handle cases efficiently, as they may become inundated with appeals stemming from initially unvetted applications.

OFT believes that maintaining the mandatory pre-application consultation is vital for preserving the integrity and efficiency of Ontario's planning system. We urge the provincial government to reconsider the proposed changes and retain this essential requirement to ensure that development projects are thoroughly vetted from the outset, supporting a more robust, efficient, and fair planning process.

Settlement Area Boundary Expansions

OFT strongly opposes the provisions in Bill 185 that allow developers to appeal a municipality's refusal or failure to make a decision on privately requested official plan or zoning by-law amendments that would alter the boundary of an "area of settlement" outside of the Greenbelt Area. This change poses a significant challenge to local governance and land use planning, undermining the ability of municipalities to manage growth responsibly.

Municipal decisions to deny such expansions are not made lightly; they are based on thorough considerations of the potential impacts on local ecosystems, agricultural land, and community development goals. Allowing developers the unilateral right to appeal these decisions places undue pressure on municipalities. It forces them to allocate substantial resources to defend their decisions or, in some cases may lead them to acquiesce to developments that may not be in the best interest of the community and the environment.

Furthermore, this change creates a disproportionate system where developers possess greater rights to challenge municipal decisions, while farmers and other stakeholders lack equivalent opportunities to appeal. Such a system not only favors development interests but also significantly dilutes the voice of the agricultural community and other affected parties in planning processes. This is especially concerning in a context where lower-tier municipalities are already grappling with increased planning responsibilities due to the removal of several upper-tier planning authorities.

The ability for developers to easily challenge municipal decisions about settlement boundary expansions risks leading to unchecked urban sprawl, potentially resulting in the loss of invaluable agricultural lands and natural habitats. This undermines the principles of sustainable development and places additional strain on municipal resources and planning capabilities.

In light of these concerns, OFT urges the provincial government to reconsider this aspect of Bill 185. We recommend maintaining a balanced approach to settlement area boundary decisions, one that respects



the expertise and authority of municipalities while ensuring that all stakeholders, including farmers and local communities, have meaningful opportunities to participate and appeal in the planning process.

Upper-Tier Planning Responsibilities

OFT is strongly opposed to the proposed removal of planning responsibilities from upper-tier municipalities as outlined in Bill 185. This shift represents a significant backward step in regional land-use planning, with potentially dire consequences for sustainable development and agricultural preservation across Ontario.

Upper-tier municipalities like York, Peel, Halton, Waterloo, Durham, and Simcoe County have historically provided visionary, regional-level planning that integrates and balances the needs of urban centers with the preservation of farmland. These regions are vital in applying a coordinated agricultural-systems approach to development, ensuring that growth is both sustainable and strategically aligned with provincial objectives. The removal of their planning responsibilities risks fragmenting this approach, placing an undue burden on lower-tier municipalities that may lack the resources, expertise, or capacity to handle these complex, large-scale planning tasks effectively. The example of Waterloo Region illustrates the benefits of upper-tier planning, where a thriving urban center coexists with well-preserved agricultural lands. This balance is no accident but the result of deliberate, informed decision-making at the regional level.

Furthermore, this policy shift could lead to increased delays in planning approvals and a greater backlog at the Ontario Land Tribunal (OLT), as lower-tier municipalities struggle to adapt to their expanded roles. This would not only slow down development but could also lead to less informed, potentially haphazard planning decisions that could have irreversible impacts on Ontario's agricultural lands.

We maintain that position with Bill 185 and urge the government to reconsider these changes. It is crucial that upper-tier municipalities retain their planning responsibilities to ensure consistent interpretation of provincial legislation, policy statements, and guidance materials across larger geographic areas.

OFT strongly recommends for the retention of current upper-tier planning responsibilities across the province. Removing these responsibilities would not only disrupt the established, effective planning frameworks but also jeopardize the integrity of Ontario's agricultural systems and rural communities.

Expedited Approval Process for Community Service Facility Projects

OFT does not support the proposed provisions in Bill 185 that exempt community service facilities from the Planning Act provisions or regulations made under section 70.2. While we acknowledge the need for a streamlined approvals process to facilitate the development of essential community service facilities like schools, hospitals, and long-term care facilities, it is imperative that such developments do not bypass responsible land use planning practices.

Schedule 12 of Bill 185 introduces changes that could potentially allow community service facilities to be developed without adhering to crucial planning regulations designed to protect agricultural lands. This



approach raises significant concerns, particularly in terms of the potential impacts on prime agricultural areas and specialty crop areas.

OFT advocates for a balanced approach where community service facilities are developed efficiently while still undergoing rigorous land use planning reviews. For each project, it is essential to:

- Assess alternative site options outside of specialty or prime agricultural land.
- Ensure adherence to Minimum Distance Separation (MDS) formulae to prevent conflict between agricultural activities and new developments.
- Conduct an agricultural impact assessment to evaluate and mitigate any potential impacts on the agricultural system.

The proposal to consult on the criteria for these exemptions does not alleviate our concerns, given the historical challenges and inconsistencies in how consultation outcomes have been implemented. Therefore, while OFT supports the objective of improving the speed at which community service facilities are developed, this should not come at the expense of comprehensive planning and farmland protection.

OFT recommends that the government maintain the requirement for community service facility projects to comply with the *Planning Act* and associated regulations, with provisions for a streamlined yet thorough approval process that ensures developments are both expedient and environmentally responsible.

Merging Property Titles

OFT strongly supports the Ontario Federation of Agriculture's (OFA) recommendation for amendments to the *Planning Act* that would eliminate the automatic merging of property titles. This practice, though not specifically addressed in Bill 185, poses significant challenges for the agricultural community and warrants urgent legislative attention.

Thank you for considering our submission, and our organization looks forward to the province's response. OFT hopes you also refer to our other submissions regarding settlement area expansion and agricultural system planning.

Sincerely,

Martin Straathof, Executive Director
Ontario Farmland Trust

Cc: Margaret Walton, Chair of the Board of Directors, Ontario Farmland Trust
Hon. Lisa Thompson, Minister of Agriculture, Food & Rural Affairs
Hon. Rob Flack, Associate Minister of Housing
Trevor Jones, Parliamentary Assistant to Minister of Agriculture, Food & Rural Affairs



John Jordan, Parliamentary Assistant to Minister of Agriculture, Food & Rural Affairs
Matthew Rae, Parliamentary Assistant to the Minister of Municipal Affairs and Housing
John Vanthof, Critic, Agriculture, Food and Rural Affairs