



MEMORANDUM

ISSUE: Reducing New Housing Costs

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Premier Ford has asked each Ontario municipality to provide submissions this month on suggestions as to how to reduce the costs for new housing. In my view this requires an examination of various elements of the planning approval process and the building inspector's role of new home construction. The following is not intended to be an exhaustive list but a summary of the most obvious improvements.

Subdivision Approval

1. Most larger municipalities currently have delegated authority from the Minister or the Region or County for subdivision approval which allows them to take the lead in clearing conditions. Many municipalities will provide the clearance of conditions on a staged basis to allow the developer to proceed with the clearance of all conditions with a level of certainty. This assists with the design of infrastructure and the ultimate design of the plan and should be a regular practice for all municipalities. This practice should be encouraged and further advanced wherever such is reasonably possible.
2. The "Pre-consultation" process with municipal Staff usually works extremely well. Staff are usually very mindful of the time limits for appeals under the Planning Act once the "completed application" process is concluded and do not want appeals filed simply because they have been unable to meet the appeal deadlines. This process usually works well when the "completed application" goes smoothly. However, when they require the developer to produce additional information, regardless of how minor, this is when things can bog down and long delays experienced. The problem is not because of staff being un-cooperative but because of the lack of staff resources to deal with these matters when their priority is to meet the aforesaid appeal deadlines. It is an issue that should be addressed by each municipality.

Official Plan Amendments

3. In some cases, a lower tier municipality will not have received delegated authority from the Region or County for official plan amendments initiated by landowners. Often delegation will occur on a case by case basis. My position is that if a municipality is qualified to have received delegated authority for subdivision approvals there is no justification to refuse same for privately initiated official plan amendments. Otherwise this is duplicitous and an unnecessary waste of time and money for everyone. Complete delegation will reduce staff time to deal with the upper tier municipality and allow municipal Staff to expedite approvals where appropriate.

Conservation Authorities

4. The most common and strongly held objection of the lawyers, consultants and the development industry is dealing with the Conservation Authority who often exceed their jurisdiction requiring unnecessary studies and unreasonable demands creating long delays in the approval process. Unfortunately, their expertise is often questionable in the development of real estate. Usually there is no appetite to legally challenge the Authorities' jurisdiction, as such will be costly and further delay the approval process. Their jurisdiction and expertise also over-laps with that of the larger municipality. The preference is that either the upper or lower tier municipality be given over-riding approval powers for development and that the Conservation Authority only be a commenting agency and not a "permitting" authority.
5. The above problems are very similar when dealing with the Niagara Escarpment Commission and they too need to be "reigned in".
6. The above suggestions will require legislative amendments but are long overdue.

Site Plan Approval

7. Some municipalities have a most unusual Site Plan approval process, having established a Site Plan Approval Committee to hear comments from the public. Since the public have no rights to appeal site plan approvals there is no need for this process and the delegation to senior staff engineer is sufficient. Generally, the public misunderstand what site plan approvals are for and do not understand their limited role. Staff have the ability to provide Public Notice in a particular neighborhood and to invite written submissions from the public. They can respond appropriately, including arranging a meeting for someone with legitimate concerns.
8. The use of site plan approval public committees should be discontinued.

Growth Plan

9. It is widely accepted that the 2017 Growth Plan is poorly drafted and impractical to implement. The new provincial government is currently dealing with this issue and are expected to shortly release a series of new regulations to correct the most obvious problems.
10. One cannot deal with the Growth Plan in isolation as it overlaps with the other provincial plans, namely the Niagara Escarpment Plan, Oak Ridges Moraine Plan, Greenbelt Plan as well as the Provincial Policy Statement. These documents are a real detriment to development, not because of the environmental objective but because of the flawed drafting and their inability to match provincial and municipal economic goals.

11. David Crombie's Committee was established to make recommendations on these issues but their 2015 report lacked specificity and was far too vague to be of real direction to the Province. Therefore, it is time the Municipalities stepped into the void and take a leadership role with the Province to resolve these issues which is the greatest deterrent to timely development approvals.
12. One of the biggest hurdles has always been the Provinces' inability to match hard and soft services with locational mandated density. Often the density requirements are impractical and unmarketable in certain communities. Municipalities do not have the financial resources to deal with these issues on their own. Until such financial issues are resolved relief from these density requirements should be reduced and phased when matching financial resources for infrastructure has been committed.

Education Development Charges

13. I have written previously on this issue. My papers can be found on the MLC website. The legislation and regulations emanating from the Harris era may have made sense then but are now long overdue for reconsideration. Harris saw a pot of gold with the education realty tax and wanted it for the Provincial treasury and accomplished such by taking over control of school funding.
14. Originally EDC's covered both land and capital costs triggered by new growth. Unfortunately, they were subsequently restricted to only cost of land for new schools. Currently EDC's do not include the capital costs for the construction of new schools nor the required upgrade/expansion of existing schools. Therefore, each School Board and municipality must enter into a begging competition with the province for funding. This is no way to run an education system and holds back the excellence standards expected by the electorate.
15. Until the new schools are built or existing schools expanded, new home residents must absorb the time and costs for transporting their children to allocated schools. School funded bussing also adds to the costs of providing education on a long-term basis. The additional transportation costs for parents to access a school significantly increases the related costs of home ownership.
16. The municipal approval of residential development without either the developer or the municipality being able to guarantee convenient school access is in immediate need of a solution, of which there are many practical solutions, some of which I have suggested in my previous memos. Increasing EDC's for these capital school expenditures may appear at first glance to be politically unacceptable. However, if examined closely such would be a modest addition to the cost of a new home. The other alternative is to spread such costs over the entire residential/commercial/residential realty tax base which would make the increase in overall realty taxes miniscule and place the burden where it belongs on not simply on the owner of a newly constructed home. The money has to be raised on an ongoing basis and should not simply be an obligation of the provincial government-which history has proven does not work.

LPAT

17. While the intent of the new legislation was for limitations to be placed on the rights of parties to appeal municipal decisions was admirable, the LPAT Act, Regulation and Rules are poorly thought out and drafted. Already, such is causing massive delays and

unnecessary costs. The first large case is already before the Divisional Court (“Rail Deck” case) on a stated case with the consent of the developer, City of Toronto and LPAT. I am involved in a different large case which has raised substantial legal issues which the Tribunal will have difficulty resolving and have announced that the case must await the Divisional Court decision. Currently MMA is receiving submissions from many stakeholders including senior members of the municipal bar, of which I am involved. There is no question that the province is wanting to dramatically amend this legislation. In my view this is like “throwing good money after bad” and this new legislation should be repealed and replaced with amendments to the former OMB Act which could have easily solved the legislative problem. The more practical problem was the lack of funding for the OMB and poorly paid Board Members with no tenure which lead to many examples of poorly run hearings and equally poor decisions. The OMB also requires its own Chairman and the previous decision to combine many administrative tribunals under one Chairman greatly diminished the OMB and should be reversed. These are simple solutions to a seriously flawed, by highly important and relevant appeal process which should be immediately implemented.

Building Permit Inspections

18. Awaiting municipal building officials to attend at the construction site to do their staged inspections is a constant cause for delay in construction. Obviously, it is difficult to stage the next phase of the work with any certainty. The problem is not with building officials not doing the very best they can do to accommodate but rather the lack of enough inspectors and the usual variables in the construction industry.
19. The solution has always been there, namely to have the builders’ own architects and engineers issue certificates of compliance to the municipal building officials. These consultants have their own liability insurance which could be modified to deal with this obligation. The municipal building officials know who the really reliable builders are and are often flexible and trusting in issuing clearances. This needs to be formalized. The inspectors could restrict their role to spot inspections to maintain the integrity of the system. This would reduce costs for the municipality, expedite construction, thereby reducing housing costs. Obviously, there would need to be amendments to provincial legislation, but such is worthy of consideration.

I am sure there are other valuable suggestions than can made and I trust others will come forward with same and send them to the Premier.

GEP.