



***Bill 185, Cutting Red Tape to Build More Homes Act,
2024***

Submitted to: Ministry of Municipal Affairs and
Housing

Submitted by: Ontario Bar Association

Date: May 9, 2024



ONTARIO
BAR ASSOCIATION
A Branch of the
Canadian Bar Association

L'ASSOCIATION DU
BARREAU DE L'ONTARIO
Une division de l'Association
du Barreau canadien



Table of Contents

Executive Summary.....	3
Ontario Bar Association.....	3
Comments & Recommendations	4



Executive Summary

The Ontario Bar Association (“OBA”) welcomes the opportunity to provide a short submission on *Bill 185, the Cutting Red Tape to Build More Homes Act, 2024*. Our comments are focused on the provisions in Bill 185 that reproduce sections from the original version of *Bill 23, the More Homes Built Faster Act, 2022*, which were ultimately removed before passing. Our comments and concerns from our Bill 23 submission remain relevant and we reiterate them here.

Ontario Bar Association

Established in 1907, the OBA is the largest and most diverse volunteer lawyer association in Ontario, with close to 16,000 members, practicing in every area of law in every region of the province. Each year, through the work of our 40 practice sections, the OBA provides advice to assist legislators and other key decision-makers in the interests of both the profession and the public and we deliver over 325 in-person and online professional development programs to an audience of over 20,000 lawyers, judges, students, and professors.

This submission was prepared and reviewed by members of the OBA’s Municipal Law Section. Members of this section include leading experts in municipal and land-use planning law matters representing proponents, municipalities, residents, developers and other stakeholders. Though we represent a broad spectrum of clients with diverse and sometimes competing interests, our goal is to provide decision-makers with commentary that represents a balance of the various interests of our members and their clients, and, to that end, these submissions should not be taken to represent the views of any one client or group of clients, including any municipal Council.



Comments & Recommendations

Amendments to sections 17(36) (official plans) and 34(19) (zoning by-laws) of the *Planning Act* that would limit third party appeals to specified persons (as defined) and public bodies were first proposed as part of *Bill 23, the More Homes Built Faster Act, 2022*, but were subsequently removed from that Bill with the support of the Minister by the Standing Committee on Heritage and Cultural Policy. Identical changes are now being re-introduced through *Bill 185, the Cutting Red Tape to Build More Homes Act, 2024*.

The OBA Municipal Law Section notes its submissions and recommendation made to the Minister in November of 2022 on Schedules 7 and 9 of Bill 23, which were as follows:

The OBA Municipal Law section anticipates that aggrieved parties may continue to seek legal avenues to challenge municipal decisions which negatively impact their interests, even if appeal rights to the Tribunal are removed. This would be similar to the avenues available for seeking challenges to other municipal decisions. Eliminating the ability of individuals, and corporations which may include landowners with a direct interest in the properties affected as well as public bodies, to avail themselves of Tribunal intervention will likely result in applications to quash municipal by-laws or otherwise attack local decision making by other means. This could include attacking decisions on procedural grounds via the *Judicial Review Procedure Act*, increased *Building Code Act, 1992* appeals, and other Superior Court proceedings. If land use planning matters are increasingly dealt with by the Courts, or other non-specialized bodies with limited capacity, rather than the Tribunal – a forum with the institutional knowledge and specialized expertise to effectively resolve complicated land use planning issues – the unintended consequence may be further delay of development of new homes in the Province.

It is also recognized that appeals of municipally initiated planning changes, such as amendments to municipal official plans and zoning by-laws, can cause significant delay and uncertainty in the development process. The OBA Municipal Law Section supports changes



that will reduce the number of appeals against these instruments that are not well supported or are made solely for delay or other strategic reasons, which may at times result in years or even decades of delay.

Recommendation:

The OBA Municipal Law Section submits that alternative approaches should be considered, which will meet the goal of reducing meritless appeals against municipal decisions. Some of these mechanisms were detailed in the February 8, 2022, report of the Ontario Housing Affordability Task Force. For instance, requiring that a prospective appellant demonstrate the merits of its appeal before it is processed, and enhancing the Tribunal's power to dismiss appeals on a motion or by its own initiative are all potentially positive steps. Clear statutory direction to the Tribunal on which appeals are to be considered at a full hearing, and which are to be dismissed, would also be a preferable approach to leaving decisions to non-specialized Courts or administrative bodies, and would create a more streamlined and predictable process.

The OBA Municipal Law Section further notes that given the frequency and magnitude of changes affecting the areas of municipal, land use planning, and land development law generally, increased time for consultation and comment could potentially be beneficial and allow our membership to provide more meaningful support and recommendations with respect to these changes.