

November 16, 2022

Mayor & Members of Council
City of Burlington

SUBJECT: Comments on Bill 23 – More Homes Built Faster Act, 2022

On October 25, 2022, the Ontario Ministry of Municipal Affairs introduced Bill 23 - the proposed More Homes Built Faster Act, 2022 (Bill 23). Bill 23 is part of Ontario's Housing Supply Action Plan, a long-term strategy to increase housing supply and provide more affordable housing options. While we are supportive of the goals of the Bill with respect to the building of more affordable houses, we are deeply concerned with proposed provisions that would significantly limit the tools available for municipalities to protect, conserve and allow for adaptive reuse of their cultural and built heritage. This bill, if approved, will weaken all municipalities' ability to identify and protect their valuable heritage resources, which, once lost, can never be replaced.

Moreover, while the overall thrust of the Bill appears to be aimed at transferring many of the costs of development from developers to rate-payers as a means of encouraging housing construction, there appears to be no actual mechanism that would ensure that the savings realized by developers will be passed on to consumers in the form of more affordable housing prices.

Background:

The *Heritage Act* is used by municipalities to recognize cultural and heritage resources and to protect and preserve them for current and future generations. Many volunteers generously donate their time and expertise to municipal heritage advisory committees or local historical societies in support of this mission. Two tools are used to do this (1) Designation and (2) Listing on the Municipal Register as a non-designated building. While designation provides better protection for a property or landscape, some owners are reluctant to embrace designation because it is listed on their property title and requires that a heritage permit be issued by the municipality for any maintenance or repair work to the historic elements of their property.

Listing on the Register allows the owner to make any changes or maintenance to their property without any permits or involvement of the municipality. Only if the owner wishes to demolish the property does listing on the Register come into play. Application for a demolition permit allows the municipality 60 days to conduct a heritage assessment to determine if the property has considerable heritage or cultural significance. If the study concludes that it does, the City could decide to designate the property to prevent demolition. If the study concludes that it does not, the demolition permit will be issued.

These are the only measures available, through the *Heritage Act*, to prevent the demolition of heritage assets. The *Heritage Act* was amended and weakened in 2021 under the auspices of Bill 108 – More Homes, More Choice. There is a movement afoot now to further amend and weaken the *Heritage Act*, among changes to other Acts, through Bill 23 – More Homes Built Faster.

Implications:

Some of the changes Bill 23 will make to the *Heritage Act* will:

- Remove the protection from demolition for properties listed on the Register by limiting the time it can be listed to 2 years before it must be designated (possibly against the Owner's wishes).
- State that any property removed from the Register, possibly through a decision by the Ontario Land Tribunal, cannot be put back on the Register for a period of 5 years. During this time, it therefore has no protection from demolition.
- Specify that if a complete Official Plan, Zoning Bylaw or Site Plan approval application is submitted, only properties already listed on the Municipal Register can be designated.
- Allow the Province, justified by any current or new initiatives, to override the protection afforded to a provincial heritage property.
- Amend Schedule 7, Subsection 19 (1) to expand the Ontario Land Tribunal's powers to dismiss a proceeding without a hearing, on the basis that the party who brought the proceeding has contributed to undue delay. Section 19 of the Act is also amended to give the Tribunal the power to dismiss a proceeding entirely, if the Tribunal is of the opinion that a party has failed to comply with a Tribunal order. Section 20 is amended to give the Tribunal the power to order an unsuccessful party to pay a successful party's costs.
- Increase rigor in the process of identifying and protecting Heritage Conservation Districts (HCD) and introduce a regulatory authority to prescribe processes for municipalities to amend or repeal existing HCD designation and HCD plan bylaws.

Recommendations:

- The Heritage Burlington Advisory Committee (HBAC) supports the comments within this letter dated November 16, 2022, regarding the proposed changes to the *Heritage Act* as identified in Bill 23 – More Homes Built Faster;
- And further, the HBAC respectfully requests staff to forward the letter to Council and seek Council to request the Province not to pass Bill 23 until such time as further evaluation, analysis, and consultation has occurred with municipalities and heritage based conservation associations/organizations for measures to protect the Provinces' cultural and built heritage while supporting more affordable housing.

Summary:

Surviving and evolving for over decades and even hundreds of years, the City's heritage properties and landscapes are visible reminders of our history and once demolished, are gone forever. We rescue, restore, preserve, and protect our heritage not only because it is our past, or because it is unique or beautiful. It is not a matter of buildings, stones, or about intangible traditions; our cultural heritage is our identity, it represents our values, our strength, continuity, and our pride.

Identification and protection of heritage by municipalities is facilitated by volunteer-based organizations and municipal heritage advisory committees as legislated by the *Heritage Act*. Unless there is pressure for development, many heritage buildings and properties are preserved and cared for by their owners with listing on the Register being a sufficient identification and protection tool. In most cases, there is no need to require all properties listed on the Register be designated as proposed by Bill 23.

The Heritage Burlington Advisory Committee advises that everything possible should be done to object to the passage of Bill 23. This bill will have a severely negative impact on the preservation of heritage and cultural resources, put an incredible strain on city staff resources, and create contentious and confrontational relationships between the City and heritage property owners.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Camacho', with a large, stylized initial 'M'.

Michele Camacho
Chair, Heritage Burlington

