

From: [Sprukulis, Kristin](#)
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Subject: FW: City of Burlington Response to Bill 109
Date: Tuesday, December 6, 2022 12:28:25 PM

From: Mark Bales [REDACTED]
Sent: December 5, 2022 12:28 PM
To: Mailbox, Office of the Mayor <mayor@burlington.ca>; Galbraith, Kelvin <Kelvin.Galbraith@burlington.ca>; Kearns, Lisa <Lisa.Kearns@burlington.ca>; Nisan, Rory <Rory.Nisan@burlington.ca>; Stolte, Shawna <Shawna.Stolte@burlington.ca>; Sharman, Paul <Paul.Sharman@burlington.ca>; Bentivegna, Angelo <Angelo.Bentivegna@burlington.ca>
Cc: Arjoon, Kevin <Kevin.Arjoon@burlington.ca>
Subject: City of Burlington Response to Bill 109

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Dear Mayor Meed Ward, Members of Council and City Clerk:

Carriage Gate Homes and its associated companies have several development and building projects in the City of Burlington. We have an interest in policies the city intends to implement in response to Bill 109. This correspondence is further to correspondence that you have received from the West End Homebuilders Association (WE HBA). As members of WE HBA, we fully support the concerns and comments provided in its correspondence. This letter provides additional comments, opinions and recommendations based on our experiences in Burlington and our understanding of the city's responsibility to implement provincial planning policies. In response to the housing crisis that has been declared in the province and new provincial legislation, the city's planning process must be focused on the creation of a new planning policy and processing framework that improves the effectiveness and expedites the planning process. Should Council intend to move forward at this time to adopt proposed Official Plan Amendment 130, there are several matters that we urge you to consider.

Staff report PL-69-22 contains several omissions and recommendations that fail to recognize and implement provincial policy and address the housing crisis we are experiencing. We are hopeful that Council will have the wisdom to defer its consideration of this matter in order to work with the building industry, the public and other stakeholders in an effort to avoid potential and undesirable conflicts. Now is the time for all stakeholders to work together to find solutions that will effectively and fairly lead to a new planning process that addresses the concerns identified by all stakeholders and the city. This is the expectation of the new provincial policy framework and we encourage Council to act upon the province's indications to defer the implementation of Bill 109 until July 1, 2023.

Burlington Council has consistently indicated the importance of public and stakeholder consultation and this relates specifically to the content and recommendations contained in staff report PL-69-22. On the first page of this report, the third recommendation asks Council and the City Clerk to deem that section 17(21) of the Planning Act has been satisfied such that proposed Official Plan Amendment 130 can be adopted. While Council can deem anything it wants, it does not make it legal. Section 17 of the Planning Act requires community consultation and an open house in addition to providing public notice

and satisfying several other conditions. Before Council considers the recommendations made by city staff, please be aware that until the release of staff report PL-69-22, the only action that the city has taken to satisfy the requirements of the Planning Act was a short meeting with the building industry that was held at the last minute with no opportunity for further consultation being permitted until after the staff report was completed. In addition, the city has not given the required statutory public notice in accordance with the Planning Act. In our opinion, as the city has not satisfied provincial requirements, Council would be making a mistake should it deem that the requirements of the Planning Act have been satisfied and Official Plan Amendment is adopted at this time.

Proposed Official Plan Amendment to the city's old/existing Official Plan is seriously flawed. We would like to draw your attention to section 1.4 that proposes the addition of a new a new Table 3. The submission requirements included in Table 3 have not been discussed with the building industry. Table 3 provides an extensive list of submission requirements that exceeds by far anything that any other municipalities in Ontario are proposing. While the staff report suggests that staff's recommendations are generally consistent with those being considered in other municipalities, this is inaccurate. Should you have doubts regarding this, we recommend that you examine the changes proposed by the Town of Oakville, the City of Mississauga, the City of Toronto and many others. The recommendations included in PL-69-22 are a far cry from what Burlington city staff traditionally call "best practices".

We have many additional concerns with staff's recommendations and rather than going through them one by one, we take this opportunity to provide one prime example. Table 3 fails to indicate which submission requirements must be provided for specific types of planning applications (i.e. OPA/ZBA/SPA/minor variance/consent/condominium exemption, part lot control, etc.). Please refer to the Engineering Services section included in Table 3. The majority of the matters contained in this section are appropriately considered through conditions of approval or through the permitting process. They are unrelated to the planning process and should not be used as a weapon to frustrate the acceptance and processing of planning applications. To give you one example, you will note that Engineering Services could recommend that an application to amend the official plan not be accepted if the applicant fails to provide a detailed dewatering assessment, including the detailed design of a groundwater treatment system, discharge plans and monitoring programs. It is impossible for applicants to provide these details until not only the principle of development has been determined but the detailed design has been completed. These types of matters have no place in the planning process as they are addressed through the detailed architectural and mechanical design of the building and the permitting process (the last stage in the building process).

A deferral of this matter at this time is necessary to clarify and refine the submission requirements for all types of planning applications and to determine which matters are appropriately addressed through conditions of approval or the permitting process. As currently written, Official Plan Amendment 130 is unacceptable, confusing and contrary to provincial policy. We are confident that many of our concerns and those raised by WE HBA could be addressed provided Official Plan Amendment 130 is deferred and city staff is directed to consult with the building industry.

In light of the above, this is to confirm that we strongly oppose proposed Official Plan Amendment 130 and request that Council show its leadership by deferring this matter to

allow all interested parties to review and hopefully resolve many of the concerns we all share.

Please advise us of all future actions taken by the City of Burlington in respect of this matter and we look forward to working with city staff and our building industry colleagues to find solutions. We are happy to meet with city representatives at any time to discuss our concerns and to find solutions.

Regards,

Mark Bales | MCIP, RPP, MLAI



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