



June 5, 2020

Members of the Standing Committee on Social Policy
99 Wellesley Street West
Room 1405, Whitney Block
Toronto, ON M7A 1A2

Re: Bill 171 - Building Transit Faster Act, 2020

On behalf of our collective members, the Ontario Home Builders' Association (OHBA) and the Building Industry and Land Development Association (BILD) are pleased to have the opportunity to provide our support and our detailed recommendations with respect to the *Building Transit Faster Act, 2020* (Bill 171). The proposed legislation directly responds to both OHBA and BILD's calls over the years for the provincial government to streamline the transportation infrastructure approvals process to get shovels in the ground as soon as possible for priority infrastructure projects. OHBA and BILD note that Bill 171 is all the more important today to support post pandemic jobs and recovery efforts to make Ontario open for business, reduce red tape and directly support job creation through the construction of critical infrastructure.

The elephant in the room is that to accommodate forecasted population growth, Ontario needs to significantly increase the supply of new housing built each and every year in communities across the province. The government tells us there will be 2.6 million more [#homebelievers](#) living in Ontario by 2031, meaning we need to build 1 million more homes across Ontario to welcome these [#homebelievers](#). Most of this growth will be focused within the Greater Golden Horseshoe, which is why OHBA and BILD support Bill 171 and strongly believe that the construction of the four priority transit lines in combination with pro-active land use planning will ensure new housing supply is built as part of new, mixed use transit-oriented communities.

Four Priority Transit Projects

The *Building Transit Faster Act* (Bill 171) targets steps in the planning, design and construction process that have unnecessarily delayed major projects in the past. If passed, the legislation would remove roadblocks and give the Province the tools needed for Metrolinx and Infrastructure Ontario to deliver four specific priority transit projects within aggressive timeframes. OHBA and BILD have for years stated that the approvals process and timelines for BOTH new housing and major infrastructure projects is far too long, cumbersome, uncertain and expensive. The lengthy approvals process has directly contributed to BOTH our housing supply shortage and transit infrastructure deficiencies. While OHBA and BILD support streamlining and red tape reduction initiatives within Bill 171, we strongly recommend that the province take a similar approach to other priority transit projects, other priority transportation projects and other critical core infrastructure projects that will improve mobility, support new housing supply and enhance our quality of life in communities right across Ontario.

OHBA and BILD would like to highlight our specific support for the four priority transit projects in Bill 171 including:

- J **Ontario Line Subway** that is planned to include 15 stations and run 15.5 km between Exhibition/Ontario Place through downtown Toronto to the Science Centre. The Ontario Line will serve existing medium and high density neighbourhoods and bring rapid transit to neighbourhoods such as Liberty Village and

Flemington Park. The Ontario Line will also support the construction of new transit-oriented communities in many locations including the former Unilever Lands (East Harbour) and Gerrard Square.

- J) **Scarborough Subway Extension** that is planned to include three stations and run nearly 8 km as an extension of TTC's Line 2 (Bloor-Danforth). The extension will support a subway connection to significant Urban Growth Centre at the Scarborough City Centre.
- J) **Yonge North Subway Extension** that is planned to run 7.4 km with five new stations as an extension of TTC's Line 1 (Yonge-University) that will connect north from the North York Centre Urban Growth Centre to the Richmond Hill Centre / Langstaff Gateway Urban Growth Centre. OHBA and BILD were pleased to see that the provincial government has signed off on a preliminary agreement with York Region.
- J) **Eglinton Crosstown West Extension** is planned with multiple stops as a western extension of the Eglinton Crosstown LRT (future Line 5). A significant number of planning applications have been submitted for new Transit Oriented Communities on the currently under construction Eglinton Crosstown and the extension will establish a critical regional connection with Pearson Airport.

Transit Oriented Communities

OHBA and BILD are strong supporters of Transit-Oriented Communities. Our membership supports *A Place To Grow*, the updated 2019 Growth Plan and its policies including density targets in Urban Growth Centres and Major Transit Station Areas (MTSAs) that encourage and facilitate the construction of Transit Oriented Communities. We support coordinated infrastructure investment towards strategic projects based on clearly defined priorities including the creation of vibrant, mixed use, transit-oriented communities. The expansion of “core” infrastructure (roads, transit, water and wastewater) in support of delivering much-needed housing supply to a growing population should be a key priority for the provincial government. OHBA and BILD are encouraged by the significant investments in transportation-related infrastructure that the provincial government has already committed to and that the proposed legislation will accelerate for the construction of four priority transit projects.

OHBA and BILD are eager to work with the government to ensure a planning framework along these four priority transit corridors (and other transit corridors) that provides business certainty through pre-zoning on transit corridors. The province has made positive initial steps by incorporating new density targets for MTSAs in the updated Growth Plan, 2019, but the plan needs to be completed by passing zoning by-laws to actually implement these density targets. In locations along the four priority transit lines that would benefit from more intensification, it is entirely appropriate to pre-zone for high-density housing supply and mixed-use / employment. The province must enforce Section 26(9) of the *Planning Act* so that zoning bylaws are updated to truly conform to Official Plans where there is a clear provincial interest. Any higher order transit corridors that receive provincial funding for construction (including, but not limited to the four priority transit lines under Bill 171) the provincial government should consider speeding up the planning process through Ministerial Zoning Orders in MTSAs and Urban Growth Centres in order to maximize the investment opportunity, speed up the process as part of the economic recovery and support new Transit Oriented Communities.

As part of the provincial Transit Oriented Communities strategy, and especially along the four priority transit lines, OHBA and BILD have a number of additional recommendations:

- J) The provincial government should support all existing Urban Growth Centres and MTSAs.
- J) The provincial government should eliminate *minimum parking standards* on transit corridors and in MTSAs to support new housing supply and enhance housing affordability, while also setting a clear provincial ‘transit first’ directive rather than continuing to require an over-supply of automobile parking.
- J) As a first step toward the above recommendation, the provincial government should pilot the elimination of minimum parking standards to stimulate additional investment in new housing supply along the four priority transit corridors targeted by Bill 171.

OHBA has consistently supported pre-zoning through joint reports with Pembina *Make Way for Mid-rise* and Ryerson CBI *Suburbs on Track* and more recently with OREA through a joint Ryerson CUR Report in March 2019 “*Transit Nodes in Ontario have untapped development potential.*” Pre-zoning would open up opportunities for tens of thousands of new units that municipalities should be required to pre-zone for transit-oriented communities. OHBA and BILD note that many existing and planned transit station areas are failing to achieve transit supportive densities – in fact many GO and TTC subway stations lack the density to even support frequent bus service.

The new housing and land development industry is a key partner to the province in creating transit-oriented communities that will support provincial transportation plans and investments over the long term. Furthermore, there are opportunities for partnerships and joint investments in mixed-use developments as part of new or upgraded transit stations. OHBA and BILD members look forward to seeing shovels in the ground for not only the four priority projects within the Bill 171 framework, but other critical projects that should also be fast tracked as part of the provincial and federal post pandemic stimulus economic jobs and recovery response.

Key Components of the Proposed Bill 171

) Relocating utilities more efficiently:

-) OHBA and BILD are generally supportive of expediting utility relocations by allowing for Metrolinx to require a utility company to relocate its infrastructure within a prescribed timeframe. The legislation proposes to introduce a clear process for managing disputes and allow Metrolinx to seek compensation from a utility company if timelines are not met.

) Speeding up the Expropriation Process.

-) While OHBA and BILD are supportive of expediting the four priority transit projects, we have some general concerns regarding access on private property and to speed up the expropriation process by eliminating the right to a hearing of necessity.
-) Currently, there are requirements for the government to demonstrate the need for land related to infrastructure projects. Under Ontario’s *Expropriation Act*, an owner who has been served with a Notice of Application to expropriate land has the right to request a hearing into whether the proposed expropriation is “fair, sound and reasonably necessary.”
-) Bill 171 proposes that the sections of the *Expropriations Act* which confer the right to a hearing will not apply to an expropriation that is at least partly on transit corridor land and is for the purpose of one of the four priority transit projects. OHBA and BILD note that it is not clear why this is necessary as the province already has the power under the *Expropriations Act* to dispense with a Hearing of Necessity where “it considers it necessary or expedient in the public interest to do so.”
-) OHBA and BILD are supportive of removing this requirement specifically for these four priority projects, however we strongly believe that the provincial government must continue to treat property owners fairly and that compensation at fair market value is always provided to owners whose properties are required.
-) The bill also proposes to authorize the Minister to bypass the requirement to expropriate in certain circumstances by authorizing the Minister to remove obstructions from privately owned land and to conduct a “preview inspection” if the land is located at least partly on a transit corridor or within 30 metres of transit corridor land.
-) The bill sets out notice requirements for proposed obstruction removal, although no notice is required before the Ministry enters property for the purpose of inspection of a danger to the project. OHBA and BILD recommend that notice should be provided prior to an inspection.
-) The preview inspection also allows for the conducting of “tests” without specifying what types of tests are included. While OHBA and BILD are not opposed to tests being undertaken, we would appreciate

greater clarity on what this may entail. The proposed bill provides for notice requirements before a preview inspection is carried out as well as the payment of compensation to the owner for any damages resulting from the work and restoration of the property to its condition prior to the work.

-) Bill 171 sets out a proposed process for determining compensation in relation to obstruction removal, danger inspection and removal and a preview inspection. That said, the bill does not specify the categories of compensation that may be claimed by an owner. While the bill provides that compensation is to include compensation for “any damages resulting from the work,” it is unclear whether such damages would include, for example, the value of the loss of the land while the work is done. OHBA and BILD would appreciate greater clarity.
-) Under the *Expropriations Act*, the reasonable legal, appraisal and other consulting costs of an owner who has been expropriated shall be reimbursed by an expropriating authority provided that a certain threshold of compensation is awarded. However, under Bill 171, owners who are the subject of obstruction or danger inspection and elimination orders, or preview inspections, have no such automatic right of recovery of costs and it is uncertain whether the reimbursement of costs can be included as part of the claim for compensation. OHBA and BILD recommend the same rights as under the *Expropriations Act* be afforded to property owners along the four priority transit corridors.
-) OHBA and BILD are not opposed to streamlining the expropriation process on the four priority projects lands, but due process must still be required along with fair market value compensation.

) **Ensuring timely access to municipal services and rights-of-way.**

-) Bill 171 proposes faster access by working closely with municipalities, including the City of Toronto to negotiate and secure permits.
-) In cases where an agreement cannot be reached, the Minister of Transportation could use a new legislative provision to issue an order that outlines the terms and conditions under which Metrolinx could use or modify a municipal road or service, if needed.
-) OHBA and BILD are generally supportive of these proposed provisions.

) **Corridor Control:**

-) OHBA and BILD have concerns with respect to the proposed corridor permit regime and request additional stakeholder consultation on the specific requirements for a new corridor permit.
-) We are not necessarily opposed to the concept of permits to improve communication and alignment of construction processes; however, the proposed corridor permit that would be required to construct or change any building, structure, road, underground utility infrastructure, as well as to perform any dewatering or excavation near a subway corridor could result in additional red tape and delays for private sector investments.
-) The province is proposing that permits would apply to new and some existing developments.
-) With the exception of utility infrastructure, Bill 171 proposes a permit from the Minister to build, alter or place a building, other structure or road, or conduct excavation or dewatering on or under transit corridor land or land within 30 metres of transit corridor land. Bill 171 also proposes a permit to build, alter or place utility infrastructure that would require grading or excavation on or under transit corridor land or land within 10 metres of transit corridor land. OHBA and BILD are concerned this is too wide an allowance on either side of the corridor and will encompass significant amounts of land in the development or planning stage. In downtown Toronto, a corridor this wide could literally encompass entire city blocks along the proposed Ontario Line.
-) For existing approved developments that are identified as potential conflicts, Bill 171 proposes at least six months of negotiation before a permit decision can be imposed. OHBA and BILD are unclear as to what the process entails, what the requirements are and what potential delays or costs would be

imposed on new housing supply. Furthermore, our members are unclear as to what “manage the timing of construction activities to prioritize the subway projects” could mean in terms of imposing new requirements or provisions or costs onto private sector projects.

-) OHBA and BILD are concerned that the requirement for a permit from the Minister (Metrolinx) may add yet another layer of permitting above and beyond development approvals already required. Additional concerns stem from a lack of criteria by which to assess when a permit may or may not be granted and the timeline associated with granting such a permit. Additionally, the authority of the Minister to cancel the permit at any time at their discretion adds a new level of uncertainty to the development process, and may affect the timely approval of high density transit supportive developments.
-) While we support greater ability to coordinate activities in and around the subway corridors and stations, the proposed corridor permits should not add costs or time or serve to delay projects in the locations that the provincial government is encouraging new transit oriented communities.

Conclusion

The new housing and land development industry is a key partner to the province in creating transit-oriented communities that will support provincial transportation plans and investments over the long term, while also providing immediate stimulus in the post pandemic recovery. Furthermore, there are opportunities for partnerships and joint investments in mixed-use developments as part of new or upgraded transit stations. OHBA and BILD members look forward to seeing shovels in the ground for priority projects as soon as possible.

Thank you again for the opportunity to be consulted in this process. We trust you find our comments above helpful and welcome the opportunity to provide MTO and MPPs on the Standing Committee for Social Policy our our recommendations on the *Building Transit Faster Act, 2020* (Bill 171). Again, we believe addressing the concerns identified herein and implementing the recommendations that have been put forward by OHBA and BILD will significantly help advance the four priority transit projects and assist provincial efforts to increase housing supply and choice and recover the economy from the detrimental effects of COVID-19.

If you have any questions or would like schedule a time to meet with our associations, please feel free to contact one of the undersigned.

Sincerely,



Joe Vaccaro
CEO, OHBA



Paula Tenuta
SVP Policy & Advocacy, BILD

Copy:

Minister of Transportation, the Honourable Caroline Mulroney
Associate Minister of Transportation, the Honourable Kinga Surma
Minister of Municipal Affairs and Housing, the Honourable Steve Clark