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Subject: OMB and Development Charges reform
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Greenspace Alliance of Canada's Capital

Alliance pour les espaces verts de la capitale du Canada

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30 November 2014

To: The Hon. Ted McMeekin, Minister of Municipal Affairs and Housing

Dear Minister,

Your mandate letter for the current term of government includes:

"Undertaking initiatives, as the lead minister for Ontario's one-window land use planning system, that will balance the need to support economic growth, protect the environment and improve the province's social well-being.

Supporting the development of sustainable, transit-friendly complete communities by amending the Planning Act and the Development Charges Act to improve land use planning and encourage smarter growth, with these amendments ensuring respect for local official plans and decision-making, generating more growth-related revenue for transit, requiring that citizen input is considered in the land use planning process and having the effect of reducing the number of applications to the Ontario Municipal Board.

Leading a review of the scope and effectiveness of the Ontario Municipal Board (OMB). Working with the Attorney General and key stakeholders, you will recommend possible reforms that would improve the OMB's role within the broader land use planning system"

We therefore take the liberty of drawing your attention to our responses to questions by your Ministry submitted last January. Regarding the role and functioning of the OMB:

"The role of the Ontario Municipal Board should be significantly modified... In true appeal court fashion, the standard outcome of an appeal should be that the matter is sent back to the municipality, with an appropriate clarification or guidance regarding interpretation. We note that current law (*Planning Act*, s. 24.3ff.) requires the Board to send the dispute back if new

information is brought to bear on the matter that Council had not or could not have considered, but this appears to be interpreted very narrowly. The mountain of new evidence that typically is brought forward in preparation of a hearing, arguing one side or the other, is not considered "new information."

The OMB's role is far too strong. All parties to discussions at the municipal level take into account "what the OMB will do." This hampers dialogue, mutual understanding and consensus seeking at the local level. The mountain of evidence that later appears at the appeal hearing should have been tabled as part of the community discussion.

A Council decision in 2009 to expand the urban boundary by 230 hectares ended up as an expansion of 1,104 hectares in 2012. That was a radically different decision which only the local community should be able to make.

When a proponent makes use of the "Integration provision" in a municipal Environmental Assessment process, resolution of an Environmental Assessment Act matter may provoke a stakeholder to make a Part II Order request to the Minister of the Environment. This has to be resolved before the OMB may be asked to adjudicate any Planning Act aspect. The Part II Order process is not transparent and causes delays. Far better would it be to amend the *Consolidated Hearings Act* so that joint boards of the OMB and the Environmental Review Tribunal can adjudicate any appeal, not just an appeal by the proponent as the current law stipulates. Both Planning Act and Environmental Assessment Act expertise and jurisprudence could then be brought to bear on their task. Similarly, any appeal, even if only under the *Planning Act*, that involves significant environmental matters should, at the request of a Party, be granted access to a consolidated hearing."

And:

"...regarding the operation of the Ontario Municipal Board we suggest the following changes:

- 1- make appointments to the Board in accord with criteria that are made public;
- 2- require mandatory mediation as a prerequisite for holding a hearing;
- 3- adopt a protocol for intervenor funding;
- 4- provide for transcripts and advance filings to a shared drive;
- 5- make not only decisions but also supporting exhibits available on the Board's web site;
- 6- vastly improve the web site's indexation and search functions."

Regarding Development Charges:

"...the use of separate areas for calculating and imposing development charges can greatly assist, as the usefulness of a road in one area may be very minimal to residents of a different area. In the central area it is likely that most road development outside it is not a benefit but a dis-benefit to the population in that area by increasing the traffic on the streets. Distinct area charges should be encouraged and thus benefit to existing defined to ensure more accuracy. One might also argue that, since the need for the service is due to the growth in the area concerned, no benefit to existing should be included for any population except that in the immediate area."

"We see no rationale for [the 10%] discount, most importantly not for transit. "Soft services" (parkland, libraries, daycares, recreational facilities) also should not be discounted. In essence, the benefit to existing provides for such a discount already."

"All transit-related capital costs should be [...] exempted from the 10-year historical service level average and the 10% discount. Any encouragement of transit is beneficial to the community at large."

You may find other parts of our responses of relevance to your mandate to review the Province's land use planning system as well. Our full submission is available from <<http://www.greenspace-alliance.ca/MMAH>>.

We will be pleased to assist you further in the fulfillment of your mandate.

Sincerely,

Erwin Dreessen, Ph.D.
Co-chair

Cc: The Hon. Madeleine Meilleur, Attorney General

The Hon. Yasir Naqvi, Government House Leader and Minister of Community Safety and Correctional Services

Peter Z. Milczyn, MPP

Founded in 1997, the Greenspace Alliance works to preserve and enhance green spaces in the National Capital area, and engages with all levels of government. We believe that urban greenness is essential for a community's quality of life, contributing to our personal, social, economic, cultural and spiritual well-being. They also connect us with the natural and cultural history of our region.