

The Regional Municipality of York

Regional Council
April 28, 2022

Report of the Commissioner of Corporate Services and Chief Planner

Ontario More Homes for Everyone Plan: Comments on Bill 109

1. Recommendations

1. Council submit this report, Attachment 1 and the associated April 7 memo to Committee of the Whole (Attachment 2) to the Province in response to Environmental Registry of Ontario posting 019-5283: Consultations on the More Homes for Everyone Plan, associated Environmental Registry of Ontario and Regulatory Registry postings, and related initiatives.
2. The Province be requested to initiate additional actions to address demand factors contributing to increasing housing prices.
3. The Regional Clerk circulate this report to the local municipalities, local Members of Provincial Parliament, Ministry of Municipal Affairs and Housing, Building Industry and Land Development Association – York Chapter, Municipal Finance Officers’ Association and the Association of Municipalities of Ontario.

2. Summary

This report provides comments on Bill 109, More Homes for Everyone Act, 2022 (Bill 109).

Key Points:

- Bill 109 was tabled on March 30, 2022
- Bill 109 continues the narrative developed for Bill 108, More Homes, More Choice Act, 2019 that housing supply and municipal process are the main issues hindering access to housing
- The Region submitted comments for some elements of Bill 109 through an [April 7th memo](#) to meet commenting deadlines
- While the commenting period for the remaining elements of the Bill closes on April 29, 2022, Royal Assent occurred on April 14, 2022, so this report is submitted as the Region’s response (post proclamation)
- Regional data shows York Region has a robust housing supply, yet affordability challenges persist impacting growth potential

- The Region's upcoming Affordable Private Market Housing Implementation Plan will identify action, advocacy and partnership approaches to address housing challenges in the private market

3. Background

On March 30, 2022 the Province tabled Bill 109 to support the Ontario More Homes for Everyone Plan and it received Royal Assent on April 14, 2022

In December 2021, the Province established the [Ontario Housing Affordability Task Force](#) to provide recommendations to the Minister of Municipal Affairs and Housing on potential actions to make housing more affordable for Ontario families. In February 2022, the Task Force released a report with [55 recommendations](#) focused on addressing housing supply. Council received a [report](#) and [memo](#) outlining the Region's comments on the recommendations. There was concern with Provincial Housing Affordability Task Force recommendations focusing primarily on process and municipalities as constraints to housing supply. The Province has stated the Task Force report is their long-term housing roadmap.

On March 30, 2022, the Province tabled [Bill 109](#) which proceeded to Standing Committee on April 4. Notwithstanding the Bill and associated regulatory framework were posted on the Environmental Registry for [consultation](#) on an Act by Act basis, the Bill received Royal Assent on April 14. Bill 109 is viewed as a first key step to the More Homes for Everyone Plan, and future legislation is anticipated to address additional recommendations made by the Task Force. The government is committed to prioritizing implementation of the Ontario Housing Affordability Task Force's recommendations over the next four years, with a housing supply action plan every year, starting in 2022-23.

Bill 109, builds on previous Provincial housing legislation introduced through Bill 108, More Homes, More Choice Act, 2019

Approximately a year after the current Provincial government was elected, [Bill 108, More Home, More Choice Act, 2019](#) was tabled to support [More Homes, More Choice: Ontario's Housing Supply Action Plan](#). Bill 108 moved quickly through the legislature and received Royal Assent 35 days after it was tabled, resulting in little to no time for consultation on such substantial legislation. Bill 109 received Royal Assent 18 days after it was tabled, and 15 days before the closing of the commenting period. Both Bills focus strongly on supply-based solutions and municipal process to address housing challenges.

On [June 13](#), 2019 Council received a report outlining Bill 108 implications for the Development Charges Act and the Planning Act. The Region was supportive of positive elements of Bill 108 such as removing the requirement for low-risk projects to undertake environmental assessments, appointing more Local Planning Appeal Tribunal adjudicators to deal with appeals, and the removal of the 10 per cent discount for determining development charges for eligible services. There were several areas of concern with Bill 108, including:

- Repeal of significant amendments made to reform the land use planning and appeals system, including the reintroduction of de novo hearings

- Ability to obtain meaningful public input due to reduced review timelines and municipal authority
- Limiting the application of inclusionary zoning policies to Major Transit Station Areas (“MTSAs”) and areas where a development permit system are in place
- Whether development permit system expedite approvals given the amount of detailed up-front work required by municipalities
- Impact of updates to parkland dedication requirements and their impact on complete community initiatives and fiscal sustainability
- Potential for financial risks and infrastructure delays due to changes to the Development Charges Act, 1997

At that time, the Region suggested approaches to achieve cost certainty for stakeholders while protecting municipal fiscal sustainability and for respecting local decision making by restricting the basis of appeals to conformity matters and prohibiting de novo hearings. Suggested approaches included ensuring fair sharing of risks by providing municipalities with ability to collect full or partial payment of development charges at site plan or zoning amendment application, targeting the delayed and phased payment of development charges to purpose-built rental and non-profit housing development, and addressing funding mechanisms for the growth-related portion of Yonge Subway Extension through regulations.

Provincial actions are yet to be taken to address the redundant and heavily manipulated environmental assessment approval process for critical services required to meet Growth Plan expectations

Additionally, through comments on Bill 108 the Region suggested alternative approaches to streamlining the land use planning process such as consolidating Environmental Assessment Act and Planning Act approvals. York Region continues to await approval of a servicing solution for upper York Region which is needed to meet Growth Plan forecasts and unlock development opportunities.

The lack of consultation on Bill 109 is unfortunate

Bill 109 received Royal Assent more than two weeks prior to the closing of the comment period. As such, there is no expectation comments received by the Province through this report and from other commenting agencies will influence the Bill. Bypassing meaningful consultation and disregarding input is counter-productive and unlikely to achieve the best solution. It is well understood that no one agency can address the housing challenges faced by residents and workers alone. All orders of government and community partners must work towards solutions together to coordinate efforts, identify and target those in greatest need and capitalize on synergies. Due to proclamation of Bill 109, this report will focus on the implications of the Bill.

Comments on some components of Bill 109 were submitted to the Province April 7, 2022

A memo received by Committee of the Whole on [April 7, 2022](#) (Attachment 2) summarized commenting opportunities under Bill 109 and provided comments on three of the Bill 109 related postings with a deadline of early April. The memo was submitted to the Province through the Regulatory Registry commenting channel. This report constitutes the Region's remaining response to Bill 109.

4. Analysis

Three themes guide the More Homes for Everyone Plan and Bill 109

The More Homes for Everyone provincial [webpage](#) outlines three main theme areas of the More Homes for Everyone Plan which will be implemented through Bill 109 and other related initiatives. The three theme areas are outlined in Table 1.

Table 1
More Homes for Everyone Theme Areas

Theme Area	Key Focus
1: Less red tape, more homes	Private market focused: <ul style="list-style-type: none">• Supporting timely municipal decision making• Proposed community infrastructure and housing accelerator tool• Building code updates• Improved data collection• Investing in and empowering the Ontario Land Tribunal
2: Making it easier to build community housing	Community housing market focused: <ul style="list-style-type: none">• Making better use of provincially owned lands• Strengthening community and supportive housing• Advocacy to the federal government
3: Protecting homebuyers, homeowners and renters	Resident focused: <ul style="list-style-type: none">• Increased consumer protection on new build

Comments on Theme Areas 1 and 2 are provided through this report and Attachments 1 and 2. Mechanisms to protect homebuyers, homeowners and renters (Theme Area 3) are outside of regional scope and there are no implications to regional operations or business through the recommended legislative updates. Nonetheless, the Region is generally supportive of these approaches (summarized in Attachment 2), that support consumer protection within the housing market, including steps to protect purchasers from condominium cancellations.

The “less red tape, more homes” theme simplifies challenges related to affordability in the private market; demand factors also need to be addressed

As is outlined in Attachment 1, there are elements of Bill 109 that are supported as they provide enhanced local flexibility (i.e. extending site plan review timeframes to 60 days, Ministerial ability to stop the clock on official plan reviews) and transparency (i.e. complete application requirements for site plans, public reporting on development applications and approvals). However, there are several other elements to Bill 109 that continue the narrative developed for Bill 108 that housing supply and municipal process are the main issues hindering access to housing, a narrative that is contrary to regional housing research and the results of monitoring.

York Region’s annual affordable housing measuring and monitoring exercise monitors affordability of new homes based on Provincial definitions. The recent [2020](#) analysis showed that less than 10% of new homes are affordable to the lowest earning 60% of households, with preliminary 2021 data indicating a further drop to less than 5%. A [January 2021](#) report on housing challenges and opportunities highlighted lack of affordable housing options as a factor contributing to slower growth in the Region over the last decade. At that time, the average resale price for a home was more than double the Provincial affordable threshold, and this differential has increased since then. Any price moderation that could reasonably be anticipated purely through additions to supply and updates to municipal process, if passed on to the end buyer, would not bridge the gap between market price and what new home buyers can afford.

In [February 2022](#) the Housing Affordability Task Force received an update on housing supply identifying almost 50,000 units registered, draft approved or Ministers Zoning Orders, representing an approximate 6-year supply, well within the Provincial requirement for a 3 to 7 year supply. This work did not include the unit supply captured in the Richmond Hill Centre and Langstaff Gateway Enhanced Ministers Zoning Orders (eMZO’s) issued on April 14, 2022. Additional work to ensure approved supply is built in a timely manner is required.

The Provincial Housing Supply Progress [website](#) identifies that in 2020 Ontario had over 81,000 housing starts, the highest level in a decade, and over 11,000 rental starts, the highest level since 1992. These trends continued in 2021 when Ontario had over 100,000 housing starts, the highest level since 1987, and more than 13,000 rental starts, the highest level in 30 years. Based on these statistics, one would expect to see a moderation of prices if affordability is primarily due to supply limitations. Addressing demand factors will be key to making a difference in housing affordability.

Actions are supported that make it easier to build community housing by improving access to provincial financing for not-for-profit providers

Various levels of government, as well as private lenders, make capital funding available to non-profit providers to build and repair affordable housing. The Province is seeking feedback to understand if existing sources of capital adequately address non-profit housing providers' needs, and identify opportunities to better support access to financing.

Non-profit housing providers are critical stakeholders in York Region's housing system. As a Service Manager, the Region understands the diverse needs of housing providers, and the challenges impacting the housing and homelessness system. Policy and program changes are welcomed that would make access to lending easier or less costly for providers as demand for affordable housing options continues to outpace supply. Navigating the existing system of available programs is complex, challenging and time-consuming for providers, as many do not have dedicated resources or the necessary expertise to develop and manage complex applications to various financing programs. In addition, many housing providers have legislative constraints preventing borrowing or do not have significant equity that can be leveraged to secure financing. As a result, they would require government subsidies for a new project to be sustainable.

To help address these challenges, Attachment 1 outlines recommendations to help reduce risk and upfront development costs for non-profit providers and streamline application processes to various capital programs. All three levels of government must work together, as the financial viability of new non-profit developments is strengthened when programs can be stacked and combined. A streamlined, one-door approach would improve access to Provincial and Federal financing programs. In addition to increased capital funding, it is recommended the Province provide guarantees for non-profit providers' amortization payments, to remove the common requirement by lenders for the provider to retire mortgage debt. This can reduce providers' equity requirements, support greater access to capital and allow more affordable units to be built within financially feasible projects. When implementing new financing programs, it is critical that senior levels of government consider the Service Manager role. This includes alignment with new regulations under the *Housing Services Act, 2011* related to service agreements to incent existing providers to remain in the system and new providers to enter the system.

Existing and proposed Provincial tools may create a disconnect between growth and servicing

Similar to MZO's the Community Infrastructure and Housing Accelerator (CIHA) allows the minister to approve developments through an expedited process at the request of a municipality. If overused, this could result in development occurring in an unplanned manner, resulting in unpredictable growth patterns. Comprehensive planning processes are in place to direct growth to areas with existing or planned infrastructure. The use of the CIHA and MZO's should occur with appropriate consultation and consideration of servicing requirements. Not doing so could place strain on regional water and wastewater servicing allocations and the transportation network. While local municipalities can allocate their service capacity where it makes sense, major deviations could result in restrictions on planned and approved growth elsewhere within the Region if priority is placed on MZO's and

CIHAs. It is recommended that a CIHA/MZO be considered on the basis of full municipal servicing. Where there is also a request for additional allocation or servicing, there should be a requirement for a Regional review and support for the MZO/CIHA.

To properly address housing challenges, demand factors must be considered

As outlined above, some actions within Bill 109 are supported. Other actions are punitive to municipalities and counter to bringing housing online faster and more affordably. There is a clear tie between access to housing and the ability of a jurisdiction to grow and thrive. There is an affordability crisis in York Region, across the GTHA and increasingly throughout the Province.

Actions that focus solely on increasing supply miss addressing demand factors, including the impact of speculation within the market, personal investment, and commodification of housing. Substantive provincial approaches are needed to increase community housing, purpose built rental and affordable ownership opportunities for different sized households throughout the income spectrum, coupled with policy to re-establish the primary purpose of housing as shelter for residents. On April 13, 2022, the Bank of Canada hiked its benchmark interest rate by half a percentage point to one per cent, the first back-to-back rate hike since 2017, and the biggest single hike since 2000. Higher interest rates are anticipated to have a moderating effect on house prices as the cost of borrowing money increases, working to curb domestic speculation within the housing market. Raising interest rates will also impact the purchasing power of new homebuyers as higher rates will raise the bar for the stress test that calculates how much they can borrow, thus increasing the already pressing need for more affordable options, including new purpose-built rental housing.

The upcoming Affordable Private Market Housing Implementation Plan will focus on action, advocacy and partnership approaches to address housing need

The Region is undertaking several approaches to increase the mix and range of housing and overall affordability in the private market, including through development charge deferrals and servicing allocation for purpose built rental housing, approaches through the DC bylaw update, endorsing a feasibility study for a vacant homes tax, and regular monitoring of housing supply and affordability.

In [March 2021](#), Council was advised of the upcoming Affordable Private Market Housing Implementation Plan (AHIP) which will identify actions, advocacy, and partnership approaches to address private market housing gaps in the short, medium, and long term. Approaches to address the affordability and mix and range of housing gaps will be identified. Some approaches will not be suitable to be addressed at the Regional level and/or funded from the property tax base. As such, some approaches will be identified as advocacy opportunities, and approaches that could be taken by the Province to help address housing gaps. The Region encourages the Province to take a similar comprehensive, data driven approach to addressing housing need.

5. Financial

Several of the components of Bill 109 could have a fiscal impact on the Region as outlined in Table 2.

Table 2
Fiscal Implications of Approaches Identified in Bill 109

Proposed Changes	Fiscal Implications
Site plan, zoning and official plan rebates	Possible – Dependent on regional, local or proponent timeframe lapses
Ability to defer Official Plans to the OLT	Possible – If ROP or any LOPs are deferred to the OLT, there will be a need to plan for and attend hearings
Introduction of pay on demand surety bonds	Possible – Administrative and technological updates may be required
CIHA Tool	Likely – Unpredictable growth patterns

The planning review process incorporates technical requirements, feedback from Council and residents in working towards revised plans for better outcomes. In some cases, applicants submit revised development proposals without fully addressing previous comments and technical requirements. In many cases delays to the planning review process is not caused by a municipality. Potentially up to 100% of application fees could be required to be refunded at no fault of the municipality. This approach is concerning and counter to the principle that growth pays for growth.

Staff will continue to monitor implementation of Bill 109 and report back on any fiscal impacts that have budgetary ramifications.

6. Local Impact

Local municipalities are key partners in ensuring the ongoing supply of housing is maintained and in addressing housing gaps. A number of elements in Bill 109 impact local municipalities directly. Continued collaboration with local municipalities will be key to monitor, report on, and mitigate potential impacts of Bill 109 and implementation of the associated regulatory changes.

7. Conclusion

On March 30, 2022, the Province tabled Bill 109 which proceeded to Standing Committee on April 4 and received Royal Assent on April 14, 2022. Similar to Bill 108, the More Homes, More Choice Act, 2019, Bill 109 has a strong focus on housing supply and municipal process impacting housing challenges, and the process to approve the Bill involved little or no municipal consultation. This report and attachments form the Region's response to Bill 109, noting the Bill being finalized prior to the commenting period closing.

For more information on this report, please contact Paul Bottomley at 1-877-464-9675 ext. 71530. Accessible formats or communication supports are available upon request.

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Attachments (1)
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