

THE QUESTION OF NEED

By Joseph Castrilli

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A. Overview

The government of Ontario justifies Bill 23 because it says Ontarians face a housing shortfall. To address this problem, the government is prepared to: (1) eliminate citizen appeal rights under land use planning legislation, rights that have existed under Ontario law since shortly after the Second World War; (2) give the Ontario Land Tribunal new powers to impose costs against those who are unsuccessful before the Tribunal, an expanded costs power that will have a chilling effect on the willingness of the ordinary citizen – and even less well-funded municipalities – to participate in land use planning decisions that directly or indirectly impact them; and (3) further undermine the role of conservation authorities in protecting what is left of Ontario’s wetlands, which play a vital role in preventing flooding, pollution, and other environmental hazards from poorly planned and located development.

The provincial government justifies these and other harmful new measures because a February 2022 provincial task force it established concluded there was a need to build 1.5 million homes over the next ten years in the province.¹ The EBR registry notices concerning Bill 23 indicate that the government proposes to amend a wide array of laws and policies to facilitate meeting this purported need by, for example:

- making “it easier and faster to build new homes for Ontarians as part of its commitment to build 1.5 million homes over the next ten years”;² and
- removing “duplicate requirements and streamline the evaluation process” for what qualifies as a wetland under the province’s Wetland Evaluation System as part of the “government’s commitment to support the construction of 1.5 million new housing units over the next ten years”.³

However, CELA suggests that the task force report, relied upon by the government for its estimates of housing need, is fatally flawed for the reasons set out below. Accordingly, the government’s draconian measures to achieve the alleged need, lead the charge in the wrong direction. By relying

¹ Report of the Ontario Housing Affordability Task Force, (February 8, 2022) at 3-4, 7-9. See also Ontario Ministry of Municipal Affairs and Housing, News Release, “Ontario Publishes Housing Affordability Task Force Report” (February 8, 2022) at 1.

² See EBR Registry Notice 019-6163, Proposal Summary, Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 – the proposed More Homes Built Faster Act, 2022) (October 25, 2022).

³ See EBR Registry Notice 019-6160, Proposal Summary, Proposed Updates to the Ontario Wetland Evaluation System (October 25, 2022).

on flawed estimates, the government is needlessly unravelling the province's land use planning and environmental protection framework in a manner reminiscent of what led to the Walkerton Inquiry in the early 2000s.

B. Problems with the Task Force Report's Assessment of Need

The Ontario Task Force report states that Ontario is 1.2 million houses short of the G7 average and needs to build 1.5 million new homes over the next ten years. This amounts to building 150,000 new dwellings per year. CELA takes issue with these conclusions of need for a variety of reasons:

- The Task Force Report claim that Ontario is 1.2 million housing units short was based on showing that Canada has the lowest number of houses per 1,000 people of any G7 nation.⁴ However, commentators suggest that the number of dwellings per 1,000 people is not a very useful comparison because people live in households. In Ontario, because the average household size is 2.58 people per household, 1,000 people would only require 388 housing units, whereas in Germany, for example, 1,000 people would require 507 dwelling units because of an average household size of only 1.97;⁵
- Commentators also suggest that the Task Force Report is over-aggressive in calling for 150,000 new dwellings per year. Ontario's population grew by an average of 155,090 per year for the 2016-2021 period. Applying the Ontario average household size to this population growth produces the need for housing for roughly 60,000 new households per year, not 150,000 new ones per year. Moreover, 60,000 housing starts is lower than the 79,000 housing starts Ontario averaged per year between 2016 and 2021;⁶
- The Task Force Report also accepted the view that Ontario has not built enough houses to accommodate its growing population.⁷ However, commentators have cast doubt on this Task Force Report conclusion as well. They note that the 2021 Census reported that from 2011 to 2021, Ontario's population grew by 10.7 percent while the number of occupied dwellings grew by 12.5 percent, a trend that has been true for the past thirty years, which bears repeating. During this period, dwellings have grown faster than population;⁸
- Even if one accepts the view that many of the new units are high rise condominiums, and not the ground-oriented units many buyers might prefer, this would not justify the regressive changes being proposed for provincial land use planning and conservation

⁴ Report of the Ontario Housing Affordability Task Force, (February 8, 2022) at 7, footnote 6 (referring to a May 2021 Scotiabank report by Jean-Francois Perrault, "Estimating the Structural Housing Shortage in Canada: Are We 100 Thousand or Nearly 2 Million Units Short?" at 1).

⁵ Brian Doucet, University of Waterloo, "Ontario's 'affordable housing' task force report does not address the real problems", *The Conversation*, (February 10, 2022).

⁶ *Ibid.*

⁷ Report of the Ontario Housing Affordability Task Force, (February 8, 2022) at 7.

⁸ George Fallis, "A shortage of homes isn't the main reason house prices keep rising", *The Globe and Mail*, (March 14, 2022). George Fallis is a professor emeritus of economics and urban studies at York University.

authority legislation under Bill 23 and related policies that will simply accelerate urban sprawl and environmental destruction, undermine efforts at curbing greenhouse gas emissions,⁹ and precipitate a significant decline in public participation in government decision-making. CELA says this because:

- The Task Force Report itself confirmed that there is plenty of land available in existing built-up areas.¹⁰ This includes at least 250,000 new homes and apartments that were approved in 2019 or earlier but have not yet been built.¹¹ Indeed, the Greater Toronto Hamilton Area has 88,000 acres of already designated new (or greenfield) development lands within existing settlement area boundaries that would meet the region’s entire projected housing demands for the next 30 years.¹²
- Finally, it bears noting that municipal officials are increasing casting doubt on the Task Force Report estimates as not being relevant to their local circumstances. For example, based on the Task Force Report, Ontario assigned the City of Ottawa the housing target of 151,000 new homes by 2031. However, the City’s interim general manager of planning, real estate and economic development stated that this target “is not aligned with Ottawa’s housing needs” and is double the amount of new housing that the city has projected it will require as its population grows over the same period. The city’s staff “have requested clarification on how these targets were calculated and assigned to municipalities”. City staff also indicated that they exceed by 70 percent what provincial ministry of finance projections would suggest are necessary, and if the province is using construction starts as its metric, “then the target for Ottawa is too high”.¹³

C. Conclusions

In short, if there is neither a shortage of already authorized housing starts to accommodate Ontario’s growing population, nor a shortage of already designated land on which to build such homes, there is no need for Bill 23’s root and branch attack on provincial land use planning and conservation authority legislation and policies.

⁹ Dianne Saxe, “Why Urban Sprawl is Ontario’s Oil Sands”, Ontario Professional Planners Institute (February 3, 2020). See also Environmental Commissioner of Ontario, “Urban Sprawl: The Road to Gridlock,” in *Energy Conservation Progress Report* (2019) at 130-173.

¹⁰ Report of the Ontario Housing Affordability Task Force, (February 8, 2022) at 10.

¹¹ Anne Bell, “The Housing Crisis: What You Need to Know”, *Ontario Nature* (April 8, 2022) (referring to Berry Vrbanovic, *et al.*, “Waterloo Region mayors call for collaboration to fix housing crisis”, *The Waterloo Region Record* (January 18, 2022)).

¹² Phil Pothen, Media Backgrounder, “Housing Affordability and the Provincial-Municipal Housing Summit”, *Environmental Defence Canada* (January 2022) at 1.

¹³ Taylor Blewett, “City of Ottawa staff have analyzed the local impacts of the province’s new housing bill, and their conclusions are grim”, *Ottawa Citizen* (November 8, 2022).