

# ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

Unit "A", 135 Church Street, North, Mount Forest, Ontario, N0G 2L2

Phone: (519) 323-2308 / Fax: (519) 323-0289

E-Mail: [opera@bmts.com](mailto:opera@bmts.com) / Web Page: [www.bmts.com/~opera/](http://www.bmts.com/~opera/)

---

## **ONE MORE REVIEW = LOTS MORE REGULATION**

October 15, 2010

Provincial Policy Statement Review  
Ministry of Municipal Affairs and Housing  
Provincial Planning Branch  
777 Bay Street, 14<sup>th</sup> Floor  
Toronto, Ontario, M5G 2E5

### **REGISTERED MAIL**

Ladies and Gentlemen:

### **Re: Ontario Land Use Planning System**

The Ontario Property and Environmental Rights Alliance (OPERA) is a coalition of private sector organizations and individuals launched at Trent University in 1994 with a mandate to identify and promote landowner rights in this province. Accordingly, in addition to filing submissions with several Ontario Ministries and the Canadian Senate, OPERA has participated in numerous land use workshops, seminars and hearings over the past 16 years.

Core reservations that arise from the political origins and resulting shifts in Provincial Policy Statement (PPS) objectives raise 5 issues that OPERA believes erode public confidence and trust in Ontario's land planning system, an integral part of the PPS. These concerns are briefly stated and addressed as follows:

#### **1. Accountability:**

*Problem:* Land use planning is part of the PPS and therefore a responsibility of the Minister of Municipal Affairs and Housing but several other Ontario Ministries (i.e. Agriculture, Environment, Natural Resources, etc.) each maintain extensive land planning bureaucracies as well. The aggregate cost and collective performance of these duplicated fiefdoms is never published and any of their decisions can be arbitrarily overruled by the MMAH Minister under Section 3 of the Planning Act, a dangerously narrow concentration of veto muscle.

*Resolution:* Remove land use planning and Ministerial veto from the PPS and provide an annual listing of every provincial agency that employs personnel and consumes public funds in that activity, ensuring the overview includes name and title of management and staff assigned to land use planning in each such agency.

#### **2. Clarification**

*Problem:* Multi-agency land use planning with its attendant blizzard of documentation subtly introduces code words and phrases that speak to greening landscapes but conceal steady attrition of democratic rights and freedoms. "Protection" of "natural heritage" by "stewards" and "stakeholders" doesn't offer definitive translation/explanation of those terms. Nor do they acknowledge the pervasive reality and less benevolent sub-text of provincial statutes that compel affected landowners to cede economic control of their private property to the Ontario government without advance notice, appeal or compensation.

There gentle persuasion is replaced with intimidating threats of legal proceedings in which offenders are held to “strict liability” but cynically invited to prepare and pay for a “due diligence” defense against quarter million dollar daily fines and concurrent jail terms for alleged infractions.

*Resolution:* Publish a composite government glossary of words and phrases frequently employed in provincial land use planning and include the dictionary translation for each. Random examples of language that obscures intent and consequences are listed above. We suggest “natural heritage” can mean anything senior bureaucrats want it to mean, “strict liability” is sly legalese for guilty until proven innocent and “due diligence” translates as implied expectation that alleged offenders will pre-plan their legal vindication and fully cover stratospheric witness and research costs thereby accruing. Apart from preparation expense, these costs are also trial related and, in event of acquittal, are multiplied by the number of government appeals filed. Whether diligent or not, any defense is vigorously opposed by the consolidated weight and taxpayer resources of Big Brother government.

### **3. Communication:**

*Problem:* On the completely erroneous Queen’s Park assumption that Internet dialogue provides sufficient public consultation and language of maximum elasticity such as “stakeholder” and “the common good” ensure adequate public awareness, Ontario’s taxpayers wrestle, knowingly or otherwise, with land use statutes that evade the rule of law, violate natural justice and deny right of appeal or compensation.

*Resolution:* Issue detailed media announcements of each legislative enactment that affects private property (mandatory Ontario Hydro public notices are a case in point), including a complete menu of penalties awarded for alleged neglect, violation or non-compliance, and enclose that information in annual municipal tax assessment notices supported by interim circulation in various print media and trade publications.

### **4. Equality:**

*Problem:* Not only is land use legislation in Ontario extensively influenced by organized cartels of powerful Non-Government Organizations (NGOs) but, within the hugely profitable environmental industry, some of those groups “win” government consultant contracts. At the same time their executives enjoy revolving-door appointments to provincial boards, commissions and think-tanks that further dilute the shrinking economics of private land ownership in the name of ecological preservation.

*Resolution:* Appoint to each provincial land use board, committee and tribunal a bona fide, non-Aboriginal private landowner for every delegate representing an NGO directly or indirectly receiving public funds and annually publish the corporate identity and Board of Directors of those organizations together with a listing of land use issues to which each provided advice and counsel over the preceding 12 months.

### **5. Perception:**

*Problem:* Land use planning “adjustments” under the umbrella of a PPS Review are ideologically driven by the political party (and its stable of bureaucrats and consultants) forming the government of the day. Further, a PPS review every 5 years imposes heavy costs and administrative grid lock on all municipal Official Plans in Ontario. As there is no municipal subsidy for planning staff time, consultants and lawyers required to approve OP modifications arising from these reviews, local property taxpayers are actually paying for implementing shifts in PPS thrust and direction.

Meanwhile, no PPS review or its land use planning segment has ever included a provision for compensation to private landowners who sustain equity and/or production losses arising from statutory “partial takings” of their property. Finally, no edition of the PPS has ever been independently evaluated for performance and effectiveness or subjected to an impartial cost-benefit analysis.

*Resolution:* Terminate preparation and circulation of a PPS, a highly politicized expression of ever-changing provincial strategies, and either properly co-ordinate land use planning through multiple agencies or, preferably, assign exclusive authority and responsibility for that indispensable function to a single Ministry. In either case, pending ratification of statutory land ownership rights by the Ontario legislature, the Planning Act as well as all statutes and protocols to which it relates will each benefit from an opening Preamble assuring Ontario citizens that the document being presented is not designed or intended to circumvent the Expropriation Act nor reduce mortgage worth or market value of affected lands without individual notice, advance consultation and, where indicated, capital compensation for production and/or equity loss thereby imposed.

### **Overview**

Every sector of the Ontario economy is negatively affected by well-intentioned but clearly unbalanced land use planning. Moreover, this essential government initiative has been prostituted over the past 40 years by special interests whose obsessive opinions are retailed as proven science and whose program funding, official or otherwise, is too often nourished by political complicity. The resulting labyrinth of repetitious make-work studies and assessments followed by layers of multi-agency regulations provides employment and indexed pensions for legions of public servants while ensuring a bright and prosperous future for their favorite NGOs.

But it also frustrates small business start-ups, impoverishes rural communities, creates social and economic tension, undermines municipal government, demeans private enterprise, shrinks foreign investment, increases unemployment and multiplies Ontario debt and interest charges. Amid current and growing evidence of corruption and enormous waste in some provincial agencies, the millions of taxpayer dollars showered on ballooning bureaucracies and special interest consultants living on the avails of land use planning demand not only a public accounting but also stricter parameters of transparency and an end to regulatory over kill.

We appreciate this opportunity to present, with respect, the views summarized above and trust they will be found pertinent and useful. In addition to registered surface mail, please note this OPERA submission has also been electronically forwarded to [PPSreview@ontario.ca](mailto:PPSreview@ontario.ca)

Yours truly

R.A. (Bob) Fowler, Secretary  
Ontario Property and Environmental Rights Alliance

c.c. Premier Dalton McGuinty  
Ministers of Agriculture, Environment and Natural Resources  
Land Use Council  
OPERA Web Site