ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

Unit A, 135 Church Street, North, Mount Forest, Ontario, N0G 1R0
Phone: 519-323-2308 / Fax: 519-323-0289 / E-Mail: opera@bmts.com / Web Page: www.bmts.com/~opera/

FAX TO: Municipal Councils across Ontario

FROM: R.A. (Bob) Fowler OPERA Secretary

DATE: February 18, 2006

NO. OF PAGES: Two (2)

RE: Land Use Planning by Conservation Authorities

OPERA is a provincial coalition of private sector organizations mandated in 1994 "to protect, and entrench in law, landowner rights and responsibilities against arbitrary decisions and restrictions of government". As a research and communication facility we monitor regulatory proscriptions by federal and provincial agencies that affect the lives and property of Ontario residents. However commendable their stated intent, many of these decrees not only ignore social and economic diversity but often undermine the mandate and authority of locally elected municipal officials as well.

Almost seven years ago the Ontario Red Tape Reduction Act required provincial Ministries to reduce accumulated layers of regulatory excess. While ostensibly complying with that legislation, the Ministry of Natural Resources (MNR) introduced a less convoluted Conservation Authorities Act (CAA) but one that awarded more, not less, interpretative scope and license to its field administrators and enforcers. For example, the topographical limits of Ontario's 36 regional Conservation Authorities (CA) activities were expanded from "flood plain" to "watershed" land use planning. In 2004 that quantum leap in operational scope was enriched in the new Act with a Section 28 that covers permitted Authority activities under a "generic" Regulation 97/04.

In 2005 OPERA delivered submissions to a provincial Standing Committee with respect to government control by regulation without compensation of more than a million acres of Ontario real estate, much of it privately owned, designated as the Golden Horseshoe Greenbelt. The ink on that arbitrary legislation was hardly dry when we found subtle manipulation of the newest CAA that would increase regulatory powers of participating CAs in Ontario by "adjusting" its generic Regulation, a mutation never publicly discussed or approved.

Here are ten abbreviated highlights of this covert attempt to further micro-manage land use planning across Ontario and, in the process, impose additional costs and restrictions on municipal councils and all taxpayers:

1. ***CAs are, by legislation, the servant, not the master, of their local municipal councils which nevertheless can, in some instances, be unduly influenced by the recommendations of CA staff.***

2. ***Section 28 of the CA Act mandates a "generic" Regulation to specify what CAs can and can't do in regulating land use to more effectively control natural hazards such as flooding.***

3. ***Following comments to a Standing Committee in 1998 and in later discussions with MNR officials, OPERA understood a single generic Regulation would apply to all CAs in Ontario.***

4. ***In late summer 2005 Conservation Ontario, the "umbrella" voice of all CAs, counseled its members to <u>each</u> submit generic Regulation that would redefine "wetland" preservation.***

5. ***By cherry-picking wetland definitions from the CA Act, Planning Act and Provincial Policy Statement, generic Regulations thus customized award more planning clout to individual CAs.***

6. ***The CA Act under which CAs are supposed to function defines "hazard" wetlands but doesn't include "heritage" wetlands, a crucial distinction being ignored in hybrid generic Regulations.***

7. ***Elasticized translation of "other areas" in the Act as "adjacent lands" in a generic Regulation means no structure can be erected within 400 feet of any wetland without Ministerial approval.***

8. ***A 400 feet (120 meter) no-building zone around, for example, a one acre wetland transfers a total of 23.5 acres to CA regulatory control, a built-in multiplier seldom, if ever, mentioned.***

9. ***Blending a wetland definition from 3 different statutes and leaving translation of "other areas" to Ministerial or legal opinion were not on the agenda at public meetings to review the CA Act.***

10. ***Marriage of "hazard' and "heritage" wetland definitions and flexible meaning of "other areas" in generic Regulations is not satisfactorily explained in recent MNR comments to OPERA.***

All Ontario municipal councils and their CA representatives may not be fully aware of current MNR efforts to award more power to regional CAs. Nor of resulting displacement of municipal planning activities combined with increased property taxes those efforts, if successful, will surely create. Small wonder Ontario citizens are increasingly wary of top-down government protocols that, sooner or later, impinge on their lives and property. Pertinent comments and information concerning pervasive state manipulation of use, title, mortgage worth and market value of privately owned rural land is posted on our web site at www.bmts.com/~opera/

Your Council may wish to carefully examine the 1997 revised Conservation Authorities Act and its Regulation 97/04 in order to provide your constituents with an impartial overview of local CAs. Such a report might separately itemize CA administrative and operational costs with municipal tax levies thereby incurred as well as the role of Authority staff in shaping and enforcing local land use planning decrees.

To that end, OPERA has prepared an Information Package that addresses some of the issues and concerns arising from the Act, particularly it's Section 28 where an elasticized generic Regulation may reside. The material is available to your Council on request at no charge, although any contribution to the ongoing costs of this and other OPERA public service initiatives would be much appreciated.