

# ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

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## DROWNING IN GOVERNMENT RED TAPE

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In lieu of a response to each proposed change in the 2012 Provincial Policy Statement (PPS), the following commentary raises five issues seen to compromise Ontario's Planning Act, one of its major components.

### **1. Accountability:**

*Focus:* As part of the PPS, land use planning is 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 but 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.

*Remedy:* Delete land use planning and Ministerial veto from the Policy Statement and annually provide a listing of every provincial agency that employs personnel and consumes public funds in that activity.

### **2. Clarification**

*Focus:* Multi-agency land use planning subtly introduces code words and phrases that speak to modifying landscapes but conceal steady attrition of democratic rights and freedoms. For example, "protection" of "natural heritage" by "stewards" and "stakeholders" are subjective terms not otherwise defined. Nor do they acknowledge regulations that compel affected landowners to cede economic control of their property to the Ontario government without appeal or compensation. Accompanying threats of legal proceedings wherein offenders are held to "strict liability" while invited to prepare and pay for a "due diligence" defense against million dollar fines and concurrent jail terms are similarly circumspect.

*Remedy:* Publish a composite 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. "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 gratuitous government appeals filed. Diligent or not, any defense can be, and usually is, vigorously opposed by the consolidated weight, public funding and coercive authority of provincial agencies.

### **3. Communication:**

*Focus:* On the completely erroneous Queen's Park assumption that Internet dialogue provides sufficient public consultation and elasticized terminology such as "stakeholder" and "the common good" ensure adequate public awareness, Ontario's taxpayers face government-inspired land use manipulations that circumvent the Expropriation Act, evade the rule of law, violate natural justice and deny the right of appeal or compensation.

*Remedy:* Advertise each legislative enactment that affects private property (example: mandatory Hydro One public notices) including a complete menu of penalties awarded for alleged neglect, violation or non-compliance, and routinely enclose that information in annual municipal tax assessment notices supported by interim circulation in various print media and trade publications.

#### **4. Equality:**

*Focus:* Not only are land use statutes in Ontario influenced by organized cartels of powerful Non-Government Organizations (NGOs) but, within the hugely profitable environmental industry, many of those same groups are periodically awarded single-sourced government consultant contracts. Moreover, their executives routinely enjoy revolving-door appointments to provincial boards, commissions and think-tanks whose mandate and proclamations dilute private land ownership in the name of ecological preservation.

*Remedy:* Appoint to each provincial land use board, committee and tribunal a bona fide, non-Aboriginal private landowner for every delegate representing an NGO that's 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 to government agencies over the preceding 12 months.

#### **5. Perception:**

*Focus:* 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 (OP). As these reviews provide no municipal subsidy for planning staff time, consultants and lawyers required to approve resulting OP modifications, local taxpayers are, in effect, funding provincially-dictated shifts in thrust and direction of land use policy. Meanwhile, no PPS review or its land use planning segment has ever included a provision for compensation to citizens who sustain equity and/or production losses arising from statutory "partial takings" of their property. Nor has any edition of the PPS ever been independently evaluated for performance and effectiveness or subjected to an impartial cost-benefit analysis.

*Remedy:* Terminate preparation of a PPS as such and either properly co-ordinate land use planning through multiple agencies or, preferably, assign exclusive responsibility for that important function to a single Ministry. In either case, the Planning Act as well as all statutes and protocols to which it relates will benefit from an opening Preamble assuring Ontario citizens that any document being presented is not designed or intended to circumvent the Expropriation Act. Nor reduce mortgage worth or market value of affected lands without advance consultation and, where indicated, capital compensation for production and/or equity loss thereby imposed.

#### **Overview**

Every sector of the Ontario economy is affected by the provincial PPS. Unfortunately, this ever-changing mosaic of Queen's Park strategies has been infiltrated over the past 40 years by special interests whose obsessive opinions are retailed as proven science and whose mandate and funding are too often nourished by political complicity. The resulting labyrinth of repetitious make-work studies and assessments followed by layers of multi-agency regulatory red tape 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 business start-ups, impoverishes small 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 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.

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