

Planning and Development Council Meeting
December 5, 2022

Comments Received Regarding Item 6.3
Official Plan Amendments

Town-initiated, Town wide
Bill 109 - *More Homes for Everyone Act*, 2022
File No. 42.24.26

From: [Lingard, Norman](#)
To: [Charles McConnell](#)
Cc: [Town Clerks](#)
Subject: Town- initiated Official Plan Amendments re: Bill 109
Date: Thursday, November 24, 2022 10:14:25 AM
Attachments: [image001.jpg](#)

SECURITY CAUTION: This email originated from outside of The Town of Oakville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Charles,

Bell Canada thanks you for the opportunity to participate in the Town of Oakville's OPA review process for Bill 109.

About Bell Canada

Bell Canada is Ontario's principal telecommunications infrastructure provider, developing and maintaining an essential public service. The Bell Canada Act, a federal statute, requires that Bell supply, manage and operate most of the trunk telecommunications system in Ontario. Bell is therefore also responsible for the infrastructure that supports most 911 emergency services in the Province. The critical nature of Bell's services is declared in the Bell Canada Act to be "for the general advantage of Canada" and the Telecommunications Act affirms that the services of telecommunications providers are "essential in the maintenance of Canada's identity and sovereignty."

Provincial policy further indicates the economic and social functions of telecommunications systems and emphasizes the importance of delivering cost-effective and efficient services:

- The 2020 Provincial Policy Statement (PPS) requires the development of coordinated, efficient and cost-effective infrastructure, including telecommunications systems (Section 1.6.1).
- Section 1.7.1 I) of the 2020 PPS recognizes that "efficient and coordinated telecommunications infrastructure" is a component of supporting long-term economic prosperity.
- We note that the definition of infrastructure in the 2020 PPS is inclusive of communications / telecommunications, which is indicative of the importance in providing efficient telecommunications services to support current needs and future growth (Section 1.6.1).
- Furthermore, the 2020 PPS states that infrastructure should be "strategically located to support the effective and efficient delivery of emergency management services" (Section 1.6.4), which is relevant to telecommunications since it is an integral component of the 911 emergency service.

To support the intent of the Bell Canada Act and Telecommunications Act and ensure consistency with Provincial policy, Bell Canada has become increasingly involved in municipal policy and infrastructure initiatives. We strive to establish partnerships which allow for a solid understanding of the parameters of Bell's infrastructure and provisioning needs and the goals and objectives of the

municipality related to utilities.

Comments on the Official Plan Amendment

We would like to thank you for the opportunity to be included in this process and the Town of Oakville’s recognition of the importance of telecommunications and broadband infrastructure as critical components to the development and economic viability of the Town of Oakville. As such, to facilitate the provisioning of this infrastructure, we appreciate Oakville’s continued support in ensuring that sufficient notice and time to comment on planning applications are provided, particularly for Draft Plan of Condominium, Draft Plan of Subdivision and Site Plan Control/Approval. This ensures an understanding by applicants of Bell’s conditions and provisioning requirements.

Bell would also emphasize that receiving engineering and servicing/utility plans/drawings, as soon as possible in the process, assists in the development and expedition of our provisioning plan. As a result, we would strongly recommend that this consideration be highlighted in any pre-circulation/consultation meetings with prospective applicants. This will assist Bell in providing comments and clearance letters in an efficient manner, assisting the Municipality in meeting approval times. Such drawings should be submitted to: planninganddevelopment@bell.ca by the applicant/their agents.

Future Involvement

We would like to thank you again for the opportunity to comment, and would request that Bell continue to be circulated on any future materials and/or decisions released by the Town in relation to this initiative. Please forward all future documents to circulations@wsp.com and should you have any specific questions, please contact the undersigned.

Yours truly,

Norm Lingard
Senior Consultant – Municipal Liaison
Network Provisioning
norman.lingard@bell.ca | ☎ 365.440.7617



Please note that WSP operates Bell Canada’s development, infrastructure and policy tracking systems, which includes the intake and processing of municipal circulations. However, all responses to circulations and requests for information will come directly from Bell Canada, and not from WSP. WSP is not responsible for the provision of comments or other responses.

From: [psauvageot psauvageot](#)
To: [Town Clerks](#)
Subject: Planning and Development Council Meeting of Dec 5th
Date: Monday, November 14, 2022 1:03:58 PM

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Hi Vicki,

Hope you are keeping well. I would like to attend the Planning and Development Council meeting on December 5, 2022. Specifically, I plan to address the items relating to the proposed [OPA 53](#) and proposed [OPA 329](#).

The following areas need to be addressed by staff in the Planning Services Department and Legal Department before this meeting:

OPA 329: By-law 2022-122

Item 2 Part F Section 1.7 a)

Why was the word "may" change to "should"? This word needs to be changed to "shall".

If the town's Planner disagrees with this change, the legal should be consulted to determine if there is a difference between the words "should" and "shall", especially with respect to legal matters.

Item 4 Part F Section 1.7 b)

How will the town ensure the applicant conducts the public information meeting?

Can an additional section be added, such as, v) Notice shall be given to the town prior to the date of the meeting.

OPA 53: By-law 2022-123

Same issues as above should be addressed by staff.

Please let me know if you need any clarifications.

Regards.

Pierre

From: [Victoria Mortelliti](#)
To: [Town Clerks](#)
Cc: [Gabe Charles](#); [Charles McConnell](#); [Shane Cooney](#); [Kevin Singh](#); [Paula Tenuta](#); [Danielle Binder](#); [Victoria Mortelliti](#)
Subject: BILD SUBMISSION -Town-initiated Official Plan Amendments – Bill 109 - More Homes for Everyone Act, 2022 File No. 42.24.26 – By-laws 2022-122 and 2022-123.
Date: Friday, December 2, 2022 11:22:53 AM
Attachments: [image001.png](#)
[TOWN OF OAKVILLE RESPONSE TO BILL 109_BILD SUBMISSION.pdf](#)

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Hello,

On behalf of our Halton Chapter members, BILD respectfully submits the following the letter regarding *Item 6.3 Public Meeting and Recommendation Report – Town-initiated Official Plan Amendments – Bill 109 - More Homes for Everyone Act, 2022 File No. 42.24.26 – By-laws 2022-122 and 2022-123* as presented on the December 5th Planning and Development Council agenda.

We kindly ask that this correspondence is sent to members of Council in advance of Monday’s meeting.

Should there be any questions or points of clarification please let me know.

Thank you,

Victoria Mortelliti, MCIP, RPP
Manager, Policy and Advocacy
647-405-2913



Building Industry and Land Development Association

2005 Sheppard Avenue East | Suite 102 | Toronto, ON M2J 5B4

[bildgta.ca](#) | [renomark.ca](#) | [torontohomeshows.com](#)

December 2, 2022

Mayor Rob Burton and Members of Council

Town of Oakville
1225 Trafalgar Road
Oakville, ON
L6H 0H3

Sent via email to TownClerk@oakville.ca

RE: TOWN OF OAKVILLE RESPONSE TO BILL 109 AND AMENDMENTS TO THE PLANNING ACT

Statutory Public Meeting and Recommendation Report - Town-initiated Official Plan Amendments - Bill 109 - More Homes for Everyone Act, 2022 File No. 42.24.26 - By-laws 2022-122 and 2022-123

The Building Industry and Land Development Association (BILD) is in receipt of the staff report dated November 22, 2022 and entitled Town-initiated Official Plan Amendments - Bill 109 - More Homes for Everyone Act, 2022 File No. 42.24.26 - By-laws 2022-122 and 2022-123.

We would like to thank staff for presenting this item to us on December 1st through the Town's Developer Liaison Committee. We are submitting this information by the Town's commenting deadline of December 2nd, and prior to Town Council's consideration of the item for approval.

On behalf of our Halton Chapter members, BILD appreciates the opportunity to provide the following comments regarding this work.

Reflecting on *Bill 109, More Homes for Everyone Act, 2022*

We acknowledge that the purpose of *Bill 109, More Homes for Everyone Act, 2022* is to increase housing supply and choice for families and individuals across the province. According to the provincial government, Bill 109 is an attempt to implement some of the Housing Affordability Task Force's recommendations, as outlined in a report released in February this year. We also understand that we all have a role to play to ensure that the true intentions of this Bill are carried forward correctly.

The key amendment we are addressing through this correspondence is the proposed changes to the approval process for zoning by-law amendment and site plan applications, which would require municipalities to refund application fees on a graduated basis (i.e. 50%, 75% or 100% depending on the number of days following the application) if a decision is not made within the legislative timelines. This change would apply to applications made on or after January 1, 2023. The intent of this change is to incentivize municipalities to make timely decisions.

General Sentiments of the Legislative Timelines Amendment

BILD and our members recognize the pressure that this amendment creates for municipalities to uphold the legislative timelines that have lengthen over the years. We also recognize that BILD members too have a role to play to be in keeping with the timelines by being timely with their responses to application comments and other requests for information. With this amendment, both the industry and the municipalities have a collective interest to meet the timelines; developers' project proformas are based on municipal timelines as well, and any

delay in the approval process can result in carrying costs incurred by our members and violations associated to purchase and sale agreements.

BILD's Response to the Town of Oakville's Approach

As identified in the aforementioned staff report, and something that has been explored by some municipalities is the approach to frontload substantive issues that are identified in the project proposal prior to deeming an application complete. With the Town of Oakville, two options are being presented to applicants.

- Option 1 is a *Single Circulation Review Process* that cites no ability for multiple circulations so recommendations to Council by staff will be based on one submission. Based on the wording in the report, staff can only review an application once in 90-120 days so issues won't be able to be addressed prompting staff to recommend that Council deny the application when time runs out.
- Option 2 is a *Voluntary Pre-submission Review Process* that due to the phrasing of Option 1 is involuntary and would be the option for applicants if they want a more successful chance at avoiding Council refusal. Both options, especially Option 2, front-load substantive issues in a project proposal and require that an applicant must ensure that a development application is complete prior to the start of the 'clock' of the legislative timeline.

BILD and its members believe that parsing out large segments of the development application process before allowing the 'clock' to start on the legislative timelines is not in keeping with the spirit and intent of the legislation. It effectively removes the bulk of the process that would take the majority of the time to address in a typical development application.

As part of Bill 109, municipalities must adhere to the legislative timelines for the approval of a development application. As a matter of law, any policies or procedures that aim to circumvent or delay the typical timeline should be avoided. That means that municipalities must ensure that the application timeline is triggered once an application has been submitted. It also means that delaying the date that the clock starts on an application, through the pre-application or otherwise should also be avoided.

With respect to the proposed additional public engagement, BILD agrees that public engagement is critical to the development review and approval process. Many of our members across the GTA already conduct early consultation and feedback prior to the submission of a formal application. However, any extra-statutory pre-application consultation must remain voluntary, as a municipality cannot use this process as a means to prevent the lawful submission of an application and the commencement of applicable review periods under the Planning Act. Further to this, BILD is concerned that relying solely on public comments prior to the submission of a complete application is premature and will add complexities to the process. Specifically, allowing for public input on Planning Rationales, traffic reports, and other supporting documents will cause unwarranted confusion prior to an application being deemed complete.

With respect to these themes, please find the enclosed correspondence from Cassels regarding the municipal implementation of Bill 109 on the topics of pre-application, complete application requirements and potential waivers.

Additional Considerations

Prioritizing Applications Submitted after January 1, 2023

BILD is concerned with the Town's interpretation that an implication of Bill 109 would be that any application submitted after January 1, 2023 would be prioritized over existing applications already submitted to the Town. Applications submitted before January 1, 2023 must be reviewed in the order they were submitted provided that developers are paying fees with the expectation that equal service will be provided. The Town must investigate a more meaningful way to review applications submitted before January 1, 2023 instead of putting them to the side.

"Unbundling" Applications

Municipalities that currently have concurrent planning application processes (OPA, SBA, SPA) should not unbundle them into sequential applications in order to allow for additional time to process applications. This is not keeping with the spirit and intent of the legislation.

Development Application Review Fees

We acknowledge that the Town is continuing to investigate relevant changes to the Town's fee structure affecting development and site plan applications. The removal, addition or change in any fees affecting the industry must be accompanied with consultation. As well, consideration must be given for the investigation of fees outside of the legislative requirements within *the Planning Act*

Final Sentiments

As an industry, we would like to move forward with all our municipal partners to create a system of enhanced trust and collaboration that has clearly been eroded over the years and is diminishing our collective success. We want to continue to work with you, as our partners in prosperity and community building, to develop a transparent and cooperative development application process that works for all parties.

Understanding that this is a seismic shift in process, it will take some time to identify best practices and create efficiencies. Some initial thoughts in this regard are to pre-qualify consultants such that there would only need to be cursory review of submitted materials and limiting council override on professional recommendations. The Town's Terms of Reference exercise may lend itself to this effort.

We hope these process changes will be the start of new way of thinking and working together that will benefit current and future generations. Thank you again for the opportunity to submit these comments. We trust that you will take them into careful consideration and we look forward to the outcome of this work.

Kind regards,



Victoria Mortelliti, RPP, MCIP
Manager of Policy & Advocacy



CC: Kevin Singh, BILD Halton Co-Chair
Shane Cooney, BILD HaltonCo-Chair
Paula Tenuta, SVP, BILD
Danielle Binder, Director, BILD
Members of the BILD Halton Chapter

The Building Industry and Land Development Association is an advocacy and educational group representing the building, land development and professional renovation industry in the Greater Toronto Area. BILD is the largest home builders' association in Canada, and is affiliated with the Ontario Home Builders' Association and the Canadian Home Builders' Association. It's 1,500 member companies consists not only of direct industry participants but also of supporting companies such as financial and professional service organizations, trade contractors, as well as manufacturers and suppliers of home-related products.



December 2, 2022

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File: 51989-3

Dear Ms. Binder,

Re: Bill 109 Implementation and the Pre-Application Process

You have asked us to consider generally the amendments to the pre-application consultation process a number of municipalities are proposing in response to Bill 109, *The More Homes for Everyone Act, 2022*. Commencing January 1, 2023, an increasing portion of application fees will be refundable if a municipality fails to make a decision within the applicable statutory timelines. We understand a number of municipalities are considering an enhanced pre-application process of detailed submissions, technical review and comment, and broader councillor and community engagement, prior to submission of an application under the *Planning Act* and the commencement of the statutory review period.

Bill 109 represents the first step in the Province's implementation of the recommendations of the Ontario Housing Affordability Task Force Report, meant to reduce overall cost, delay and cut red tape to achieve the goal of delivering 1.5 million new homes over the next 10 years. The clear purpose of the amendments is to encourage faster decisions to facilitate the delivery of housing.

We anticipate that enhanced consultation and cooperation between applicants and a municipality will be required in order to meet the timeframes imposed by the *Planning Act*, and that in many cases, applicants would prefer continued collaboration rather than a refusal and the need to pursue appeals to the Ontario Land Tribunal. There may be many applicants who will welcome early consultation and feedback prior to submission of a formal application. However, in our view, any such extra-statutory pre-application process must remain voluntary and a municipality cannot use this process as a means to prevent the lawful submission of an application and the commencement of the applicable review periods under the *Planning Act*.

Limits to the requirement to consult

Applicants have a statutory right to submit development applications to the applicable authority and to have these considered in accordance with the *Planning Act*, as well as other applicable policy and legislation. The only statutory pre-condition that a municipality may impose is a requirement to consult with the municipality prior to the submission of an application. In our view, the ordinary meaning of "consult" must be applied to determine the scope of permissible

pre-application requirements, commonly defined as seeking information and advice from another. Accordingly, the purpose and intent of this pre-application step is for municipalities to provide preliminary direction and advice in advance of the submission of a formal application and the commencement of the statutory review process and in our view does not include the ability to impose a non-statutory pre-application regime outside of the *Planning Act* or to otherwise prevent an applicant from exercising its statutory right to make an application.

Further, it is our view that the authority to require mandatory consultation with a municipality or planning board does not extend to mandatory consultation with review agencies, members of the public, or other persons and public bodies. The *Planning Act* has established these as municipal requirements and neither a plain and ordinary meaning or purposive interpretation of the *Planning Act* supports the imposition of additional requirements through the consultation process.

As stated by the then Ontario Municipal Board in *Top of the Tree Developments Inc, Re, 2007 CarswellOnt 7921*:

Yes, a Municipality can surely demand for materials and the information in the course of an evaluation of an application at any given time. There is and never was a legislative impediment for it to do so via its policy in an Official Plan. But the Municipality cannot demand it for the purpose of a complete application, and only pursuant to some tangential policy.

Limits on complete application requirements

While municipalities have the authority to require “other information and material” beyond the requirements prescribed under the *Planning Act*, such additional requirements for complete applications must be contained in adopted and in force official plan policies. Importantly, such requirements are limited to the submission of “information or material” and not a means to impose additional steps or processes, such as peer reviews or consultation, that a municipality does not have authority to impose directly.

Waiver Agreements

A number of municipalities have proposed a form of agreement for the withdrawal and resubmission of an application prior to the expiry of the legislated review period. In our view, while an agreement will not be enforceable to override statutory consequences, a voluntary agreement to withdraw an application in advance of a refund deadline may be possible, together with associated amendments to any applicable fee by-laws. However, we caution that the withdrawal and resubmission of an application will have significant implications under various statutes beyond the *Planning Act*, including but not limited to the *Ontario Heritage Act* and *Development Charges Act 1997*, that parties should be mindful of.

In summary, in our view, the establishment of additional mandatory requirements for submissions and engagement before otherwise valid applications will be received by a municipality for the purpose of preventing the statutory review period under the *Planning Act*

from commencing is contrary to the purpose and intent of the *Planning Act*, as amended, and beyond the authority of municipalities in Ontario and may be subject to judicial review.

We trust the foregoing is sufficient for your purposes. We would be pleased to respond to any further questions or concerns.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in cursive script, appearing to read 'S.L.', is positioned above the typed name and title.

Signe Leisk
Partner

SL/AP