

Legislative Assembly of Ontario First Session 38<sup>th</sup> Parliament Official Report of Debates  
(Hansard) Monday 20 September 2004—Standing committee on general government  
Strong Communities (Planning Amendment) Act, 2003

20 SEPTEMBRE 2004

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

G-473

1030

**The Chair:** The government side.

**Mrs Van Bommel:** Thank you very much for your presentation. I should note for you that section 2 of the Planning Act, which details provincial interests, already mentions education. So I take it from your presentation that you want more involvement in the provincial policy statement or something more specific in the act. Could you tell me exactly what you're looking for?

**Mr Carroll:** We're looking for something much more direct and that education will actually be considered by the municipality in the development of its official plan and the impact. Of course, out of that flows all the bylaws and the permit processes and committees of adjustment etc. So we're looking for a much stronger statement.

**The Chair:** Thank you very much for taking the time to address your concerns to the committee.

RENEE SANDELOWSKY

ALLAN ELGAR

**The Chair:** We'll move on to Renee Sandelowsky and Allan Elgar. Please come up to the table.

**Mr Shafiq Qadri (Etobicoke North):** Didn't you miss somebody, Mr Chair?

**The Chair:** They're not here yet. We're ahead of time.

You have 15 minutes. You can take the whole 15 minutes or leave some time at the end for questions from the three parties. Welcome to the committee.

**Ms Renee Sandelowsky:** I'm just going to take half the time and Allan will take the other half, if that's OK. We discussed that before with Tonia.

Thank you very much for the chance to speak. My name is Renee Sandelowsky. I'm a resident of Oakville as well as a town councillor for ward 4, which is in north Oakville. I'm here today to speak as a resident and as someone who has been disillusioned with the way planning is currently managed in Ontario.

In my opinion, the system works really well if you are a developer or another special interest. Too often, I find it is the special interests, those whose only bottom line is profit, who gain from the way we plan in Ontario. It is the regular people who suffer, because it is the quality of our lives and of our children's that is being compromised.

Obviously, I don't have time now to give you all my comments, so I would just like to make a few points about the OMB and the provincial policy statement.

Regarding the OMB, I would abolish it altogether and start over with a new appeal board that people can have confidence in, because if you had designed the OMB with the actual intention of making it totally user-friendly, I don't think you could have done a better job. I spent last summer at the OMB with Oakvillegreen, a grassroots, all-volunteer environmental group, appealing Oakville's decision to develop north Oakville. I can

tell you from first-hand experience that it was frustrating and intimidating. If the province really wants residents to get a fair hearing, then there must be a level playing field. In my opinion, there is absolutely no way an individual or a group of volunteers can successfully fight against corporations and their high-priced lawyers the way the system is currently set up, particularly with the threat of costs hanging over our head. Certainly intervenor funding would be a good start to help solve the problem.

Regarding the provincial policy statement, the vision for Ontario's land use planning system states that "the long-term prosperity and social well-being of Ontarians depend on maintaining strong communities, a clean and healthy environment and a strong economy." For the last five years that I've been actively involved in community issues, I've got to tell you that I found "a clean and healthy environment" to be very low on the province's priority list.

When I first read the natural heritage section of the provincial policy statement, where it says in section 2.1.2 that development and site alteration will not be permitted in environmentally significant areas unless it has been demonstrated that there will be no negative impacts on the natural features or the ecological functions for which the area is identified, I was duly impressed. But when I saw the reality of planning decisions, I was mortified. You can't really expect us to believe that the Red Hill Creek Expressway hasn't destroyed acre upon acre of significant lands, that the mid-peninsula highway won't eat up parts of the Niagara Escarpment or that the potential paving over and development of the Trafalgar moraine in Oakville and the headwaters of many of Oakville's major creeks won't have a negative impact on our community. How about the fact that five out of seven environmentally sensitive areas in Oakville have either been destroyed or taken off the list because the qualifying criteria could no longer be met?

Where is this balance that we're supposed to have? I think we need clear definitions and strongly and clearly worded policies and laws that will ensure that development cannot occur at the expense of our natural systems. We need clear and stronger policies and laws regarding health effects of land use decisions. We need stronger policies and laws to ensure a Walkerton can never happen again and to ensure that not one more person will die from causes directly related to our declining air quality.

I applaud this government's initiative in attempting to reform our existing land use planning system. I think what you are doing is a great beginning; however, I believe you should take it further and be stronger and be very clear in your words, because the bottom line is that this system is not working. There is too much ambiguity.

To conclude, there are a couple of very important land use decisions that need to be made in Oakville, and the residents expect that the province will do everything in its power to help us. After all, that's why we elected you.

First, the public owns 1,100 acres of land in north Oakville. These 1,100 acres include the headwaters of 11

streams and approximately 22 wetlands. The town wants to use much of this land for industrial/employment purposes. The people say no. Conservation Halton says no. I, along with many others, expect the province to keep its election promise to protect these lands by donating them to Conservation Halton to be preserved as part of the Golden Horseshoe greenbelt in perpetuity.

Second, I along with many others also expect the province to commit to the protection of our natural heritage system in north Oakville, the system that the province itself helped design, by declaring it an area of provincial interest and doing whatever is necessary to ensure it is protected forever.

Municipalities are extremely vulnerable to development pressure. We need more than weak provincial guidelines that can be interpreted in many different ways. We need concrete, clear provincial policies that are written in law, such as no development in an ESA or an ANSI, period. We need your leadership. Thank you very much.

I'll let Al take the rest of the 15 minutes.

**Mr Allan Elgar:** My name is Allan Elgar. I am a resident of Oakville and a regional and town councillor. I'm speaking on behalf of myself as a person who has been involved in the planning process and witnessed how the current system does not work for the residents.

I am grateful that the government has started to take steps to rectify the gaping holes and weaknesses in the Planning Act, the provincial policy statement and the long overdue reform of the Ontario Municipal Board.

I will be brief and to the point.

On the Planning Act and the planning system, the reforms to the Planning Act through Bill 26 are a step in the right direction. Preventing appeals to the OMB of urban expansions that are opposed by municipal governments is excellent. The increased time available to review applications is a must.

However, the preamble to the Planning Act should state the following: "It is established law in Canada that compensation does not follow land use planning decisions, whether land uses are increased or decreased. Thus landowners are not compensated for decreases in land uses, nor do they have to reimburse the government when they receive an increase in land use made pursuant to the land use planning process."

The Planning Act should provide specific zoning for all woodlots, wetlands, buffers, groundwater recharge and discharge, areas containing flora and fauna etc and natural heritage systems to ensure that these lands are not part of the development envelope.

Environmental assessments should be cumulative environmental assessments. Today it is death by a thousand cuts.

In the provincial policy statements, the consultation paper on the Web site states that "this is a complementary policy document to the Planning Act—it embodies good planning principles and seeks to protect the public interest."

I have to wonder whose public interest they are referring to. In 1998, Environment Canada, the Ontario Ministry of Natural Resources and the Ontario Ministry of the Environment provided guidelines for rehabilitation of habitat in Ontario, where they stated that a watershed should have 30% woodland cover.

In 2001, American Forests recommended that 40% woodland cover should be maintained to benefit air quality due to the function of leaf structures as ozone reaction sites. Retention of forest cover is even more significant on shorelines receiving pollution across the Great Lakes. Because ozone is not depleted over water, ozone concentrations are higher along shorelines.

#### 1040

In 2001, Oakville had only 12.2% woodland cover. In Halton region, if you look at all the land below the escarpment, we had only 12.17% woodland cover.

The province should demonstrate concern for the public health of its citizens by establishing minimum targets in the PPS which would ensure that woodland coverage is increased to a level that will protect residents; for example, 30% to 40% woodland coverage versus the 12.2% and declining in Oakville.

If the Ontario Realty Corp lands in Oakville, which are 445 hectares, were given to the conservation authority and the lands were reforested, our woodlot coverage would be increased by approximately 259 hectares, which would increase our coverage by just 1.86%.

Between 1995 and 2001, our woodland coverage was actually reduced by 180 hectares. We just lost 80% of another woodlot in Oakville a few weeks ago.

Minimum wetland coverage targets should also be included in the provincial policy statements. All moraines should be mapped to ensure that they do not negatively impact groundwater recharge and discharge.

For preserving green space, the province must supply strong guidance on how to map out natural heritage systems with adequate buffers, since the systems we have today do not have any teeth. Whenever I refer to the natural heritage reference manual, I am reminded that it's only for reference purposes.

In part I, the preamble to the PPS should clearly state that if a priority is to be identified, it should be the protection of the natural heritage system and related features and functions. All matters of provincial interest should be equally balanced. The statement should state, "... provides for an appropriate balance to guide growth and development while protecting the quality of the natural environment, resources of provincial interest and public health and safety."

In part IV, "Vision for Ontario's Land Use Planning System," it should be pointed out in the last paragraph that long-term environmental health and social well-being should take precedence over short-term economic prosperity considerations.

In part V, "Building Strong Communities," under "Expansion of Boundaries of Settlement Areas," where boundaries have been expanded prior to an environmental analysis being completed, there can be no assurance

that there will be any development, and natural heritage systems and related features and functions will be protected. It should be stated that land uses and development patterns which may cause environmental or public health and safety concerns will be avoided.

The policy should be revised to acknowledge that the continued maintenance of a 10- to 20-year supply of residential and urban expansion is not appropriate where other aspects of the PPS are considered to be in the public interest. There needs to be flexibility to allow the protection of prime agricultural land to take precedence over urban expansion.

In the natural heritage policy, 2.1.1—"should be maintained, restored or improved, where possible." This type of wording allows the developers to drive a truck through the loopholes.

**On Ontario Municipal Board reform:** In my opinion, their powers should be gutted. Fear of the OMB has forced council to make decisions in haste instead of waiting until information was available to make educated decisions.

I remember hearing at our final meeting prior to the approval of the Oakville official plan amendment, "We have to make a decision due to the fact that we could be at the OMB as early as July," even though environmental studies were not even close to being completed.

Recently, council approved removal of 80% of a small two-hectare woodlot because of fear of the OMB costs.

Currently, in my opinion, the OMB works for the developer but not for the residents who live here. If residents are to have a say, intervenor funding must be provided for the case, and there must be no awarding of costs to residents' groups.

The province must provide the regions and municipalities with the tools necessary to make the proper decisions for the residents, ie, zoning, and appropriate legislation to ensure that the OMB is not able to overturn sound environmental decisions.

In closing, I would ask that you listen to what our provincial leader told us in Oakville in September 2003 and prepare an implementation plan to ensure that north Oakville is protected. The front-page headline was, "McGuinty Would Keep ORC Lands Safe from Developers."

For more specific information related to changes that should be made to the planning reform, I would ask that you visit the following links. I have listed them. I know you don't want me to read them out, but it's [www.escarpment.org/cgi-bin/Other\\_PDF\\_reports/Prov.Policy.Statement.Aug.19.pdf](http://www.escarpment.org/cgi-bin/Other_PDF_reports/Prov.Policy.Statement.Aug.19.pdf). The Niagara Escarpment Commission has prepared some excellent documentation that I really hope everyone here will read and listen to and take direction from.

Thank you very much for listening.

**The Chair:** We have time for one question, which is going to be the government side.

**Mrs Van Bommel:** I want to thank you both for your participation in this process. I wonder, are you aware

that, under the Planning Act, the municipalities have the right to restrict use of natural heritage resources?

**Mr Elgar:** What we are being told by our staff is that we do not have the power to restrict. We have not been given the powers to do that and, therefore, we will not be able to save a natural heritage system, for example. Zoning itself will not do that. They keep saying, "You might have to compensate," and we are saying—I am a firm believer of what you were saying, that compensation is not required, but this is where we have such a huge gap right now in Oakville. It's a major concern. So if you can give us exactly where we can apply it, I would love to get that information so I can take it back to council.

**Mrs Van Bommel:** Well, certainly, we'll make sure we get that to you. Also, you mentioned intervenor funding. Could you tell me who you think should qualify for intervenor funding?

**Mr Elgar:** What is referred to at most OMB hearings—the lawyers will bring up special interest groups. The people who have no vested interest and no financial gain they call "special interest groups," when, in fact, the special interest groups are, in my opinion, the developers themselves who own the land, who stand to profit.

I feel the residents are at a huge disadvantage today to take any case to the OMB because of the costs. You need lawyers. You can't go without lawyers, really, because you don't have the details, and they tie you up in red tape. The residents feel totally unheard. Then you will also have the lawyers of the developers say, "You could be awarded all costs." When you start thinking of thousands and thousands of dollars—and residents have children to put through school and houses to pay for. It just isn't working. That's the fear. They call it the thin veil. Even if you're incorporated, as a residents' group, you can be awarded costs. So that has to completely be killed.

**The Chair:** Thank you very much, Mr Elgar, and thank you for taking the time to inform this committee on your concern.

**Mr Elgar:** I appreciate the privilege of being here to at least voice our concerns. I think, too often, the developers are the only ones at the table most of the time, and I think this government has taken a huge step forward by trying to get public input. So thank you.

#### ONTARIO PROFESSIONAL PLANNERS INSTITUTE

**The Chair:** The next presenter will be the Ontario Professional Planners Institute, and it's going to be Loretta Ryan, Greg Daly, and Donald May, president.

Once again, thank you very much for taking the time. We're a little bit ahead of time, but we appreciate the fact that you are here before your time was scheduled. You have 15 minutes, of which you could take the whole 15 minutes or leave some time for the three parties for questions.

**Mr Donald May:** Good morning. My name is Don May, and I am the president of the Ontario Professional