

Upper Hunt Club Community Association, Ottawa, Ontario

Submission to the Standing
Committee on Heritage,
Infrastructure and Cultural
Policy of the Legislative
Assembly of Ontario, on Bill
23, More Homes Build Faster
Act, 2022

14 November 2022

**SUBMISSION TO THE STANDING COMMITTEE ON HERITAGE, INFRASTRUCTURE AND
CULTURAL POLICY OF THE LEGISLATIVE ASSEMBLY OF ONTARIO,
ON BILL 23, MORE HOMES BUILD FASTER ACT, 2022**

Summary of the main conclusions and recommendations

The Upper Hunt Club Community Association (UHCCA), Ottawa, Ontario, express its strong opposition to the proposed Bill 23, Schedule 7 and Schedule 9 as worded, and requests that the Legislative Assembly of Ontario reviews and amends its proposed Bill 23 in the following manner:

- 1) to maintain the provisions of the Planning Act and the Ontario Land Tribunal (OLT) which provide community associations and citizens with the right of appeal of a municipal decision which affects them detrimentally;
- 2) to delete the appeal to OLT dismissal provisions, to maintain the appeals currently filed and acknowledged by the OLT as part of the appeal process;
- 3) and, in the alternative of item 2) above:
 - a. to delete the proposed retroactive date of October 25, 2022 as the “cut-off” date at which Official Plan Amendment and Zoning By-law Amendment appeals with no hearing date would be “deemed dismissed”; and
 - b. that the provisions that deem an appeal “dismissed based on no scheduled hearing on the merits” be amended to describe a deemed dismissed appeal as one that has not had a hearing on the merits **or a case management conference** scheduled by the OLT.

The Upper Hunt Club Community Association

The Upper Hunt Club Community Association (UHCCA) is in Ottawa, Ontario. The UHCCA is incorporated under the *Canada Not-for-profit Corporations Act*, Corporation number 1390644-2. The general objectives of the UHCCA are: 1) to act as an agent for the generation of opportunities that will encourage interest and participation in community affairs and advocate for any civic minded project; 2) to act as a voice for the interest of the community by expressing shared views of the needs of the community; and 3) to act as a forum for communication, participation, and coordination among all members of the community and political decision makers. The community of Upper Hunt Club consist of 445 households of single-detached homes.

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Submission Brief

The UHCCA has filed an appeal with the Ontario Land Tribunal (OLT) on August 3, 2022. The appeal, OLT Case Numbers OLT-22-004326 and OLT-22-004327, will be subject to a Case Management Conference on December 14, 2022, at which date a future hearing date would be set.

The UHCCA is appealing the decision of the City of Ottawa rendered on July 6, 2022 to approve a request for Official Plan (OP) amendment and Zoning By-law (ZBL) amendment, s. OPA 281 and Bylaw 2022-233. The grounds for appeal are land planning issues and procedural fairness issues in relation to the Planning Act.

The UHCCA has made numerous representations and submissions, orally and in writing, to the City of Ottawa officers and elected officials during the OP and zoning amendment process about its issues and concerns in relation to the proposed development on the lands subject to the OP and zoning amendments. The UHCCA also presented written and oral submissions to the City of Ottawa Planning Committee on June 23, 2022, and provided a letter and a submission to the City of Ottawa Council for its meeting of July 6, 2022. Despite these efforts, the UHCCA issues and concerns were not addressed.

Moreover, the UHCCA believes that its issues and concerns were not considered adequately by municipal elected officials as their focus on this project was not on land use, but rather on other factors irrelevant to land use planning. Considering the serious impact of the proposed development project on the community in terms of transportation and safety, building scale and mass, lack of integration with the character of the community on one end, and the numerous procedural fairness flaws that marked the OP and ZBL amendment process on the other end, the UHCCA felt no other option was available than to proceed with an appeal to the OLT to have the matter heard by a party dedicated to land planning, and without bias.

The UHCCA opposes the modifications to the Planning Act and the OLT as proposed in Bill 23, Schedule 7 and Schedule 9. The effect of these modifications is, amongst others, the dismissal of the UHCCA appeal to the OLT on the basis that no hearing date was set as of October 25, 2022. The dismissal of the UHCCA appeal, which is filed and acknowledged by the OLT, constitutes a fundamental denial of justice.

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Additionally, the UHCCA is of the opinion that it is arbitrary and has no basis in fairness or procedure to dismiss an appeal that has a case management conference scheduled, but not dismiss an appeal that has a substantive hearing scheduled. There is no real difference as both appeals are in the hearing stream and, in practice, one appeal that is only in the case management stage could be heard well before another hearing that is already scheduled, for reasons of overall duration or changes to the Tribunal schedule.

Moreover, the modifications to the OLT brought forward by Bill 23 would render an appeal to the OLT inaccessible to the community association or to the Upper Hunt Club citizens, as they would no longer qualify as the "specified person" identified with the capacity to appeal to OLT. Again, a fundamental fairness injury would be caused to the UHCCA and/or the community citizens with their loss of right of appeal.

The UHCCA considers the right to appeal of municipal decisions, which may have been based on errors or prejudiced in their decision-making process, is an important democratic right and a fundamental pillar of the Canadian justice system. All levels of administrative bodies have their powers delegated from the Constitutional Act of 1982 and the principle of 'being heard' when a decision affects the public interest but also cause injury to a segment of the public body is entrenched in our justice system.

Conclusions and recommendations

For these reasons, the Upper Hunt Club Community Association (UHCCA), Ottawa, Ontario, express its strong opposition to the proposed Bill 23, Schedule 7 and Schedule 9 as worded, and requests that the Legislative Assembly of Ontario reviews and amends its proposed Bill 23 in the following manner:

- 1) to maintain the provisions of the Planning Act and the Ontario Land Tribunal (OLT) which allow community associations and citizens to appeal of a municipal decision which affects them detrimentally;
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 - b. that the provisions that deem an appeal “dismissed based on no scheduled hearing on the merits” be amended to describe a deemed dismissed appeal as one that has not had a hearing on the merits **or a case management conference** scheduled by the OLT.

Respectfully submitted,

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