



G R E A T E R T O R O N T O  
H O M E B U I L D E R S ' A S S O C I A T I O N



**Ontario**  
Home Builders'  
Association



Urban Development Institute  
Ontario

# ***GTHBA/OHBA/UDI Joint Submission***

## ***Bill 53: Stronger City of Toronto for a Stronger Ontario Act, 2006***

***March 29, 2006***

## **Executive Summary**

The Greater Toronto Home Builders' Association ("GTHBA"), the Ontario Home Builders' Association ("OHBA") and the Urban Development Institute/Ontario ("UDI") appreciate the opportunity to submit comments on Bill 53: the *Stronger City of Toronto for a Stronger Ontario Act, 2006* ("City of Toronto Act").

We have joined together to present key recommendations to the Provincial Government as this important piece of legislation makes its way through the legislative process. Our joint recommendations are offered to the Province with the understanding that the province, the City of Toronto and our industry share the same goal; enabling Toronto remain a strong and vibrant world-class city able to effectively compete in the global economy. The land development and residential building industry is primarily concerned that bestowing broad taxing authority and regulatory powers to the City of Toronto will have negative unintended consequences.

We recommend:

- The City be prohibited from charging a municipal land transfer tax, on top of the existing provincial tax, to keep affordability in check and ensure Toronto is competitive with the 905.
- The City be required to establish an appeal mechanism for by-laws that establish new and increased taxes, fees, and charges.
- That homebuilders be exempt from business licensing because they are already licensed through the Tarion Warranty Corporation.

- Exterior design, including sustainable design, not be regulated through the site plan review and approval process as it is an inappropriate mechanism that will not necessarily result in improved urban design. The industry could support a professional urban design review panel that is advisory in nature. Design should remain in the hands of experts.
- The City provide applicants height/density bonuses, or other credits, in exchange for conditional zoning.
- That the City not be permitted to set up a Local Appeal Body. Negative consequences may arise from doing so. However, if the City is permitted to set one up, the provisions and the regulations in Bill 51 and 53 should be the same.
- That the *Building Code Act* be amended to clarify that the Ontario Building Code takes precedence over any municipal by-law respecting the construction or demolition of buildings.
- The province retain the authority to govern the construction of green roofs across Ontario and that the province continue the current Building Code consultations regarding green roofs.
- The province not enable the City of Toronto to prohibit and regulate the demolition and conversion of residential rental properties as overall conversions and demolitions add to the stock of rental housing.

## **Who We Are**

The Greater Toronto Home Builders' Association, the Ontario Home Builders' Association and the Urban Development Institute/Ontario represent the largest and most significant industry in the Province. The development and construction industry accounts for over \$60 billion in annual GDP, making it the economic engine that drives Ontario.

Established in 1921, GTHBA is the voice of the residential construction industry in the Greater Toronto Area and has over 1,400 member companies. OHBA is the voice of the residential construction industry in Ontario. OHBA is comprised of 31 local associations from across Ontario representing 3,900 companies that directly employ over a quarter million Ontarians. The Urban Development Institute/Ontario has acted as the voice of the land development and building industry in Ontario for over 40 years. With over 200 member companies, it represents a cross-section of the land development and building industry. Our combined membership includes unparalleled experience and expertise in all areas of Ontario's planning, development and building regime.

## **Background**

On December 12, 2005, Bill 51, the *Planning and Conservation Land Statute Law Amendment Act, 2005*, ("Bill 51") was introduced by the Hon. John Gerretsen, Minister of Municipal Affairs and Housing, and received first reading. On December 14, 2005, Bill 53, the *Stronger City of Toronto for a Stronger Ontario Act, 2006* ("Bill 53") was also introduced in the Legislature.

GTHBA, OHBA and UDI support a fiscally sustainable City of Toronto ("City") to achieve a vibrant, strong Provincial capital that is economically competitive in the global economy. We recognize that the City plays a vital role in the economic prosperity and high quality of life enjoyed by the people of Ontario. Considered together, Bill 51 and 53 provide the City of Toronto with a comprehensive package of reforms to its taxing powers and land use planning system. The Bills, although similar in many respects, differ in terms of the respective scale,

scope and intention of each. Bill 51 is broad in scope and has province-wide application, whereas Bill 53 is specifically focused on reforming the City's legislative framework and its relationship with the Provincial government. Bill 53 is intended to empower the City by providing the City with additional tools to address its unique circumstances and needs.

Bill 53 assigns the City enhanced land use planning powers beyond those afforded to other Ontario municipalities through Bill 51. The two Bills must be read together to fully comprehend the enhanced taxing authority and land use planning powers granted to the City. Wherever Bill 51 exempts the City from specific sections of the *Planning Act*, Bill 53 re-introduces these sections under the umbrella of the *City of Toronto Act*, in some instances with the same powers and in others with greatly enhanced powers.

Although some of the powers granted to the City in Bill 53 are also granted to all Ontario municipalities through Bill 51, the fact that these powers are located in separate legislation suggests that the Province intends to tailor the associated Regulations accordingly.

The overall shift in responsibility and powers contemplated within the proposed legislation is significant. From the industry's perspective, Bill 53, if enacted as currently drafted, has the potential to block intensification and urban renewal projects, thus hindering a number of the Province's stated key objectives. The proposed changes will cause further unnecessary delay and increased costs to an already lengthy and over-regulated process. Lastly, we believe that all levels of government should operate within the existing total tax envelope. Increasing City revenue by increasing the burden on Ontario's taxpayers, through additional taxes, fees and charges, will have unintended negative impacts.

## **Discussion**

### **Taxation [s. 262]**

The land development/homebuilding industry has seen unprecedented change with respect to Provincial and municipal legislation, regulation and policy in the last few years. As a result, we have witnessed increased/increasing; land costs, development charges, and other various charges and requirements that have contributed to higher home prices and reduced affordability for new homebuyers.

To date, the City has substantially increased its development charges, parkland dedication requirements and development application review/approvals fees. Given the City's policy record of late, the land development and homebuilding industry is not confident that the City will do what is in the long-term interest of homebuyers and businesses.

The City will play a central role in managing and accommodating the projected 3.7 million additional people expected to live in the Greater Golden Horseshoe ("GGH") over the next 25 years. It is estimated that approximately 490,000 people and 330,000 housing units will need to be built in the City within this timeframe to accommodate the City's share of the anticipated growth in the Region. It is a City policy objective to ensure a range of housing choices that are affordable, are available to current and future residents.

We are concerned that Bill 53, if passed in its current form, will give the City authority to implement a municipal land transfer tax ("LTT") on top of the existing provincial land transfer tax and potentially skew the market towards the 905 regions as the 416 value ratio drops. This will impact Toronto's ability to attract new commercial and industrial investment and thwart the Provincial intensification objectives put forth in the *Places to Grow* Growth Plan for the Greater Golden Horseshoe.

***GTHBA/OHBA/UDI recommend that:***

- 1. A tax imposed on land transfer transactions be added to the list of prohibited taxes in Section 262 (2) of the Bill.***

**Appeal Rights**

Through Bill 53, the Province intends to modernize the existing legislation to “recognize that Toronto is a mature government capable of exercising its powers in a responsible and accountable fashion.”<sup>1</sup>

During a review of the Bill, we noted a lack of specific measures to ensure accountability and transparency. Specifically, the industry is troubled that the Bill is void of any appeal mechanisms, particularly with respect to those matters whereby the City Council or a Committee of Council, or a Local Board can pass by-laws that have a financial impact upon the public and stakeholders. Nowhere in Sections 155-178 (Accountability and Transparency), Sections 179-221 (Practices and Procedures) or in Sections 254-261 (Fees and Charges), do we see any requirements for Council or a Committee of Council, or a Local Board to inform the public of a proposed or increased tax, fee, and/or charge, or how the public might appeal a decision of Council, (or its Committee or Local Board, if the matter has been delegated). Section 261 does permit the Minister to make Regulations. However, our interpretation of this section leaves the industry concerned on several accounts:

- Will the Regulations stipulate public notification requirements of a proposed or increased tax, fee or charge?
- Will the Regulations stipulate public notification of Council or Committee or Local Board decisions with respect to a proposed or increased tax, fee or charge?

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<sup>1</sup> MMAH Press Release Backgrounder “Developing Proposed Legislation For Toronto” dated December 14, 2005

- In the absence of the Ontario Municipal Board (“OMB”) being permitted to hear disputes (Section 260), will the legislation stipulate which body will hear the appeal – presuming that the Province and City believe that Toronto residents, landowners and business owners are entitled to a fair and just process?

***GTHBA/OHBA/UDI recommend that the Province ensure that Bill 53 be amended to provide an appeal mechanism for City residents, landowners and business owners who wish to dispute by-laws enacted by the City with respect to a proposed or increased tax, fee or charge. Specifically, the amendment to provide such a right of appeal state:***

- 2. (a) Before passing a by-law under Part IX or Part X of this Act, the City, a Committee of Council and every local board shall give public notice of its intention to pass the by-law.***
  
- 2. (b) A party to any application, proceeding or matter, who is required to pay any tax, fee, or charge on the basis, actually or purportedly, of a by-law passed by the City, a Committee of Council or a local board under Part IX or Part X of this Act, may, in addition to any other available remedy, appeal to the Divisional Court from the enactment of such by-law, or from the imposition of such tax, fee or charge.***
  
- 2. (c) An appeal under this section may be made on any question of law or fact or both and the Court may quash the by-law, affirm or rescind the decision appealed from, exercise any power of the City or local board with respect thereto, or direct the City, a Committee of Council or local board to take such action as the Court considers appropriate, and for that purpose, the Court may substitute its opinion for that of the City, a Committee of Council or local board, or refer the matter back to the City, a Committee of Council or local board for re-hearing, in whole or in part, in accordance with any direction the Court considers appropriate.***

**2. (d) *An appeal to the Divisional Court under this section does not operate as a stay of any requirement, decision or order, but the appellant may pay the amount of the fee under protest by notice thereof to the City or local board, without prejudice to any rights upon the appeal.***

## **Licensing [s. 85-96, 119 (1) and (2)]**

In 1976, the Ontario Ministry of Consumer and Commercial Relations established the Housing and Urban Development Association of Canada Warranty Program, subsequently renamed the Ontario New Home Warranty Program and in 2004 re-branded as the Tarion Warranty Corporation (“Tarion”), as the licensing and regulatory body mandated to administer the residential construction industry in Ontario.

Tarion guarantees the statutory warranty rights of new homebuyers and regulates new homebuilders under the *Ontario New Home Warranties Plan Act*. As the regulator of Ontario’s new home building industry, Tarion registers new homebuilders and vendors, enrolls new homes for warranty coverage, investigates illegal building practices, resolves warranty disputes between builders/vendors and homeowners, and establishes high quality standards for Ontario’s new homes. Tarion also works with the building industry to educate new homebuyers regarding their warranty rights, including how to protect and maintain their warranty.

Tarion is not dependent on government funding as it is financed entirely by builder registration renewal and home enrolment fees.

Tarion is an unparalleled success as confirmed by the 1.3 million homes enrolled in the program to date. By law, every builder working in Ontario must register and enroll all the new homes that they build. In situations where a builder does not meet the established standards, Tarion has the authority to both step in and resolve the issue and to deregister or take legal

action against the offending company. Tarion is in the best position to provide the necessary protection to both consumers and builders, and set the standards by which the homebuilding industry must abide. Furthermore, it is our submission that as Tarion is successfully discharging its mandated functions; further licensing by the City is redundant and unwarranted. It is merely an additional layer of bureaucracy and taxation, with no corresponding benefit.

***As the Tarion Warranty Corporation currently governs and licenses new homebuilders in the Province, GTHBA/OHBA/UDI recommend that:***

- 3. The Minister of Municipal Affairs and Housing pass a regulation under Section 119 (1) (a) to exempt homebuilders from being subject to business licensing by the City of Toronto (sec 85-96).***

### **Site Plan Control, Exterior Design and Sustainable Design [s. 114 (5) 2. (iv) & (v)]**

GTHBA, OHBA and UDI support good urban design but cannot support “architectural control”. Through the powers granted in Section 114, the City would be able to exert control over the exterior elements of buildings, including: the character, scale, appearance and design features and their sustainable design as part of the site plan review and approvals process. Under both Bills 51 and 53 these enhanced powers could be exercised once associated Official Plan (“OP”) policies had been adopted and were in force. Architectural appearance and exterior design are subjective matters that should not be legislated. We submit that legislation is a blunt, and in this case inappropriate, tool to address complex urban design issues.

The City of Toronto has an established rigorous urban design review process and has acquired an experienced urban design staff that review and comment on applications. We submit that currently Toronto has sufficient authority over urban design matters through the existing site plan review and approvals process in the *Planning Act*. For example, it has become common practice for developers to voluntarily host “design charettes” that engage the City and local

ratepayer/community groups in the site planning and urban design process before approvals are granted. As well, developers/applicants routinely engage in and financially contribute to municipal urban design studies that become integral components of precinct or secondary plans, as part of the planning approvals process. These studies and their guidelines are implemented through the approvals process currently required under the *Planning Act*.

In light of the foregoing, the powers proposed in the Bill confer inappropriate power to decision makers. We suggest that allowing approval authorities to dictate the type and colour of materials and “sustainable design”, (an undefined term), will, among other things, likely add considerable costs and threaten the economic feasibility of individual projects as elected officials and planning or urban design staff do not always fully appreciate the cost implications of certain design and material choices. Legislated architectural control also has the potential to be used for purposes of obstruction of controversial projects, (specifically we suggest that the term “sustainable” is sufficiently vague to be used for any number of unrelated purposes), which will in turn discourage innovative design.

Vancouver has often been cited as an example of quality architecture and urban design and attractive public spaces. Key features of Vancouver’s urban design review model that underlie its success are:

- Height and density bonusing incentives for projects that are submitted to a voluntary design review process.
- The design review panel is strictly an advisory body that makes recommendations to staff and does not have the authority to approve/refuse applications or establish policy.
- Significant development approval authority is delegated to staff.
- The design review process comprises one component of a well-established development permit system that limits 3<sup>rd</sup> party appeals.
- City Council is elected at large.

The industry could support a voluntary urban design review process in the City of Toronto provided it is undertaken by an advisory panel composed of objective design professionals as well as developer/building industry representation.

The industry recommends that projects that are especially innovative or provide even greater community benefit should be further rewarded. The Planning Department should extend height and density bonusing incentives and/or other bonusing or fee reductions to encourage high quality design and materials.

***GTHBA/OHBA/UDI recommend that:***

- 4. Sections 114 (5) (2) (iv) & (v) be deleted in their entirety and replaced with the following:***

***“The colour, texture and type of materials, window detail, construction details, architectural detail and interior design of buildings are not subject to site plan control.”***

**Zoning - conditions [s. 113 (2)]**

Bill 51 enables municipalities to apply conditions on zoning pursuant to, an as yet unknown, Provincial Regulation, provided that municipal OP policies are approved and in force. While Bill 51 exempts the City from these provisions, Section 113 (2) of Bill 53 grants the same powers to the City.

Provincial background material respecting Bill 51 indicates the Province’s intention is to enable municipalities to address specific physical aspects of community building (i.e. energy efficiency and brownfield remediation). Since the City’s authority to apply conditions on zoning resides in Bill 53, it is unclear whether the intention is the same with respect to the City versus what is contemplated for other Ontario municipalities in Bill 51. This ambiguity

leaves us very concerned that the City anticipates requiring “social infrastructure” through the development approvals process.

The industry is opposed to the use of conditions on zoning for these purposes, particularly in light of the significant number of “eligible items” the industry pay for under the *Development Charges Act*. We submit that legislation governing the land use planning process in Ontario is an inappropriate vehicle for the City to pursue social policy objectives. New homebuyers should not bear the exclusive responsibility of funding social programs of the City, i.e., programs that involve the redistribution of income. These costs should be socialized across the province.

Our fears are provoked by the City’s request, found in their recent staff report respecting Bill 53, to the Province to take a “*permissive approach to the regulations*”<sup>2</sup>. The report further states that “*to be truly effective, any regulation should not preclude Toronto from having conditions that deal with the following range of matters:*

- *Environmental sustainability;*
- *Energy efficiency;*
- *Green technologies (such as green roofs);*
- *Waste management;*
- *Transportation related improvements;*
- *Travel demand management;*
- *Conservation of natural heritage;*
- *Heritage preservation;*
- *Public art;*
- *Housing matters, (including the mix of housing types, affordable housing, securing existing rental, rental replacement); and,*
- *Community services and facilities.”*

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<sup>2</sup> City of Toronto Staff Report (February 13, 2006) to Planning & Transportation Committee Re: Bill 51

Without knowing the parameters of the associated Regulation to Bill 53, GTHBA, OHBA and UDI submit that imposing conditions through zoning has the potential to make projects economically unfeasible, particularly if the City views this as a panacea for a myriad of problems, whether fiscal or social in nature.

The industry would however consider supporting the City being given the authority to impose conditions on zoning to obtain specified community benefits, in exchange for the provision of specific bonuses to the applicant, i.e., increased height/density, credits on; parkland dedications, cash-in-lieu of parkland conveyance, and/or development charges (“DCs”).

***GTHBA/OHBA/UDI recommend that:***

- 5. The Province amend Section 113 (2) of the Bill to enable the City impose conditions on zoning to obtain specified community benefits, in exchange for height/density bonuses, or credits on their parkland dedications or cash-in-lieu of parkland conveyance, and/or development charges (“DCs”).***
  
- 6. That Section 113 (2) of the Bill not be proclaimed until such time as the draft Regulation(s) is released and the public and stakeholders are afforded a reasonable opportunity to review and provide input.***

**Local Appeal Bodies [s.115]**

Bill 51 grants Ontario municipalities the authority to establish local appeal bodies (“LABs”) that may be subject to certain regulations to hear appeals of certain planning application decisions. The power enabling the City to establish a LAB, however, is located in Bill 53. The Regulations for Local Appeal Bodies in Bill 51 and Bill 53 should be the same. Section 115 of Bill 53 enables the City to constitute by by-law, a local body to hear appeals of specific local land use planning decisions, respecting minor variance and consent applications. For those

purposes, the local appeal body has the same powers and duties given to the OMB under that Act.

Section 115 states that the City cannot appoint a City employee, a member of City Council, a member of the Committee of Adjustment or Land Division Committee or a member of a “prescribed” class to the local appeal board. As specified in Section 123, the Minister of Municipal Affairs and Housing has the right to make Regulations prescribing eligibility criteria and qualifications, restrictions, powers to hear appeals, exceptions, and disputes.

Notwithstanding these safeguards, the industry has serious concerns with the province enabling the City to establish a LAB. We believe that there is a reasonable apprehension of bias due to the lack of institutional independence, as the City will likely appear as a party to the appeal before the local appeal body whose members are also appointed and compensated by the City.

Furthermore, we request clarification respecting the eligibility criteria articulated within the legislation, for instance: does a person appointed to a LAB by the City and who in turn receives compensation from the City, render that individual a “City employee” as per Section 115 (4) (a)? Until such time as the industry is afforded an opportunity to review the associated Regulations and provide input we remain skeptical and continue to harbour serious doubts about the efficacy of this initiative.

The industry is also concerned that as the Province has located the City’s powers respecting LABs outside the *Planning Act*, the City aspires to expand the authority of its LAB, (i.e., to hear matters related to site plan approval and subdivision applications). It is our understanding that this would not be done not through an act of the Provincial legislature, but through a City Council adopted by-law that may not necessarily be subject to outside review or public comment. These are genuine concerns, as deliberations regarding acquiring additional powers are already well underway at the City.

The industry is equally apprehensive regarding the anticipated fee structure. Although currently unknown, it is probable that LAB fees will be higher than the current OMB fee (\$125 per appeal). For example, fees based on a cost recovery model could create a significant barrier to homeowners and smaller builders. As well, such fees may be precluded from being subject to an outside, objective test, (i.e., through an appeals process).

In light of the foregoing, the industry anticipates that applicants (particularly developers and smaller builders) to protect their right to appeal to the OMB will increasingly opt to submit rezoning/plans of subdivision applications rather than minor variance/consent applications, even if the applications are indisputably “minor in nature”. The result will be an increased municipal workload with no corresponding decrease in the OMB caseload. The industry is of the understanding that the latter was an objective of the Province.

The industry does not support the province enabling Ontario municipalities, including the City, to establish local appeal bodies, as we do not comprehend how this will solve the stated problems. In fact, we believe that municipally administered appeal bodies will exacerbate these self same problems. Having said that, if the Province decides to enable the City to establish a local appeals body, GTHBA, OHBA and UDI submit that the Bill and associated Regulations respecting Local Appeal Bodies should be the same for municipalities across the Province.

***GTHBA/OHBA/UDI recommend that:***

- 7. The Province not proclaim Section 115 of the Bill until such time as the draft Regulation(s) prescribing the composition, term, qualifications, eligibility, rules governing the practice and procedure and any other prescribed requirements are released and the public and stakeholders are provided a reasonable opportunity to review and provide input.***

**8. Section 115(1) be amended to state (to be consistent with Bill 51):**

***“If the City of Toronto meets the prescribed conditions, the council may by by-law constitute and appoint one appeal body for certain local land use planning matters, composed of such persons as the council considers advisable, subject to subsections (2), (3) and (4).”***

**9. Through Regulations pursuant to Section 115 of Bill 53, the Province require the City of Toronto to have both an updated, approved Official Plan and adopt an updated comprehensive zoning by-law conforming to the approved Official Plan prior to being allowed to establish a local appeal body.**

**10. To ensure equity and access, the Province through Regulations pursuant to Bill 53, establish reasonable fees, payable by applicants for appeals to the City of Toronto’s local appeal body.**

**Broad Authority [s. 8]**

In light of the broad, permissive approach taken by the Province an argument could be made that Section 8, could potentially (among other matters that impact the land development and building industry) enable the City to enact its own Building Code.

Combining subsections 8(1) and (2), paragraphs 4, 5 and 6, results in the following:

**“The City may provide, by by-law or otherwise, any service or thing that the City considers necessary or desirable for the public, and may pass by-laws respecting, among other things, the economic, social and environmental well-being of the City, and the health, safety and well-being of persons.” [Emphasis added]**

If the City chose such approach, it would unnecessarily duplicate the well-established multi-stakeholder process facilitated by the province that undertakes regular reviews of the *Ontario Building Code*. The City should not be allowed to pass by-laws that would supercede and potentially conflict with the Ontario Building Code. We submit that matters of provincial interest, as regulated through provincial legislation and associated Regulations (i.e., the *Ontario Building Code Act*, the *Ontario Heritage Act* and the *Planning Act*) should remain firmly in control of the province.

If the City were to pursue a process in which the result would duplicate and/or frustrate provincial legislation, the land development and residential building industry would expect the province to invoke Section 25 of the City of Toronto Act. Furthermore, we expect that the province will implement a process to closely monitor the actions and by-laws of the City.

***GTHBA/OHBA/UDI recommend that:***

**11. *Section 35 of the Ontario Building Code Act be revised to state:***

***“35. (1) In the event of a conflict between this Act and the building code, on one hand, and any municipal by-law respecting the construction or demolition of any building, on the other, or in the event of any issue as to which provision applies, this Act and the building code shall prevail.”***

**Construction of Green Roofs [s. 108]**

The industry is supportive of energy efficiency and conservation; however the industry will want to ensure certainty and consistency in standards across all Ontario jurisdictions. New building and construction standards respecting public health and safety, fire protection, structural sufficiency, conservation and environmental protection as well as the requirements respecting barrier-free access fall under the provisions of the *Building Code Act, 1992*. Green roofs are a new technology that require additional studies to determine both long-term impacts (e.g. leakage, structural requirements, etc.) and best practices. GTHBA, OHBA and UDI are

concerned that municipal by-laws mandating new construction standards could be in conflict with the provincial interest. Furthermore, we are concerned that there is a potential for a number of varying construction standards across different jurisdictions in Ontario. GTHBA, OHBA and UDI urge the Province to maintain uniform building and construction standards across Ontario.

Presently there exists a well-established, fair, and balanced process facilitated by the Building and Development Branch, Ministry of Municipal Affairs and Housing, through which stakeholders regularly review and provide input respecting Building Code updates/revisions. New building and construction standards (e.g. green roofs) should be addressed through this same process. Further building and construction standards mandated by municipalities, that circumvent the established provincial process, (including the scrutiny of the acknowledged experts), which will result in an additional and unnecessary layer of bureaucracy, for indeterminate if any benefit.

The Ministry of Municipal Affairs and Housing is currently consulting on proposed energy conservation options for the Ontario Building Code, including the use of “green technologies” and roofs. New regulations must consider all of the potential impacts ranging from costs to environmental benefits; therefore, GTHBA, OHBA and UDI strongly believe that it is in the provincial interest to maintain control over all aspects of Ontario’s construction standards to ensure consistency across the Province. The Ontario Building Code and Act should prevail over any municipal by-law governing/regulating construction standards or practices. As per recommendation #11 we submit that the language in Section 35 of the *Ontario Building Code Act* should be strengthened to eliminate any doubt as to the supremacy of the Building Code on this or any other related matter.

***GTHBA/OHBA/UDI recommend that:***

***12. Section 108, authorizing the City of Toronto to pass a by-law requiring and governing the construction of green roofs, be deleted in its entirety.***

## **Demolition and Conversion of Residential Rental Properties [s. 111]**

Municipalities and housing advocates have recently raised concerns regarding the shortage of rental housing in Ontario due to preventable “losses”. It has been suggested that municipalities should be given greater powers to prevent the conversion and demolition of Ontario’s rental housing stock to ensure a sufficient overall supply of rental housing. This position is founded on an inaccurate analysis of the rental market, and reflects a lack of understanding of Ontario’s rental supply, including the impacts of the conversion of units from rental to ownership.

We submit that overtime the conversion of ownership to rental housing has considerably dwarfed conversions of rental to ownership. The oft-heard opinion that there is a shortage of rental housing in the City is premised on an analysis that identifies and focuses on outflows and fails to identify and tally the corresponding inflows. This fallacy - of a current rental housing shortage - is demonstrated by the noticeable increase in Toronto’s rental vacancy rate, from 0.9% in 2001 to 3.7% in 2005. In addition, the demand for rental accommodation as a percentage of overall housing demand is declining as demonstrated by, a decrease of some 48,000 renter households in Toronto between 1996 and 2001.

Preventing the demolition or conversion of rental housing does not take into account that investing the capital necessary to maintain aging rental stock is often not economically feasible nor prudent. Conversely, the freedom to convert or demolish rental housing affords landowners the opportunity to infuse needed capital to upgrade older housing stock or intensify the site. The economic life cycle of rental buildings is limited. We submit that the power to prohibit and regulate conversions and demolitions will potentially create further barriers to appropriate urban renewal and intensification within the City.

Furthermore, limiting the rights of property owners in this way is a considerable deterrent to future investment in rental housing in Ontario. Studies have revealed that conversions have

little, if any, impact on the rental market and conversions often provide affordable home ownership opportunities<sup>3</sup>.

Regent Park is a prime example of appropriate urban renewal and intensification resulting from the demolition of aging rental housing. Home to 7,500 people, the plan to redevelop Regent Park calls for the replacement of the existing 2,087 rent-geared to-income units as well as the addition of 2,500 market units, including 500 affordable units. It is widely acknowledged that the wholesale demolition of these rental units was required due to a combination of deteriorating buildings, poorly planned public space and lack of community facilities. Section 111 of the Bill would, create a double standard that could seriously impede the ability of private developers to transform aging rental housing, prohibiting urban renewal that could afford tenants with modern rental housing while adding market housing in the spirit of intensification.

Notwithstanding the foregoing, we are also concerned that OP policies respecting the City's power to prohibit and regulate conversions and demolitions are not required, nor are there specific provision for appeals to the OMB of by-laws passed under section 111 of the Bill.

***GTHBA/OHBA/UDI recommend that:***

***13. The Province delete Section 111, which enables the City of Toronto to prohibit and regulate the demolition and conversion of residential rental properties, in its entirety.***

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<sup>3</sup> Conversions and Demolitions Policies in Ontario: Myths and Reality. FRPO, Oct 27, 2005

## **Conclusion**

The development and building industry believes that it is important to provide the City with the tools it needs to work effectively and efficiently to build a healthy and prosperous 21<sup>st</sup> century city. However, GTHBA, OHBA and UDI have concerns with the policy direction of Bill 53, specifically the proposed broad taxing authority and regulatory powers that could have unintended negative consequences for Toronto's economic competitiveness.

The construction industry in particular faces a number of potentially damaging taxes, fees and regulations that will diminish our ability to provide quality affordable products to the citizens and businesses of Toronto.

GTHBA, OHBA and UDI are also concerned that the broad new authorities and powers included in the *City of Toronto Act* will serve as a blueprint for a new Municipal Act. We ask the Province to exercise caution and patience in proceeding with Bill 53 and an updated Municipal Act. It is important for citizens of both the City of Toronto and the Province of Ontario that the Provincial government strikes the right balance between public and private interests for a continued healthy and prosperous Toronto and Ontario.

