

STRONG MAYOR POWERS – THE EROSION OF MUNICIPAL DEMOCRACY

John Mascarin and Jennifer Bilas

Aird & Berlis LLP

A. INTRODUCTION

On February 8, 2022, the Ontario Housing Affordability Task Force (the “**Task Force**”) released a report “to identify and implement measures to address the housing supply crisis and get homes built faster”.¹ The recommendations arising from the Housing Report include, *inter alia*, minimizing and unifying municipal design rules and requirements, and depoliticizing the development approvals process. In other words, the impediments to development as noted in the Housing Report fell within the purview of municipal authority. Although none of the recommendations included revising the municipal governance model, this became the impetus to Premier Ford’s implementation of the so-called “strong mayor” powers in, first, the Cities of Toronto and Ottawa, followed shortly thereafter with an expansion of these powers to municipalities that signed a commitment to meet specified provincial yearly housing targets.² This was followed by an announcement at the annual conference of the Association of Municipalities of Ontario (“**AMO**”) in August 2023 that the powers would be extended to an additional 21 smaller municipalities whose head of council would commit to new provincial housing targets.³

During his spring of 2022 provincial campaign, Premier Ford had not mentioned an intention to implement strong mayor powers [in large cities] across the Province. However, he had publicly been a proponent of the US-type strong mayor system of local governance⁴ as a means of making

¹ Housing Affordability Task Force, Report of the Ontario Housing Affordability Task Force (February 2022) (Chair: Jake Lawrence) (the “**Housing Report**”): <<https://www.ontario.ca/page/housing-affordability-task-force-report>>.

² “To Build More Homes, Ontario Launching Building Faster Fund and Expanding Strong Mayor Powers” Ontario Newsroom (21 August 2023), online: <<https://news.ontario.ca/en/release/1003397/to-build-more-homes-ontario-launching-building-faster-fund-and-expanding-strong-mayor-powers>>.

³ O. Reg. 331/23, filed on October 31, 2023, added 18 additional municipalities to the designated list.

⁴ In 2016, Doug Ford wrote that if he was elected at the provincial level, “municipal affairs [would be] the first thing [he] would want to change... [M]ayors across the province deserve stronger powers.” David Rider, “Would Doug Ford Give City Mayors More Power?”, *Toronto Star* (3 June 2018), online: <<https://www.thestar.com/news/queenspark/2018/06/03/would-doug-ford-give-city-mayors-more-power.html>>, citing Doug Ford and Ford, Rob, *Ford Nation: Two Brothers, One Vision* (Toronto: HarperCollins Publishers, 2016).

the “[mayor] responsible for everything.”⁵ With the rise of the housing crisis, the Premier may have seen a window to fundamentally alter the model of local governance that aligned with his vision of mayoral powers.

The *Strong Mayors, Building Homes Act, 2022*, moved quickly from initial announcement to enactment in under two months time. Enacting a bill on such an aggressive schedule meant that the provincial government forwent any meaningful consultation with local governments and industry stakeholders to determine if the strong mayor powers could be the solution that the housing crisis needed, and that the provincial government claims that it is. In fact, AMO urged the Province to consult “Ontario’s professional and political municipal organizations, including AMO, if [the Province] is considering extending these powers to other municipalities, to avoid unintended consequences.”⁶

Rather than using the powers constitutionally vested in the Province to actually address the housing crisis by, for example, increasing funding for community housing or expanding the inclusionary zoning power, the Province decided to download the responsibility to the heads of council of designated municipalities.⁷

B. DISTINGUISHING THE STRONG FROM THE WEAK

1. Weak Mayor System

Prior to the fundamental shift in the model of local government when the *Strong Mayors, Building Homes Act, 2022* was enacted, the “strong mayor” system did not exist in any jurisdiction across Canada.

Under the “weak mayor” system established by Ontario’s *Municipal Act, 2001* and *City of Toronto Act, 2006*, which remains the model of governance across Ontario, other than in the City of Toronto or unless otherwise designated through regulation, the head of council

⁵ See Anna Mehler Paperny, “Toronto Needs Strong Mayor With Veto Power, Doug Ford Says”, *The Globe and Mail* (17 February 2011), online: <<https://www.theglobeandmail.com/news/toronto/toronto-needs-strong-mayor-with-veto-power-doug-ford-says/article566760/>>.

⁶ Paola Loriggio, “Ontario Must Consult Public, Groups Before Expanding ‘Strong Mayor’ Powers: AMO” *City News* (29 August 2022), online: <<https://ottawa.citynews.ca/local-news/ontario-must-consult-public-groups-before-expanding-strong-mayor-powers-ammo-5754449>>. See AMO Policy Update (10 August 2022), online: <<https://www.amo.on.ca/advocacy/municipal-gov-finance/strong-mayors-building-homes-act>>.

⁷ *Strong Mayors, Building Homes Act, 2022*, S.O. 2022, c. 18.

(i.e., mayors, reeves, wardens and chairs) has limited authority to take action and make decisions.⁸ The mayor is the ostensible leader of council with the express statutory responsibility to preside over council meetings, provide leadership, information and recommendations to council, and to represent their municipality at official functions.⁹ Although described as chief executive officer of the municipality,¹⁰ the mayor cannot bind a municipality without a quorum of council, unlike the chief executive officer of a corporation.¹¹ This model of government, with the mayor as a leader among equals and having only a single vote at council, remains in place across Canada, with the only exception now being in Ontario.

2. Strong Mayor System

A strong mayor system, by contrast, provides the head of council with a centralized executive authority to take actions and make decisions on a unilateral basis, without the concurrence or support of a majority of the members of council.¹² Such a system creates a power imbalance on council, granting the head of council additional powers that general members of council do not have (unless delegated).

⁸ John Mascarini and Williams, Christopher J., *Ontario Municipal Act and Commentary*, 2023 ed. (Toronto, Canada: LexisNexis Canada Inc.) at 76. References in this paper will be interchangeably to the “mayor” or the “head of council”.

⁹ *City of Toronto Act, 2006*, s. 133; *Municipal Act, 2001*, s. 225.

¹⁰ *City of Toronto Act, 2006*, s. 133; *Municipal Act, 2001*, s. 225(a).

¹¹ See the description of the head of council as chief executive officer in s. 226.1 of the *Municipal Act, 2001*:

Head of council as chief executive officer

226.1 As chief executive officer of a municipality, the head of council shall,

- (a) uphold and promote the municipal purposes of the municipality;
- (b) promote public involvement in the municipality’s activities;
- (c) act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally, and internationally; and
- (d) participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.

A similar description is set out in s. 134 of the *City of Toronto Act, 2006*.

¹² John Martinez, *Local Government Law*, (Thomson/West, 2022) Part II. Local Government Organization and Process, c. 11, Processes of Governance § 11:1.

A head of council acting under the auspices of a strong mayor system is granted limited statutory executive functions, such as the power to make decisions on their own on certain matters and to veto certain decisions made by council. This means that the mayor is more than just one vote on council, and has the ability to realize their personal agenda without the need to build consensus or to seek compromise amongst council as a whole, which essentially had been the local governance model in Ontario (and throughout Canada) for some 200 years.

C. STRONG MAYORS POWERS

1. Amendments to *City of Toronto Act, 2006* and *Municipal Act, 2001*

(a) General

The *City of Toronto Act, 2006*, the *Municipal Act, 2001*, and the *Municipal Conflict of Interest Act*, were amended in September 2022 by the *Strong Mayors, Building Homes Act, 2022* via Schedules 1, 2, and 3, respectively.

The statute added stand-alone Parts VI.1 to both the *Municipal Act, 2001* and the *City of Toronto Act, 2006* – both entitled “Special Powers and Duties of the Head of Council”.¹³

Following this initial restructuring of local municipal governance, strong mayor powers were enhanced in December 2022 by the enactment of the *Better Municipal Governance Act, 2022*¹⁴ which added a very significant new power to a strong mayor municipality whereby the head of council could propose certain by-laws that would **advance** provincial priorities and have such by-laws enacted by a vote of a mere one-third plus one member of a municipal council.¹⁵ This power supplements the authority of a head of council from the *Strong Mayors, Building Homes Act, 2022* to veto a by-law that could potentially **interfere** with a prescribed provincial priority.

¹³ The authorities in both statutes are largely complimentary to one another. There are only a few minor substantive differences between the two parts.

¹⁴ *Better Municipal Governance Act, 2022*, S.O. 2022, c. 24.

¹⁵ *City of Toronto Act, 2006*, s. 226.9.1; *Municipal Act, 2001*, s. 284.11.1.

(b) Municipalities Granted Strong Mayor Powers

Section 284.2 of the *Municipal Act, 2001* provides that the Minister of Municipal Affairs and Housing may designate municipalities to which the strong mayor system applies by way of regulation. This is not necessary in the *City of Toronto Act, 2006* which only applies to the City of Toronto.

Former Minister of Municipal Affairs and Housing, Steve Clark, first designated the City of Ottawa as a municipality to have the strong mayor system, and then on June 29, 2023, designated an additional 27 municipalities.¹⁶

More recently, municipalities with a forecasted population of 50,000 or more by 2031 had the opportunity to sign a pledge to meet specific housing targets. Such housing targets were determined by the Province. Communications were sent to 21 heads of council, they were advised that if they signed a commitment by October 15, 2023 to meet the new provincial housing targets, their municipalities would be designated as a strong mayor municipality via regulation.¹⁷ Eighteen additional municipalities have been designated.

The strong mayor powers can be divided into four broad categories: Administrative, Provincial Priorities, Municipal Budget and General/Miscellaneous.

(c) Administrative Powers

(i) Directions to Employees

Designated heads of council have a limited authority to direct employees to undertake research, provide advice and to carry out any powers or performance to implement the decisions of the head of council.¹⁸ Any such directions to employees must be provided in writing and prescribed documents or information must be made available to the public.¹⁹

¹⁶ O. Reg. 530/22, s. 1, as amended by O. Reg. 180/23.

¹⁷ "To Build More Homes, Ontario Launching Building Faster Fund and Expanding Strong Mayor Powers" Ontario Newsroom (21 August 2023), online: <<https://news.ontario.ca/en/release/1003397/to-build-more-homes-ontario-launching-building-faster-fund-and-expanding-strong-mayor-powers>>.

¹⁸ *City of Toronto Act, 2006*, s. 226.1; *Municipal Act, 2001*, s. 284.3.

¹⁹ *City of Toronto Act, 2006*, s. 226.2; *Municipal Act, 2001*, s. 284.4.

(ii) Chief Administrative Officer

In a fundamental shift of responsibility, the mayors of designated municipalities under the *Municipal Act, 2001* have been given the power to hire and appoint their chief administrative officer.²⁰ The power can be delegated back to the council.²¹

(iii) Organizational Structure

The organizational structure of a municipality may be determined by a head of council. The head of council has been granted the authority to hire or terminate or exercise such other prescribed employment powers pertaining to the head of any division,²² with certain enumerated exceptions (primarily statutory officers and persons whose appointment is required by statute).²³ The power can be delegated back to the council or to the chief administrative officer.²⁴

(iv) Local Boards and Committees

Designated heads of council have authority to appoint the chairs and vice-chairs of prescribed local boards²⁵ and committees,²⁶ and may establish, dissolve and assign functions to committees.²⁷ The power with respect to committees may be delegated back to the council.²⁸

²⁰ *City of Toronto Act, 2006*, s. 226.3; *Municipal Act, 2001*, s. 284.5. A chief administrative officer holding their position on the date their municipality is designated under Part VI.1, continues to hold their position unless they are dismissed or their appointment is revoked by the head of council – s. 226.13(1) 1 of the *City of Toronto Act, 2006* and s. 284.15(1) 1 of the *Municipal Act, 2001*.

²¹ O. Reg. 529/22, s. 5(1) and O. Reg. 530/22, s. 6(1). A number of mayors have delegated the power back to their councils (see, for example, the cities of Ottawa, Kingston and Guelph).

²² *City of Toronto Act, 2006*, s. 226.4(1)-(2); *Municipal Act, 2001*, ss. 284.6(1)-(2).

²³ *City of Toronto Act, 2006*, s. 226.4(3); *Municipal Act, 2001*, s. 284.6(3).

²⁴ O. Reg. 529/22, s. 5(2) and O. Reg. 530/22, s. 6(2).

²⁵ *City of Toronto Act, 2006*, s. 226.5; *Municipal Act, 2001*, s. 284.7. Chairs and vice-chairs can continue to hold their positions until they are dismissed or their appointment is revoked by the head of council under s. 226.13(1) 2 of *City of Toronto Act, 2006* or s. 284.15 2 of the *Municipal Act, 2001*. No regulation prescribing local boards have been

²⁶ *City of Toronto Act, 2006*, s. 226.6 2; *Municipal Act, 2001*, s. 284.8 2. Prescribed committees must consist solely of members of council: O. Reg. 529/22, s. 3 and O. Reg. 530/22, s. 4.

²⁷ *City of Toronto Act, 2006*, ss. 226.6 1 & 3; *Municipal Act, 2001*, ss. 284.8 1 & 3.

²⁸ O. Reg. 529/22, s. 5(1) and O. Reg. 530/22, s. 6(1).

(d) Provincial Priorities Powers

(i) Prescribing Provincial Priorities

The cornerstone to the implementation of the strong mayor system is that such powers may only be exercised for the advantage of prescribed provincial priorities. The following provincial priorities are prescribed pursuant to O. Reg. 580/22:

1. Building 1.5 million residential units by the end of 2023; and
2. Constructing and maintaining infrastructure to support housing, including,
 - i. transit,
 - ii. roads,
 - iii. utilities, and
 - iv. servicing.

The strong mayor powers set out below with respect to items (ii), (iii) and (iv):

- (a) to require a council to consider matters at meetings,
- (b) to veto a by-law that interferes with a provincial priority, and
- (c) to pass a by-law with a minority vote of council to advance a provincial priority,

can only be exercised for the advantage of the prescribed provincial priorities.²⁹

(ii) Powers re Meetings

The head of council is given the power to require council to consider a matter that could advance a provincial priority. This power may be exercised notwithstanding contrasting requirements set out by the municipalities procedure by-law.³⁰

²⁹ *City of Toronto Act, 2006*, s. 226.7; *Municipal Act, 2001*, s. 284.9.

³⁰ *City of Toronto Act, 2006*, s. 226.8; *Municipal Act, 2001*, s. 284.10.

(iii) Mayor's Veto Power

(1) To Veto By-law Interfering with Provincial Priority

The head of council is provided with a limited veto power which the head can exercise if they are of the opinion that council has passed a by-law that could potentially interfere with a prescribed provincial priority. The veto powers are set out in sections 226.9 of the *City of Toronto Act, 2006* and section 284.11 of the *Municipal Act, 2001*. The veto power is limited to by-laws that are enacted under:

- the *City of Toronto Act, 2006* or the *Municipal Act, 2001* or their regulations;
- the *Planning Act, 2001* or regulations made thereunder; or
- any other prescribed statutes or regulations or provisions thereof.³¹

The head of council must be “of the opinion” that a by-law enacted by council could potentially interfere with a provincial priority in order to use the veto power.

The veto power must be exercised, in writing, within two days of council approval of the by-law.³² The by-law is deemed not to have been passed by council if the veto power is exercised.³³

³¹ *City of Toronto Act, 2006*, s. 226.9(1); *Municipal Act, 2001*, s. 284.11(1). O. Reg. 530/22, s. 5 extends the veto power to by-laws enacted under s. 2 of the *Development Charges Act, 1997*, S.O. 1997, c. 27, and limits the veto power by removing its applicability with respect to by-laws under sections 289 and 290 of the *Municipal Act, 2001*.

³² *City of Toronto Act, 2006*, ss. 226.9(2)-(7); *Municipal Act, 2001*, ss. 284.11(2)-(7).

We are aware of two mayoral decisions to veto council decisions that could potentially interfere with prescribed provincial priorities:

- Ajax Mayoral Decision No. 2-2024 dated February 21, 2024 to veto town council's community benefits charges by-law as creating additional barriers and costs on purpose-built rental housing because of the introduction of a 4% levy that would be passed on to the ultimate user; and
- Hamilton Mayoral Decision MDE-2024-03 dated March 28, 2024 to strike down a city council decision to not make certain city-owned land (parking lots) available for the development of affordable housing.

³³ *City of Toronto Act, 2006*, s. 226.9(8); *Municipal Act, 2001*, s. 284.11(8).

(2) Council Override of Mayor's Veto

The council will have 21 days to possibly override the head of council's veto with a two-thirds council vote.³⁴ The head of council is expressly entitled to vote on the proposed council override.³⁵ The head of council is still a member of council and retains their vote when council considers overriding the mayoral veto.

If the supermajority vote reverses the mayor's veto, the by-law will be deemed to have passed on the day the council voted to override the veto.³⁶

(iv) Minority Vote to Advance Provincial Priority

As noted above, the *Better Municipal Governance Act, 2022* added a significant power for a strong mayor municipality whereby the head of council may propose certain by-laws that would *advance* provincial priorities. It is a corollary power to the mayor power to veto by-laws that potentially interfere with a provincial priority. A strong mayor may propose a by-law which can be enacted by a vote of a mere one-third plus one member of a municipal council.³⁷

The minority-enactment power is limited to by-laws that are passed under:

- the *City of Toronto Act, 2006* or the *Municipal Act, 2001* or their regulations;
- the *Planning Act, 2001* or regulations made thereunder; or
- any other prescribed statutes or regulations or provisions thereof.³⁸

³⁴ *City of Toronto Act, 2006*, s. 226.9(9); *Municipal Act, 2001*, s. 284.11(9).

³⁵ *City of Toronto Act, 2006*, s. 226.9(10); *Municipal Act, 2001*, s. 284.11(10).

³⁶ *City of Toronto Act, 2006*, s. 226.9(11); *Municipal Act, 2001*, s. 284.11(11).

³⁷ *City of Toronto Act, 2006*, s. 226.9.1; *Municipal Act, 2001*, s. 284.11.1. The wording of the statutes stipulates "more than one-third vote required." Both statutes provide that the head of council is entitled to vote on the matter, *ergo* the one-third of council plus the head of council.

³⁸ *City of Toronto Act, 2006*, s. 226.9(1); *Municipal Act, 2001*, s. 284.11(1). O. Reg. 529/22, s. 4(2) and O. Reg. 530/22, s. 5(2) provide that this power extends to "by-laws enacted under section 2 of the *Development Charges Act, 1997*."

(e) Municipal Budget

The statutory amendments created another significant shift by providing that the powers and responsibilities for the municipal budget is now under the authority of the head of council to prepare and present to council for consideration. The mayor must bring forward the budget for adoption by council on or before February 1 of each year in accordance with the regulations. Council may adopt or propose amendments to the budget.³⁹

The mayor may veto the budget amendments and council may, by a two-thirds vote (which includes the mayor – who is entitled to vote), override the mayor's veto.⁴⁰

(f) General or Miscellaneous Provisions

There are also a number of provisions that can be described as general or miscellaneous.

(i) Immunity

If made legally and in good faith by the head of council, any exercise of power under Part VI.1 cannot be quashed or judicially reviewed, in whole or in part, for unreasonableness.⁴¹

(ii) Vacancy in Office of Head of Council

In municipalities where the strong mayor system is not in place, if there is a vacancy of any council member's office (including that of the head of council), the council may fill such vacancy through appointment or by-election.⁴² Under the strong mayor regime, the filling of a mayoral vacancy on the council can no longer be done by appointment – a by-election must be held to fill the office of mayor.⁴³ This is a reflection of the increase in

³⁹ *City of Toronto Act, 2006*, ss. 226.14(1)-(3); *Municipal Act, 2001*, ss. 284.16(1)-(3).

⁴⁰ *City of Toronto Act, 2006*, ss. 226.14(4)-(5) and O. Reg. 529/22; *Municipal Act, 2001*, ss. 284.16(4)-(5) and O. Reg. 530/22.

⁴¹ *City of Toronto Act, 2006*, s. 226.12; *Municipal Act, 2001*, s. 284.14. This immunity has antecedents in ss. 272 and 448 of the *Municipal Act, 2001* and ss. 214 and 391 of the *City of Toronto Act, 2006*.

⁴² *City of Toronto Act, 2006*, s. 208; *Municipal Act, 2001*, s. 263.

⁴³ "Bill 3, Strong Mayors, Building Homes", 2nd Reading, *House of Commons Debate*, 1-43, No. 4 (11 August 2022), Volume A at 98 (Hon Steve Clark). *City of Toronto Act, 2006*, s. 226.10; *Municipal Act, 2001*, s. 284.12. There is an exception for a vacancy in the office of mayor that occurs after March 31 in a regular election year – the council can still appoint a replacement.

power allocated to the head of council. A deputy mayor does not step into the shoes of a strong mayor to be able to exercise the same powers.

(iii) Delegation

The head of council may delegate their powers and duties under Part VI.1 of the *City of Toronto Act, 2006* and the *Municipal Act, 2001* with respect to: (i) the chief administrative officer; (ii) municipal organizational structure; (iii) local boards; and (iv) committees.⁴⁴

(g) Regulation-Making Authority

The Minister of Municipal Affairs and Housing is given broad regulation-making powers to prescribe for all manner of things under Parts VI.1 of both the *City of Toronto Act, 2006*⁴⁵ and the *Municipal Act, 2001*,⁴⁶ including the authority to make a regulation retroactive to a date not earlier than six months before it was made.⁴⁷

2. Amendments to *Municipal Conflict of Interest Act*

The *Municipal Conflict of Interest Act*⁴⁸ was amended to address the implementation of the strong mayor system.

Section 5.3 was added to the *Municipal Conflict of Interest Act*, requiring a mayor with a pecuniary interest in a matter to disclose such interest and to refrain from using the powers granted under Parts VI.1 of the *Municipal Act, 2001* or the *City of Toronto Act, 2006*. Section 5.3 does not apply to a pecuniary interest listed under the exceptions in section 4 of the *Municipal Conflict of Interest Act*.

Despite a declared pecuniary interest, the mayor may delegate their powers and duties of appointment, within the limits as noted above.

⁴⁴ *City of Toronto Act, 2006*, s. 226.11; *Municipal Act, 2001*, s. 284.13.

⁴⁵ *City of Toronto Act, 2006*, s. 226.15.

⁴⁶ *Municipal Act, 2001*, s. 284.17.

⁴⁷ *City of Toronto Act, 2006*, s. 226.15(4); *Municipal Act, 2001*, s. 284.17(4).

⁴⁸ *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50.

D. COMMENTARY

1. Solving the Housing Crisis

The provincial government set an aggressive target to build 1.5 million homes over the next decade. As noted, the provincial government pointed the finger at municipal bureaucracy and red tape as a leading contributor to the housing crisis. In order to have shovels break ground sooner, Premier Ford took the position that strong mayor powers are needed in 50 municipalities across Ontario.

But will strong mayor powers, including the authority to require council to consider matters at meetings without adherence to the procedure by-law, to veto a by-law that potentially interferes with provincial priorities, or to pass a by-law that potentially advances provincial priorities with a minority vote of council, make any real impact on reaching new housing construction targets throughout Ontario? While the development approval process has been streamlined and there is less backlog of building permit delays, significant obstacles to actually constructing new housing units have not been addressed.

A concern raised by many municipalities is the lack of infrastructure and services to support the housing targets set by the Province.⁴⁹ Even if a municipality receives funding from the Province's \$1.2 billion Building Faster Fund for such servicing, complex infrastructure is not built in a day. With new housing comes the need for more hospitals, schools, roads, transit, increased water and sewer servicing capacity, and businesses generally. The technical design, receipt of approvals from impacted bodies like the Ministry of the Environment, Conservation and Parks and conservation authorities, and the bid and tender process, all take significant time. The impacts of certain aspects of infrastructure construction need to be assessed, and such studies cannot simply be eradicated to achieve the housing targets. When new or upgraded infrastructure and services must precede new residential development, it is difficult to discern how the strong mayor powers will solve the housing crisis.

⁴⁹ Lisa Queen, "Newmarket denied strong mayor powers after mayor rejected signing housing pledge he calls unachievable", *YorkRegion.com* (16 June 2023), online: <Newmarket denied strong mayor powers after mayor rejected signing housing pledge he calls unachievable (yorkregion.com)>.

Despite a potential influx of development approvals, a lack of skilled tradespeople, supply chain issues and the difficulty for developers to obtain construction financing with increasing interest rates remain obstacles that have not been addressed.⁵⁰

In other words, a solution to a multi-faceted problem resulting in the housing shortage in Ontario cannot simply be resolved by a number of mayors deciding to propose or veto various by-laws.

2. Effects of the Strong Mayor System

In a weak mayor system, where the head of council is but one vote on council, a council must achieve results through collaboration and concession.⁵¹ In a strong mayor system, the head of council can veto various by-laws if they are considered to potentially interfere with provincial priorities or proffer certain by-laws requiring the support of only a minority of council members to potentially advance provincial priorities. In this sense, there is a real loss of consensus-building amongst council.

An oft-cited reason for the opposition of strong mayor powers is the erosion of local democracy.⁵² Municipal democracy as we have previously known it in Ontario is very fundamentally threatened and will be largely dependent on how empowered heads of council wield their executive powers (or decide to cede some of them back to their council and administration). It may very well be that in designated municipalities it will be a minority of council that is deciding how the housing crisis is tackled in that local area, perhaps in contrast to what a majority of their residents actually want.

⁵⁰ Rosa Saba, "Labour Shortage in Construction Adding Extra Pressure to Housing Supply Gap: Experts", *Toronto Star*, (2 July 2023), online: <https://www.thestar.com/business/labour-shortage-in-construction-adding-extra-pressure-to-housing-supply-gap-experts/article_84c6a64f-8a51-5629-8074-6e5a828fe50f.html>.

⁵¹ "Bill 3, Strong Mayors, Building Homes Act, 2022", Standing Committee on Heritage, Infrastructure and Cultural Policy, 1-43, HE-4 (29 August 2022) at HE-17 (Dr. Myer Siemiatycki): "For almost 200 years, Ontario municipalities have been well served by a governance model based on mayoral-led, collegial, collaborative governance rooted in strong ties to their residents. That needs to continue."

⁵² "Strong Mayor Powers are Bad for Local Democracy", *Toronto Star* (20 June 2023), see online: <https://www.thestar.com/opinion/editorials/strong-mayor-powers-are-bad-for-local-democracy/article_c60a95b4-aa44-59ec-bf6e-705a979da45f.html>.

The implementation of the strong mayor system, to be exercised only in concert with provincial priorities, is a way for the provincial government to exercise control over municipal governments. The provincial government has revised the system whereby municipalities collect development charges, significantly reducing the amount of charges that municipalities may collect from developing landowners to cover the expense of growth-related capital costs to municipalities. While growth-related costs for new and expanded infrastructure were previously collected from developers, some municipalities must now pledge to meet provincially-determined housing objectives and only when a municipality meets 80% of its yearly target, are they eligible for provincial funding.

By implementing strong mayor powers, the provincial government has effectively undermined municipal independence and, by supplanting development charge funds with a provincial incentivized home-building fund, complete with bonuses for surpassing targets, is forcing municipalities to prioritize provincial goals.

E. CONCLUSION

The provincial government had the inherent power to immediately address housing issues that are rampant across Ontario. Expanding inclusionary zoning, ending exclusionary zoning, strengthening rent control and closing loopholes around renovations, and funding community and affordable housing would directly and immediately impact housing concerns province-wide. Instead, the provincial government has focused on reforming municipal government. It is evident that the implementation of a strong mayor system, to be exercised only to advance the prescribed provincial priorities of the day, is another example of the Province intermeddling into municipal affairs.

Downloading the provincial government's commitment to solve the province-wide housing crisis to the heads of council of Ontario's largest municipalities will not be the cure that the government promulgates it to be. The strong mayor system is nothing more than another attempt by the provincial government to exercise greater control over local government and advance provincial objectives at the municipal level, despite opposition from local governments, citizens, and even a number of mayors receiving the strong powers.

Finally, the effectiveness of the strong mayor powers to “solve the housing crisis” will be largely dependant on an individual head of council’s exercise of such powers. If the mayors are not proponents of increased development or of affordable housing, the legislation will have no effect whatsoever on solving the crisis it was purportedly intended to address.

Note: A previous version of this paper was delivered at the *Six-Minute Real Estate Lawyer 2023* (Law Society of Ontario) on November 15, 2023 which was also based on an earlier published article co-written by the authors for the *Digest of Municipal and Planning Law*: “Strong Mayors, Weak Plan”, (2022) 10 D.M.P.L. (2d), October 2022, Issue 22.

56667939.1