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Delivered via e-mail

Dear Ms. Hering:

Re: Climate Change Discussion Paper (EBR Registry #012-3452)

Please consider the following comments by the Canadian Environmental Law Association (CELA) and the Low-Income Energy Network (LIEN) in response to the Climate Change Discussion Paper (EBR Registry #012-3452).

I. Introduction

We support Ontario in its intention to take further steps to mitigate its role in global climate change as set out in the province's 2015 Climate Change Discussion Paper. We address two issues in this submission, namely Climate Justice – Equitable Mitigation and Adaptation Policies; and secondly Infrastructure and Development.

II. Climate Justice – Equitable Mitigation and Adaptation Policies

1. Introduction

Climate change is a problem with an important equity dimension. Income inequality and poverty are serious problems in Canada, with deep-rooted historical and structural causes. The gap between the highest income brackets and the lowest is growing, eroding the middle class and pushing an increasing number of people into poverty.[1] The link to climate change is simple: low-income communities have contributed least to greenhouse gas ("GHG") emissions, but will suffer most from climate change's impacts.[2]

[1] *Towards a More Equal Canada: A Report on Canada's Economic and Social Inequality*, Broadbent Institute (October 2012). Online at: http://ywcacanada.ca/data/research_docs/00000292.pdf
[2] Marc Lee, *Fair and Effective Carbon Pricing: Lessons from BC*, Canadian Centre for Policy Alternatives (February 2011) p. 16. Online at: https://www.policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2011/02/CCPA-BC_Fair_Effective_Carbon_FULL_2.pdf

This situation is unfair, and, unfortunately, climate policies that do not adequately consider this reality can make it worse. Mitigation and adaptation policies that do not take low-income communities into account can force these communities to shoulder a disproportionate burden of reducing society's GHG emissions. For example, BC's carbon tax ended up taking a greater percentage of income from the poor than from the rich after only two years, despite the introduction of a low-income carbon credit.

This conclusion derives from analysis by the Climate Justice Project, a partnership between the University of British Columbia and the Canadian Centre for Policy Alternatives.[3] It demonstrates that the carbon tax as a share of income shows a regressive pattern. In 2010, households in the bottom 10% paid 1.3% of their income in carbon tax, whereas the top 10% paid only 0.3%, and the top 1% would pay 0.2%. More than half of carbon tax revenues (54%) went to corporate income tax cuts in 2010/11, compared to one-third in 2008/09. By 2012/13, corporate income tax cuts were projected to equal $1 billion, which is two-thirds of carbon tax revenues and more than all other climate action expenditures between 2007/08 and 2010/11. The low-income credit, which was designed to offset the tax's regressive impact, did not keep pace with the carbon tax, and shrank from one-third of revenues in 2008/09 to 19% in 2010/11. It was projected to fall to 12% by 2012/13.

The Ministry of Environment and Climate Change ("MOECC") 2015 Climate Change Discussion Paper ("discussion paper") begins to address equity concerns in its discussion of rural, northern and remote communities.[4] This is an excellent start. A more detailed discussion of poverty in Ontario, including the possible regressive effects of mitigation and adaptation policies, is needed to avoid unfair impacts on those who have contributed least to the problem.

2. Suggestions for the Discussion Paper

The discussion paper is clearly meant to be a conceptual overview of the Province's initial approach to climate policy, and so a lack of clarity on certain issues is to be expected. However, there are three conceptual areas where clarity can, and should, be provided in order to get the equity issues right, at the outset.

2.1) Refine the discussion of "Community"

At this point, the discussion paper includes a section on "Well-built Communities" but does not define "community."[5] It appears to implicitly define communities as built communities – as shown by its focus on infrastructure and housing and its division of Ontario's settled areas into "urban," "rural" and "Northern." However, the discussion paper does not look at demographic

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To give a domestic example, low-income households often live in substandard housing that is more vulnerable to extreme weather events associated with climate change, for example flooding and associated water damage. These households may lack adequate financial resources to repair the damage, and may not be able to access alternate housing. To compound the problem, where low-income communities are located in low-lying areas the risk is particularly high.

[3] Lee, *supra* note 2 pp. 5, 18-19.

[4] *Ontario's Climate Change Discussion Paper 2015*, Ministry of the Environment and Climate Change (2015) pp. 21, 22. Online at: http://www.downloads.ene.gov.on.ca/envision/env_reg/er/documents/2015/012-3452.pdf

[5] *Ibid* pp. 20-22.

differences, or sub-communities, within these settled areas. This point is important because if poor communities have to suffer from unfair burdens, the poorest people within communities suffer most of all. The discussion paper would benefit from a more nuanced discussion of the term "community" and a clear statement of any assumptions in use.

Some significant demographic groups, or sub-communities, whose needs should be considered when designing equitable climate policies include: women, people with disabilities, communities of colour, immigrant communities, the homeless population, and, as the discussion paper already notes, Indigenous, rural, and remote communities. It is essential that these vulnerable sub-communities do not get further marginalized in the push to build infrastructure and housing to mitigate and adapt to climate change. As a start, any discussion of mixed-use communities[6] should also make a point of including a mix of subsidized and market value housing.

2.2) Managing risks for whom?

This is a short point, but the Province should state how it intends to go about quantifying risk, and for whom it intends to quantify risk. Low-income communities likely have different risk profiles from middle- and high-income communities, while various low-income sub-communities likely have different risk profiles from each other.

2.3) The price on carbon should not be regressive

Putting a price on carbon is essential in combatting climate change, a shortcoming that Lord Nicholas Stern has called the greatest market failure of all time.[7] Most economists consider that a carbon tax has several advantages over the alternative pricing instrument, a cap-and trade system, such as being cheaper to implement and easier to enforce.[8] However, both policy tools can in theory work equally well if they are properly designed, and conversely either tool can be regressive if not carefully designed.[9] Sustainable Prosperity outlines the reasons for this regression below:

> Low-income groups have less ability to substitute low-carbon alternatives, and tend to have different carbon spending patterns than higher income groups. For example, they may spend proportionately more on home heating (perhaps because their homes are less energy efficient), but less on motor fuels because they have a lower rate of vehicle ownership. Rural households are more heavily impacted than those in urban areas, as they tend to have higher energy expenditures. In addition to overall higher spending on fossil fuels, lower income groups may consume a greater amount of higher carbon content fuels (e.g. coal) than higher income

[6] When the discussion paper talks about "climate-friendly communities" that "allow for more walking and cycling," it is referring to what is known in the planning literature as "mixed use communities."
[7] Nicholas Stern, "The Economics of Climate Change," in *The Stern Review*. Cabinet Office: HM Treasury (2006). Pages xvi-xvii.
[8] *British Columbia Carbon Tax Review: Submission*, Sustainable Prosperity (September 2012) at 1. Online at http://www.sustainableprosperity.ca/dl891&display
[9] Lawrence H. Goulder and Andrew R. Schein, "Carbon Taxes Versus Cap and Trade: A Critical Review,I in *Climate Change Economics* Vol. 4 No. 3 (18 November 2013). Online at: http://web.stanford.edu/~goulder/Papers/Published%20Papers/Goulder%20and%20Schein%20-%20Carbon%20Taxes%20vs%20Cap%20and%20Trade%20-%20Cl%20Ch%20Economics.pdf

> groups. Structural factors contribute significantly towards a household's spending pattern and ability to make substitutions with regards to carbon-intensive goods. For example, living in a suburb means increased dependence on automobile travel, due to greater distances and less access to public transit or other alternatives. There are […] other factors besides income that may also make certain groups, such as women, Aboriginal peoples or others living in remote communities, more vulnerable to negative welfare impacts arising from carbon pricing. For example, rural and remote communities are often more dependent on fossil fuels (e.g. for travelling large distances, and often for electricity from diesel generators), with less flexibility to make substitutions (e.g. lack of public transit or electricity grid). The uneven impact of carbon pricing on different groups or communities can, without proper policy design, make carbon pricing's costs unfairly and unevenly distributed.[10]

A carbon tax is ultimately a tax on consumption and such taxes are regressive in their distribution – i.e. lower-income households pay a larger share of their income to the tax, even though they have the smallest carbon footprints. To address this problem, credits are needed to ensure that low-income households are not made worse off.[11]

Cap and trade systems require companies to buy emissions permits for the fossil fuels they use, and presumably many of these companies will pass those increased costs on to consumers. Accordingly, credits may also be needed for a cap and trade system to ensure that low-income households are not made worse off.

The Province should state how it intends to make its carbon pricing system fair, especially since the BC experience shows equity and fairness considerations are key to political acceptance of a carbon tax.[12]

3. How are other jurisdictions addressing equity in their mitigation and adaptation policies?
Though other Provinces and States are the most analogous jurisdictions to Ontario, certain cities have taken the lead in integrating equity concerns into their climate action plans. The following identifies some cities and States that have explicitly included social equity dimensions in their mitigation and adaptation policies.

Portland, Oregon has one of the best climate action plans in North America with respect to equity considerations. Portland is updating its 2009 Climate Action Plan this year and the draft 2015 Portland Climate Action Plan includes a new, explicit focus on equity.[13] It states:

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[10] *Supra* note 8 p. 7.
[11] Marc Lee, *Building a Fair and Effective Carbon Tax to Meet BC's Greenhouse Gas Targets*, Canadian Centre for Policy Alternatives (August 2012), at 2, 3. Online at: https://www.policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2012/09/CCPA-BC_Carbon-tax-review-submission.pdf
[12] *Supra* note 8 p. 4.
[13] City of Portland, *2015 Climate Action Plan: Public Comment Draft*, (2015) at 42-49. Available for download at: https://www.portlandoregon.gov/bps/66993

> Climate Equity ensures the just distribution of the benefits of climate protection efforts and alleviates unequal burdens created by climate change. This requires intentional policies and projects that simultaneously address the effects of and the systems that perpetuate both climate change and inequity. […] Communities of color and low-income populations have historically been under-served by programs and investments and under-represented in decision making on climate policy. Lack of low-carbon, safe transportation options, inefficient housing and the inability to afford healthy food are examples of disparities experienced by these communities that result in fewer benefits from climate action opportunities. These inequities primarily result from ongoing institutional racial bias and historical discriminatory practices that have resulted in the inequitable distribution of resources and access to opportunities.[14]

In addition to identifying equity concerns that were "mainstreamed" into previous climate policies, Portland has created a Climate Equity Working Group, generated Climate Equity Commitments, included equity as an explicit consideration in choosing future climate policies, and committed to developing a climate equity metric.

Boston, Massachusetts likewise makes social equity concerns a cross-cutting theme in its climate action plan. The 2014 Update of the Boston Plan implemented two guiding principles around social equity. Inspired by the environmental justice movement, the first principle holds that minority and low-income communities must not be disproportionately impacted by climate hazards. The second principle holds that benefits from climate mitigation and preparedness efforts should be shared equally among all groups of people.[15]

The State of California was an early leader in this field, including an Environmental Justice section in its 2006 Climate Action Plan.[16] In particular, California's 2009 Climate Adaptation Plan required the state legislature to "Give priority to adaptation strategies that initiate, foster, and enhance existing efforts that improve economic and social well-being, public safety and security, public health, environmental justice, species and habitat protection, and ecological function."[17] This plan was successful at "mainstreaming" equity considerations into its other climate action policies, though unfortunately the same concern is not as readily apparent in California's GHG mitigation strategy. California's most recent state-level Climate Action Team report was produced in 2010.[18]

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[14] *Ibid.*
[15] *Greenovate Boston: 2014 Climate Action Plan Update*, (2014) p. 16. Online at: http://www.cityofboston.gov/eeos/pdfs/Greenovate%20Boston%202014%20CAP%20Update_Full.pdf
[16] *Climate Action Team Final Report*, California, (2006) pp. 93-96. Online at: http://www.climatechange.ca.gov/climate_action_team/reports/2006report/2006-04-03_FINAL_CAT_REPORT.PDF
[17] *Statewide Adaptation Strategy*, California (2009) p. 5. Online at: http://resources.ca.gov/docs/climate/Statewide_Adaptation_Strategy.pdf
[18] California Environmental Protection Agency, *Climate Action Team Report to Governor Schwarzenegger and the California Legislature*, (December 2010) at 14. Available for download at http://www.climatechange.ca.gov/climate_action_team/reports/#2010

Oregon has likewise included equity concerns into its decision-making metric. For instance, in its discussion of greening Oregon's energy mix, the state's climate action report required sufficient time for an orderly process for undertaking replacement resource planning and acquisition to assure system reliability and manage transition costs, especially impacts to utility employees, local communities, and businesses and low-income household customers.[19] It also included a recommendation that its Complete Community Plans include housing plans that balance housing needs for all income levels and housing types, and are accessible for public transit, walking, and bicycles.[20]

New York State's Climate Action Plan contains a full chapter respecting environmental justice concerns and their impacts on other mitigation and adaptation measures contained in the plan.[21] The State of New York made a concerted effort to engage with marginalized communities in the drafting of its Climate Action Plan, and integrate input from a spectrum of community-based or focused organizations and environmental justice (EJ) groups. From the very beginning, individuals who represented these viewpoints and who could also bring to bear different regional perspectives were invited to join the Technical Work Groups that formed the backbone of the Climate Action Planning effort. Additional EJ and community-based or focused representatives were later added to each Technical Work Group to further strengthen the community perspective. Key EJ stakeholders were also asked to join the Integration Advisory Panel, a body charged with considering cross-cutting and multisectoral issues that emerged during the process.[22]

British Columbia and Quebec also mention some equity concerns, but they are not as explicit as in the plans discussed above.

Finally, we note that the National Consumer Law Center, based in Boston, in collaboration with local, state-level, and national NGOs, has produced very useful statements of principle on fair climate change policy[23] as well as detailed policy papers on issues of climate change justice.[24]

4. Conclusion

To conclude, Ontario is to be commended for seeking to design policies to mitigate and adapt to climate change. It is essential, however, that these policies be mindful of their impact on low-income individuals, households, and communities.

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[19] The Oregon Global Warming Commission, *Interim Roadmap to 2020: Keep Oregon Cool*, (29 October 2010) at 14. Online at: http://www.keeporegoncool.org/sites/default/files/Integrated_OGWC_Interim_Roadmap_to_2020_Oct29_11-19Additions.pdf

[20] *Ibid.* at 40.

[21] New York State's full plan can be downloaded at http://www.dec.ny.gov/energy/80930.html. If desired, the environmental justice chapter can be downloaded separately at http://www.dec.ny.gov/docs/administration_pdf/irchap12.pdf

[22] New York State Climate Action Council, *Chapter 12: Multisectoral Policies and Issues*, (2010) at 12-1. Online at: http://www.dec.ny.gov/docs/administration_pdf/irchap12.pdf

[23] See, e.g., http://www.nclc.org/images/pdf/special_projects/climate_change/principles_energy_water.pdf

[24] See, e.g., http://www.nclc.org/special-projects/climate-change-justice.html

III. Infrastructure and Development

1. Introduction

Ontario, Toronto, and the Greater Golden Horseshoe (GGH) area have some of North America's more intensive and forward-thinking infrastructure plans. However, as Ontario's Climate Change Discussion Paper 2015 points out, even these plans must be significantly expanded for Ontario to reach its essential emissions cuts targets by 2020 and 2050.[25] Ontario and the GGH in their existing plans and laws have drawn heavily from other North American cities that lead in proactive growth management, including Portland, Oregon and the municipalities of Maryland that surround Washington, DC.[26] Based on its own experience and the policy experiments of these other cities, Ontario has crafted a synthetic framework for growth and development.[27] These programs should be enhanced and accelerated.

With regard to infrastructure, Ontario and the GGH have chosen to focus on building more public transportation and compact communities to reduce carbon emissions.[28] From a legal perspective, though Ontario and the GGH have taken good, concrete steps to curb their emissions through these strategies, the existing Growth Plans and other laws do not appear to have many strong legal mechanisms to achieve the desired carbon emissions reductions through urban intensification.[29] The goal of the GGH and Ontario appears to be using the development of infrastructure and compact communities to alter consumer demand away from increasingly sprawling, commuting-oriented preferences.[30] However, the mechanisms in the Growth Plan for the GGH (GPGGH) and Ontario's other infrastructure development laws and plans remain very responsive to existing consumer demand and market forces rather than finding ways to shift these trends.[31]

An overarching challenge to dramatically revamping the GGH's infrastructure and housing in a relatively short period of time is doing so without reducing area residents' quality of life or overall equity in the GGH community. Housing will need to be built in a large volume in a small area without making residents feel overcrowded and dehumanized: the housing will need to be

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[25] *Supra* note 4.

[26] *From Sprawl to Sustainability: Smart Growth, New Urbanism, Green Development, and Renewable Energy*; Robert H. Freilich, Robert J. Sitkowski, and Seth D. Mennillo; American Bar Association (2010); p. 109-110, 134-37. Online at: https://books.google.ca/books?id=2hET5BF4jDYC&pg=PA134&lpg=PA134&dq=compact+community+police+portland+oregon&source=bl&ots=jrh5uRaip2&sig=Zxh4IxDA0dQfJq96sMP5zvKsNQA&hl=en&sa=X&ei=4JYJVa6qA4OUyQSiwIDwAg&ved=0CC8Q6AEwAw#v=onepage&q=compact%20community%20police%20portland%20oregon&f=false.

[27] The Greenbelt Plan hedges the GGH while Building Together and others provide subsidy mechanisms. *Places to Grow: Related Provincial Initiatives*, Ministry of Municipal Affairs and Housing (2013). Online at: https://www.placestogrow.ca/index.php?option=com_content &task=view&id=52&Itemid=64.

[28] *Ibid. See also Growth Plan for the Greater Golden Horseshoe 2006 ("GPGGH")*, Ministry of Municipal Affairs and Housing (2006); s. 1.2.1, 1.2.2. Online at: https://www.placestogrow.ca/index.php?option= com_content&task=view &id=359&Itemid=12.

[29] *See generally GPGGH*, *supra* note 28.

[30] *Cf. ibid*.

[31] For example, highway expansions are being built. *Building Together: A Progress Update 2012-13*; Ministry of Economic Development, Employment, and Infrastructure (2015). Online at: http://moi.gov.on.ca/en/infrastructure/ building_together/progress_update.asp.

high-quality, sufficiently large, aesthetically pleasing, and built with an area-wide approach that ensures neighbourhoods are pleasant places to live in. Ontario's experimental near-transportation housing projects are a good start, but they will need to be quickly expanded beyond the experimental stage for Ontario to meet its emissions targets in a human-friendly manner.[32] Transportation cannot feel like an untenable choice between different unpleasant and overcrowded systems; it must be expanded to account for growth, take people off the road, and do so in a way that is comfortable and appealing. Ultimately, all infrastructure policy related to carbon reduction will fail if the only options it presents are palpably worse than the status quo.

2. Legally Ensuring Climate Change is Accounted for in Infrastructure Decisions

The most obvious concern with the GPGGH is that, unlike the corresponding Growth Plan for Northern Ontario, it does not specifically reference climate change anywhere.[33] Ontario has undertaken good work to reduce its carbon footprint (e.g. its coal phase-out, with legislation to make this permanent by way of the proposed Bill 9, Ending Coal for Cleaner Air Act).[34] However, requirements for reduction of Ontario's carbon footprint should be legally entrenched for the long term in Ontario's planning and growth legislation. For example, the GPGGH and its affiliated laws should be amended to specifically require consideration of climate change and carbon costs associated with proposed infrastructure and growth projects in future decisions by provincial and municipal authorities.

3. Transportation

Ontario and the GGH clearly recognize that managing transportation is key to a low-carbon future. Integrating GGH public transportation into Metrolinx and implementing the Big Move are solid steps toward sufficiently expanding GGH public transportation to absorb projected public transportation demand increases in a carbon-friendly way.[35] However, the primary remaining challenge is convincing the segment of the population that car commutes to make the switch to public transportation. By a wide margin, the single largest portion of Ontario's total remaining emissions is the burning of gasoline for road transportation.[36] Thus, this issue should be a primary focus of all of Ontario's future infrastructure development.

Absent aggressively implemented fuel efficiency standards for new vehicles (which necessarily do nothing to address existing vehicles), the only (and by far the more effective) way to reduce this large emissions sector is simply to get people to stop driving. The GGH's existing infrastructure development plans include significant highway expansions to ease crowding.[37] Hence, Ontario and the GGH are working toward making car commuting easier and more appealing. In other words, they are responding to consumer demand, rather than proactively

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[32] *Transit-Oriented Development (TOD): Canadian Case Studies*, Canadian Mortgage and Housing Corporation (2009). Online at: http://www.cmhc-schl.gc.ca/odpub/pdf/66627.pdf?fr=1427474754149.
[33] *See generally GPGGH*, *supra* note 28.
[34] *Thunder Bay Generating Station Stops Burning Coal*, CBC News (2014). Online at: http://www.cbc.ca/news/canada/thunder-bay/thunder-bay-generating-station-stops-burning-coal-1.2610782.
[35] The Big Move, Metrolinx (2015). Online at: http://www.metrolinx.com/en/regionalplanning/bigmove/big_move.aspx.
[36] *Climate Change Discussion Paper*, *supra* note 4, p. 30.
[37] *Building Together Progress Update*, *supra* note 7.

shaping it around a less carbon-intense model. This contradiction undercuts the carbon reductions to be achieved through Ontario's public transportation expansion.

4. Compact Communities

Ontario's compact communities laws are off to a good start, but care must be taken to ensure that they ultimately meet their goals and do not cause undue impacts on certain segments of the population. Ontario's compact commuter hub program is still in an experimental phase and is yet to be used on any kind of scale.[38] The Greenbelt Plan is an important component of the existing laws.[39] While current policy has taken a great step to hedge sprawl of the GGH, it still leaves significant room to expand development.[40] While room for more development is a necessary consideration given the size and projected population growth of the GGH municipalities, it will delay the compact, upward-growth model that Ontario is hoping to implement. For example, Brampton is surrounded by a large region of GGH "Growth Plan Area",[41] but present development of the area frequently consists of new box stores and parking lots—the opposite of compact, upward growth. Further, the fact that the city and its developers are currently investing in this kind of building indicates that the area will be used as such for many years to come, rather than aggressively moving toward less space- and so carbon-intense development. Thus, the Greenbelt should be expanded into designated development areas to affirmatively and rapidly stop this kind of development in favour of the GGH's compact, mixed-use vision and its attendant carbon reductions. Since only the Province may expand the Greenbelt,[42] in the interim municipalities should use their own powers to further protect undeveloped and agricultural lands.

If compact, carbon-sensitive planning is to succeed, it has to address several problems that are not directly related to carbon. Equity, both in terms of living space and jobs, and quality of life are both major concerns in such a development program. Necessarily, as land and living space become scarcer, property values will go up in an area where they are already difficult for many to afford, or to afford while retaining a healthy disposable income to sustain a healthy local economy. Ontario's *Residential Tenancies Act* generally prevents the rapid escalation of rent in the GGH, but necessarily it has no control over the sale price of real property.[43] An escalation, especially a rapid escalation, of the price of real property means smaller units will be built as price per square foot goes up, and larger existing units will become increasingly unaffordable. This escalation has the potential to push more people into long-term and increasingly expensive rental housing. Social justice organizations such as Advocacy Centre for Tenants Ontario (ACTO) and others have long recommended inclusionary housing policies as a way to build affordable housing in all new residential development. Inclusionary housing by-laws, if adopted by municipalities, would require that developers provide a certain percentage (e.g., 20%) of all new housing development as affordable housing. Private member's bills authorizing

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[38] *Transit-Oriented Development*, *supra* note 32.
[39] *Greenbelt Act 2005*, SO 2005, c. 1.
[40] *GPGGH*, Schedule 2.
[41] *Ibid*.
[42] *E.g. Greenbelt Act*, s. 11.
[43] *E.g. 2015 Rent Increase Guideline*, Ontario Landlord and Tenant Board (2015). Online at: *http://www.ltb.gov.on.ca/en/Key_Information/STDPROD_098894.html.*

municipalities to adopt inclusionary housing policies have been introduced in the Ontario legislature but have been thus far unsuccessful.[44]

Ontario and the GGH have essentially no programs for managing real property values at present. Ontario and the GGH are already centralizing some infrastructure development authority under the Ministry of Infrastructure and other entities to coordinate transportation and other infrastructural development amongst the various municipalities of the GGH.[45] Ontario could explore the possibility of new regional authorities to create inter-municipal housing development plans to rapidly introduce many new housing units to the market at once to stabilize or lower prices. Using a targeted subsidy system similar to that experimented with by Maryland to build compact communities outside of Washington, DC,[46] by targeting many areas at once, Ontario and the municipalities of the GGH could work together to ensure that a high volume of housing is built in the right areas. Subsidies, if done right, can not only encourage development in the desired areas, as Maryland did, but can encourage builders to build a variety of types of tenure in a volume that they would not otherwise because of the lower profits they would realize in a flooded market. Discrete instances of strategic overbuilding relative to market demand like this could provide normal, high-quality housing while avoiding pricing intervention by the governments of Ontario and the GGH to keep housing affordable. Lowered housing pricing can also help to relieve the constant shrinking of individual units, curtail future need for social housing, and lower rent.

Bringing jobs into healthy compact communities also has a strong equity component. Jobs for people of all income and education levels must be accounted for. Every city wants more knowledge worker jobs in its community,[47] but these by themselves are not a whole community—they are only a segment. Whatever measures the GGHGP ultimately incorporates to drive the movement of jobs to centralized hubs outside of the downtown Toronto area, it must include programs to attract jobs for everyone; non-"knowledge workers" should not be left with only low-pay service industry jobs to serve an area's other residents.[48] Taking steps to foster the rapid building of new transportation infrastructure and housing and its subsequent maintenance could provide years of employment to many people if done properly.

However, construction alone is not sufficient, since construction is only a single industry and workers for the Big Move will eventually build themselves out of their jobs. Though NAFTA is currently being aggressively used by private investors to prevent environmental technology and other subsidy programs for local economies in Canada,[49] a potential program that could stimulate

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[44] *See e.g., http://www.acto.ca/en/law-reform-advocacy/new-affordable-housing/inclusionary-zoning-for-affordable-housing.html*

[45] *Metrolinx Act 2006*, SO 2006, c. 16 *and* About Infrastructure Ontario, Infrastructure Ontario (20150. Online at: http://www.infrastructureontario.ca/templates/AboutUsWithCarousel.aspx?ID=120&langtype=1033.

[46] *From Sprawl to Sustainability*, *supra* note 2, p. 109-10.

[47] *GPGGH*, s. 1.1.

[48] *Ibid*.

[49] *E.g. Oil Tycoon Takes on Ontario Green Energy Act over Wind Farm*, Shawn McCarthy, The Globe and Mail (2011). Online at: http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/oil-tycoon-takes-on-ontario-green-energy-act-over-wind-farm/article4192841/.

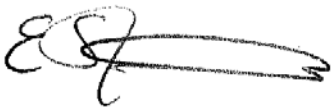
growth in local manufacturing industries without being targeted by another NAFTA investor suit could be adding the consideration of lifecycle carbon to procurement programs. Government procurement programs are exempt from Chapter 11 of NAFTA, but stimulus to local private industry is not.[50] Creating a mechanism that would require the consideration of lifecycle carbon in materials procurement (or a subsidy program that encourages purchasing low-carbon options) could encourage local buying, since local materials will not have the carbon cost associated with long-distance transport, without inherently discriminating against US or other investor interests. For example, manufacturing from New York or Ohio could benefit as much from such a program as Ontario in comparison with distant Provinces' economies. Further, as buildings and diesel-based transport are two of the larger segments of Ontario's emissions footprint, encouraging local procurement could concretely address a large portion of Ontario's remaining emissions.

5. Conclusion

CELA is pleased to provide the above comments and looks forward to further developments and engagement as Ontario pursues concrete, effective steps toward both climate change mitigation and climate change adaptation. We would be pleased to discuss these submissions at any time.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION and LOW-INCOME ENERGY NETWORK



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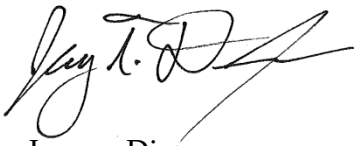

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[50] *North American Free Trade Agreement ("NAFTA")*, Part Five, Chapter Eleven, Art. 1108, s. 7(a).