

May 8, 2024

*sent via email*

Patricia Baran  
Policy Advisor  
Ministry of Agriculture, Food and Rural Affairs  
1 Stone Road W  
Ontario Government Bldg 2nd Floor  
Guelph, ON N1G 4Y2

Dear Ms. Baran,

I am writing you today on behalf of the [Association of Municipal Managers, Clerks and Treasurers of Ontario \(AMCTO\)](#) regarding the [Minister's proposed amendments](#) related to the *Line Fences Act* (24-OMAFRA010).

AMCTO represents excellence in local government, management, and leadership. For over 85 years we have provided education, accreditation, leadership, and management expertise for Ontario municipal professionals. With 2,200+ members working in municipalities across the province, we are Ontario's largest association of local government professionals.

Our Association is recognized as an influential voice that has maintained a productive relationship with government by helping ensure the professional expertise and local understanding of our members is utilized to improve existing and new legislation, policy, and programs to ensure successful local delivery.

I would like to take this opportunity to thank the Ministry for bringing forward proposed updates to the *Line Fences Act (LFA)*. AMCTO is supportive of efforts to reduce red tape and the administrative burden on municipalities such those being made to the *LFA* including the provisions around notice which are consistent with our recommendations to the current consultation on modernizing notice requirements overseen by the Ministry of Municipal Affairs and Housing.

Considering the rising cost of postage, we are pleased to see that language within Bill 185 *Cutting Red Tape to Build More Homes Act* suggests a range of mailing options as well as electronic means for sending notices and copies of awards. Such enabling legislation offered through Bill 185 allows municipalities to fulfil legislative requirements in a more economical manner and in a way that best suits their local needs, whether than be based on the mailing, courier and broadband internet circumstances of the municipality.

While in the past the Province has considered repealing the *Line Fences Act*, we recognize there is no one size fits all solution. Urban municipalities tend to exercise their authority under the *Municipal Act* to be exempt from the *LFA*, while others implement a fence by-law or adopted hybrid approaches having it apply to part of the municipality and/or specific circumstances. Municipalities' needs vary and we have heard from members that the *LFA* is still needed for small and rural communities.

Nonetheless, being one of the oldest pieces of legislation in Ontario, there are further opportunities to update the statute and ensure it is modernized, particularly in response to current municipal governance, administrative and operational needs with focus on outcomes. *The Act* must provide adequate framework to support municipal staff administering the process and effectively resolve fence disputes.

We would ask that the Ministry consider the following to reduce the administrative and financial burden on municipalities, and improve the value of *the Act* and effectiveness of service delivery.

### **Address Frivolous and Vexatious Requests**

Applying *the Act* tends to be resolving disputes effectively in situations involving larger and agricultural properties, where fences may be of significant value in terms of financial costs to build or maintain the fence, and importance to agricultural operations for livestock and crops. However, there are other times, where *the Act* is being misused and/or used maliciously between neighbours, undermining the intent of *the Act*.

Municipal administrators find frivolous and/or vexatious requests occur when the likely cost of a fence is less than the cost to administer the dispute resolution process.

Owners/occupants may also have a history of dispute and attempt to use the *LFA* to force them to pay for a portion of a fence that may or may not benefit them, causing significant financial burden to one party. Municipalities have no option under *the Act* to forego implementing the significant number of hours of work required to enact a line fence dispute that arises from a frivolous or vexatious motive and that may be more appropriately handled through other means such as civil court.

Owners/occupants have also been found to apply for a fence viewing and start the administratively challenging process only to withdraw prior to the formal fence-viewing. While dependent on the volume of applications, which can fluctuate from year to year, these requests put significant and unnecessary demand on municipal staff time and resources such as administration and legal without the ability to recoup costs in full. Repeated uses of *the Act*, where no valid awards are issued remains a frivolous application of the *LFA*.

Despite the limitations of the *LFA* in its current form, it remains a useful tool for smaller and rural municipalities to manage these issues. A mechanism such as frivolous and vexatious provisions would ensure where the process is working effectively it can continue to do so, and where requests are frivolous or vexatious, administrators have the authority and guidance to dismiss the request, reducing the administrative burden on municipalities.

It is important to note, municipal clerks or administrators encounter frivolous and vexatious requests for services administered under other statutes as well. Including language around frivolous, vexatious and triviality in the *LFA* and others could provide more recourse for municipalities and other parties involved to use to address these issues. Though, the threshold for frivolous and vexatious requests should not be too low that the public's access to service is hindered.

### **Reduce administrative and financial burden**

The *Line Fences Act* has often been referred to as an administratively encumbering piece of legislation. Under *the Act*, municipal administrators are responsible for several tasks as part of the process, from encouraging informal resolution, reviewing forms, providing relevant materials to scheduling the fence viewing, sending notices and providing administrative support to prepare an award, and if required arranging appeal, enforcement, etc.

Members have proposed several ways to reduce the administrative and associated financial burden. This includes setting out qualifications of fence viewers to help municipalities as they appoint fence viewers, updating manuals and training to be clear and concise and therefore easier to follow, and supporting fence viewers in writing awards. For example, revising award forms to be more precise in terms of how the work is shared, who pays and who is responsible for future repairs and maintenance so that awards are clearer and unambiguous reducing reliance on the administrator to interpret.

Finally, municipalities have also expressed concern with how the *LFA* is applied in instances where municipalities are involved, seeking further clarity and review of the circumstances in which fence viewings are required (eg. former rail corridors) as it can become incredibly costly for the municipality.

We are pleased to see the ministry modernizing outdated legislation that will support and enable the work of municipal public servants. However, there are further opportunities and need for amendments to modernize and clarify provisions beyond those outlined in Bill 185. We look forward to a comprehensive and government-wide approach to the modernization of the *Line Fences Act* and other municipal services that are provided on behalf of the Province.



Sincerely,

[Originally Signed by]

Stephen O'Brien, AOMC  
President, AMCTO

cc. Hon. Lisa Thompson, Minister of Agriculture, Food and Rural Affairs  
Parliamentary Assistant Anthony Leardi, Ministry of Agriculture, Food and Rural Affairs  
John Kelly, Deputy Minister, Ministry of Agriculture, Food and Rural Affairs  
Hon. Paul Calandra, Minister of Municipal Affairs and Housing  
Parliamentary Assistant Matthew Rae, Ministry of Municipal Affairs and Housing  
Martha Greenberg, Deputy Minister, Ministry of Municipal Affairs and Housing