

MUNICIPAL AND PLANNING LAW UPDATE

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Province Makes Significant Changes to the *Planning Act* and *Development Charges Act*

The Ministry of Municipal Affairs and Housing (MMAH) has completed its province-wide consultation, which looked at the way development is planned and paid for. From October 2013 to January 2014, the Province consulted with the public, municipalities and stakeholders on what changes were needed for the land use planning and appeal system and the development charges system. The result of this consultation is Bill 73 – the proposed *Smart Growth for Our Communities Act, 2015*, which received its first reading in the Legislature on March 5, 2015. Bill 73 will amend both the *Development Charges Act, 1997* and the *Planning Act*, creating significant changes to the existing planning framework. Some of the key changes are highlighted below:

Changes to the *Planning Act*

Decision and Appeal Deadlines: Currently, appeals arising from an approval authority's failure to make a decision in respect of all or part of an official plan (OP) may be made after a period of 180 days. Bill 73 would allow for one 90-day extension to that time period.

Parkland Dedication: The *Planning Act* allows an approval authority to impose, as a condition of approval of a residential plan of subdivision, that land be conveyed to the municipality for park purposes or that that cash in lieu (CIL) of parkland be provided. Currently, the rate of parkland dedication/CIL for a residential development is 5% of the land area or one hectare for each 300 dwelling units. Bill 73 would reduce the rate for CIL to one hectare for each 500 dwelling units proposed. Bill 73 also requires

municipalities to disclose how they spend money obtained through CIL of parkland (and section 37 agreements related to density bonusing).

Amendment Applications: Bill 73 will prohibit applications to amend a new OP or comprehensive zoning by-law for a period of two years after the plan or by-law comes into effect.

Minor Variance Applications: Bill 73 will prohibit any application for minor variance from zoning by-law provisions that have been amended in response to an application by an owner (or authorized agent), for a period of two years following the passing of the amendment. Subject to further consultation, Bill 73 will also define what constitutes a minor variance.

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Partner Lyn Townsend Appointed to Bill 73 Development Charges Steering Committee

WeirFoulds is pleased to announce that partner [Lyn Townsend](#) has been appointed by the Province to the newly-formed Bill 73 Development Charges Steering Committee. The Steering Committee will work with the Ministry of Municipal Affairs and Housing and the working groups formed to provide advice to the Provincial government on regulatory changes needed to implement the new provisions of the *Development Charges Act*.

Community Planning Permit System (CPPS): In our [July 2014 newsletter](#) we highlighted the City of Toronto's proposed Development Permit System (now renamed CPPS), which establishes a new regulatory framework (replacing zoning by-laws) through which development approvals are issued. Bill 73 will allow municipalities to prohibit any applications to amend a community planning permit by-law (which sets out development standards, similar to a zoning by-law) for a period of five years after the date of its passing.

Limiting Appeals: Bill 73 would remove the ability to appeal certain OP matters to the Ontario Municipal Board (OMB) including: 1) appeals of Council's entire decision to adopt all of a new OP (a "global appeal"); 2) appeals of any part of an OP that implements certain matters relating to vulnerable areas under the *Clean Water Act*, Lake Simcoe watershed, Greenbelt, Protected Countryside and specialty crop areas under the *Greenbelt Act*, or the Oak Ridges Moraine Conservation Plan Area; 3) population and employment Growth Plan forecasts; or 4) settlement area boundaries in lower-tier OPs.

Disputes Resolution: Alternative Dispute Resolution (ADR) techniques can be used by a municipal council in resolving certain appeals (those related to OPs and OP amendments, zoning by-law amendments, plans of subdivision and consents) locally and avoiding a hearing at the OMB. When a municipality chooses to

engage in the ADR process, the deadline to forward appeals to the OMB is extended from 15 to 75 days after the appeal period expires.

Changes to the *Development Charges Act*

Funding Transportation: Currently, the calculation of development charges to fund transit service is limited by the 10-year historic average service level and a 10% reduction in service level increases. Bill 73 would eliminate these limitations, thereby increasing the amount of capital costs that municipalities can recover for transit services.

Area-specific Development Charge ("DC"): Bill 73 allows councils to pass different DC by-laws for specific parts of the municipality which can fund specific services as prescribed.

Voluntary Payments: Bill 73 would see the *DC Act* perform as a legal code, enforceable by the MMAH, with respect to restricting the use of voluntary payments which are not authorized under the *DC Act*.

Transparency and a Long-Term Strategy: Bill 73 will require municipalities to publicly disclose how money obtained from DCs is spent on an annual basis. Municipalities are also required to prepare asset management plans which link the use of DCs to their long-term funding strategies.

MUNICIPAL PRACTICE

We provide advice to local governments and the private sector on all aspects of land use and development, from minor variance applications to complex official plan appeals. WeirFoulds has been consistently ranked by *Novae Res Urbis* magazine as one of the "Top Ten Development Law Firms" in both the Greater Toronto Area and City of Toronto – one of only four firms to achieve a dual top ten ranking.

ABOUT THIS NEWSLETTER

For over 150 years, the lawyers of WeirFoulds have been proud to serve our clients in their most difficult and complex matters. We are the firm of choice for discerning clients within our core areas of practice: (1) Litigation; (2) Corporate; (3) Property; and (4) Government Law. Within these core areas, as well as key sub-specialties, we address highly sophisticated legal challenges. We have acted in some of Canada's most significant mandates and have represented clients in many landmark cases. Reflecting the firm's focus, our lawyers are consistently recognized as leaders in their chosen areas of practice and in the profession at large. To learn more about our firm, visit www.weirfoulds.com.

Information contained in this publication is strictly of a general nature and readers should not act on the information without seeking specific advice on the particular matters which are of concern to them. WeirFoulds LLP will be pleased to provide additional information on request and to discuss any specific matters.

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