

Power to delegate far reaching for Ontario municipalities

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By Constance Lanteigne

A new era for municipal governments in Ontario was ushered in on January 1, 2007 with the proclamation of Bill 130's major amendments to the Municipal Act, 2001.

Like the *City of Toronto Act* (also in force January 1, 2007), the new amendments to the *Municipal Act, 2001* ("the Act") recognize municipalities as responsible, accountable governments, granting them new and broader powers and more autonomy.

The changes not only provide municipalities with greater flexibility in determining the appropriate mechanisms for delivering municipal services, they also provide municipalities with much wider scope for determining the types of services they can offer to meet community expectations and needs.

Specifically, municipalities now have the power to "provide any service or thing that the municipality considers necessary or advisable for the public." The potential room for new types of municipal services to evolve is huge. For example, a city could provide health-related facilities or even provide health services itself a potentially attractive option for municipalities looking to attract doctors to their area.

Gone are the prescribed activities needed for municipalities to "foster the economic, social and environmental well being" of their communities. In their place is a single purpose to provide good government and a new set of tools to accomplish this.

Delegation powers may change the municipal landscape

Of all the new tools in the municipal toolkit, none are as far reaching as the new rules relating to the delegation of municipal powers.

Under the new Act, municipalities are enabled to delegate many of their powers and duties under the Act or *Planning Act*, including their legislative and quasi-judicial powers, to one or more members of council, a local board, a council committee, or any body of which at least 50% are members of the council or appointed by council.

And for minor matters, municipalities can also delegate legislative and quasijudicial powers to any individual officer, employee or agent of the City.

While certain core powers cannot be delegated such as taxation, budgeting, development of official plans, creation of zoning bylaws, and the power to incorporate the new rules could provide community councils or neighbourhoods with the ability to deal with local issues, and certain municipal employees could be authorized to undertake duties on behalf of council.

There are a number of potential advantages to the delegation of certain powers:

- **Clearer focus:** With some decision-making delegated to other groups, councils will have more time to focus on more strategic issues and directions.
- **Better use of expertise:** Individuals and groups with delegated authority will in many cases be closer to the action and have more specialized expertise to make the right decisions and take appropriate actions.
- **Faster response:** The delegation of authority away from a centralized municipal council may relieve bottlenecks and speed up the decision-making process.

Of course, these are still early days under the amended Act and it remains to be seen how far municipalities will go in exercising these new delegation powers.

With change comes challenge

While municipalities undoubtedly welcome the greater flexibility the amended Act provides, many will face challenges in coming months as governance mechanisms are developed and the limits of their new powers are tested. With municipalities testing broader powers, and the courts and Province both able to set limits, it's clear that much of the tale of the new era of municipal government remains unwritten.

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