

Significant Changes to Planning: Bill 185, *Cutting Red Tape to Build More Homes Act*

June 13, 2024

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On June 6, 2024, Bill 185, also known as the *Cutting Red Tape to Build More Homes Act, 2024* ("Bill 185"), received Royal Assent.

Bill 185 is another piece of legislation introduced by the Ontario Government as part of its ongoing commitment to cutting red tape, speeding up government processes, and building at least 1.5 million homes by 2031.

Several pieces of legislation will be amended in order to address concerns related to stakeholder feedback on issues preventing or delaying the development of housing. Notably, Bill 185 introduces fundamental changes to the *Planning Act*, the *Development Charges Act*, the *Municipal Act*, and the *City of Toronto Act*, most of which come into effect immediately.

Outlined below are key changes introduced by Bill 185, particularly concerning planning matters:

Limited third-party appeals

One of the significant amendments introduced by Bill 185 is the changes related to third-party appeal rights. Bill 185 limits third-party appeals to specific stakeholders only. Among those are the applicant, the Minister, public bodies, a "specified person" and /or registered owner of any land to which the Official Plan Amendment ("OPA") or the Zoning By-law Amendment ("ZBLA") would apply. The requirement for oral or written submissions to the respective municipal council prior to the adoption of the OPA or ZBLA will continue to be imposed in order to secure a right to appeal.

The new changes will also amend the *Planning Act* to expand the definition of "specified person", which now includes other private and public bodies, such as holders of *Aggregate Resources Act* permits for lands within 300 metres of the licensed area.

Finally, except where a statutory exception applies, certain third-party appeals filed prior to the enactment of Bill 185 are to be dismissed where a hearing of the merits was not scheduled prior to April 10, 2024.

Vehicular Parking Requirements

Municipalities will no longer have the ability to approve policies or pass zoning regulations which require an owner or occupant to provide and maintain parking on their property, other than bicycle parking for properties in Protected Major Transit Station Areas or an area delineated in the official plan of the municipality surrounding and including an existing or planned higher order transit station or stop, within which area the official plan policies identify the minimum number of residents and jobs.

New framework for requesting a minister's zoning order

Sections introduced by Bill 23 with respect to a process for councils to request what was effectively a zoning order called “Community Infrastructure and Housing Accelerator” have been repealed. While the minister continues to have the power to enact zoning orders, a “Zoning Order Framework” will be in place setting out processes and requirements for requests for such orders.

New appeal rights respecting settlement boundary areas

Applicants can now appeal OPA or ZBLA applications that alter settlement area boundaries, provided that the subject lands are not in the Greenbelt.

Changes to the Application Process

Bill 185 removes council’s ability to pass a by-law to impose mandatory pre-consultation meetings prior to the submission of a development application. Consequently, application requirements can be challenged before the Ontario Land Tribunal (“OLT”) at any time. However, the requirement to file a complete application still exists, so it is likely that this change will have little consequence because municipalities typically advise an applicant on what is needed for the filing of a complete application through the pre-consultation process.

Further, municipalities will no longer be required to refund development application fees where a decision was not made within the statutory timeframe.

Expanded “use it or lose it” powers

Bill 185 amendments expand the scope of lapsing provisions in the *Planning Act* with respect to subdivision and site plan control.

The amendments provide for a default time of no less than three years. However, the applicable time period can also be set by regulation.

Changes to certain upper-tier municipalities without planning responsibility

The new changes remove the planning responsibilities of seven upper-tier municipalities. As of July 1, 2024, the Regional Municipalities of Peel, Halton and York will no longer be approval authorities for draft plans of subdivisions, OPAs, ZBLAs, consents, or minor variances. This change is also proposed to apply to the Regional Municipalities of Simcoe, Durham, Niagara and Waterloo on a date to be named by proclamation.

Other changes to the *Planning Act*

Bill 185 also exempts public universities developing student housing from the *Planning Act* and the *City of Toronto Act*.

Another significant change is that the Minister will have regulation-making authority to remove zoning barriers that discourage owners from building additional units in a detached house, semi-detached house or rowhouse, a residential unit in a building or structure ancillary to such a house, a parcel of land where such residential units are located or a building or structure within which such residential units are located. Such provisions will dictate, for instance, maximum lot coverage and number of bedrooms.

Amendments to the *Development Charges Act*

Costs related to undertaking studies regarding capital costs and costs of the development charge background study are added to the calculation of development charges.

Development charge by-laws can be amended without the process as set out in the Act where the only changes are:

(i) to repeal or amend the date on which the by-law expires;

(ii) the only effect of the amendment is to impose development charges for capital costs as noted above, and in that instance, the by-law being amended has to have been passed on or after November 28, 2022 and before June 6, 2024; and the amendment has to be passed on or before December 6, 2024.

Further, the phasing in of development charges is repealed except for development charges which were imposed between November 28, 2022 and June 6, 2024, which are still subject to the phasing in provision.

Amendments to the Municipal Act and the *City of Toronto Act*

Both the *Municipal Act* and the *City of Toronto Act* were amended to allow municipalities to pass a by-law regarding the allocation of water supply and sewage capacity. The Minister is given power to exempt a development or a class of developments from provisions of this by-law.

If the Lieutenant Governor in Council determines that it is necessary or desirable in the provincial interest to attract investment to the Province, they may now make regulations authorizing a municipality to grant assistance to manufacturing, industrial, or commercial enterprise.

We will continue to monitor the developments of the new changes imposed by Bill 185. If you have any questions regarding Bill 185 or any other land use planning matter, please do not hesitate to contact us.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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