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Highlights of Recent Land Use Planning Reforms in Ontario

The upcoming year promises to be an interesting one for those involved in land use planning and development in Ontario. The entire industry will feel the effects of recent changes to the *Planning Act* and *Municipal Act* – changes that resulted from three important pieces of legislation that were passed at Queen’s Park in 2006:

- > *Planning and Conservation Land Statute Law Amendment Act*,
- > *Stronger City of Toronto for a Stronger Ontario Act*, and
- > *Municipal Statute Law Amendment Act*.

The most significant of these changes fall into four categories: expanded authority for Ontario municipalities, special powers for the City of Toronto, measures to improve the approval process and reforms to the Ontario Municipal Board. This newsletter can only touch on the highlights, but we would be pleased to provide further information through the contacts listed below.

Expanded Authority for Ontario Municipalities

All municipalities, including the City of Toronto, have been granted additional authority under the new legislation, including the authority to:

- > pass by-laws regulating the demolition and conversion of rental residential properties,
- > establish a local appeal body for certain planning decisions (i.e., minor variances and consents),
- > license any business operating in the municipality,
- > establish a registry of persons who “lobby” public office holders,
- > pass conditional zoning with the authority to secure such conditions in agreements that may be registered on title, and
- > control through site plan approval exterior design of buildings, including character, scale, appearance, design features, etc., as well as matters relating to sustainability.

Stikeman Elliott would be pleased to assist you in understanding how these recent planning reforms will affect your business goals. For more information please contact:

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Special Powers for the City of Toronto

In addition, the City of Toronto was specifically given additional authority not extended to other municipalities, including the authority to:

- > impose direct taxes through by-laws, and
- > pass by-laws requiring and governing the use of “green roofs” or roof surfaces that support the growth of vegetation over a substantial portion of their area for the purpose of water conservation or energy conservation.

Improving the Approval Process

A further set of reforms will encourage earlier resolution of public concerns and move the process along more predictably, including:

- > New time limits in respect of appeals of a council’s refusal to amend an official plan or zoning by-law,
- > Enhanced requirements for public notice, information and consultation, including the obligation to hold an “open house,” and
- > New authority for the OMB to dismiss an appeal by an appellant who persistently commences proceedings without reasonable grounds.

Reforming the OMB

Lastly, and perhaps most significantly, were significant reforms intended to return the OMB to its traditional role as an appellate body rather than as a *de novo* decision maker:

- > Decisions of planning approval authorities and OMB decisions must now be consistent with provincial policy statements and conform to designated provincial plans in existence when the decisions are made (this alters the historic approach under which decision makers rely primarily on documents in effect at the time of the appeal),

- > Approval authorities and the OMB are now required to have regard to previous decisions relating to the same planning matters,
- > There is now no right to appeal a council’s refusal to amend an official plan or zoning by-law where the proposal in question would have reduced the size of a designated employment area or alter the boundary of a settlement area,
- > Parties to OMB hearings are limited to individuals who made oral or written submissions to council prior to the decision being made, unless the OMB believes there are reasonable grounds to add the person as a party,
- > A municipality may now move to dismiss an appeal to the OMB, if the proposal at the appeal is substantially different from the application that was presented to council, and
- > New evidence may still be filed at the OMB, but where the OMB determines the information may have materially affected the council’s decision, the hearing will be adjourned and the council will be given time to reconsider its decision in light of the new evidence.

The ultimate impact of many of these reforms is unclear, as details are to be prescribed in some cases by regulation and will in any event be subject to interpretation by the OMB and the courts.