

Municipal and Planning Law Update: Bill 73 – Changes to the Planning Act

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In March 2015, we reported on the Province's first reading of Bill 73 *Smart Growth for Our Communities Act, 2015* and some of its key changes to the *Planning Act* and the *Development Charges Act, 1997*. On July 1, 2016, a number of the Bill 73 amendments will come into force. The following is a summary of the changes to the Planning Act which you should look out for:

Decision and Appeal Deadlines: Before Bill 73, an applicant for an official plan (OP) amendment could appeal from the municipality's failure to make a decision 180 days after the application was complete. Under the changes, the municipality or approval authority may extend that 180-day time period by 90 days.

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 cash-in-lieu (CIL) be paid at the rate of 5% of the land area or an alternative rate of one hectare for each 300 units. The alternative rate of CIL for residential development has been reduced to one hectare for each 500 dwelling units. 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 has placed a two-year freeze on any application to amend a new OP or comprehensive zoning by-law from the time the plan or by-law comes into effect.

Minor Variance Applications: Bill 73 has placed another two-year freeze on any application for minor variance from zoning by-law provisions that have been amended in response to an application by an owner, commencing on the passing of the zoning amendment. Subject to further consultation, Bill 73 will also define what constitutes a minor variance.

Tests for Minor Variance: In addition to the four tests of a minor variance, Bill 73 now requires that committees of adjustment also be satisfied that the variance sought conforms as well with criteria to be prescribed by regulation or by a local municipal by-law. This now allows municipalities to effectively create localized minor variance criteria.

Minor Variance Decisions: Bill 73 has increased the amount of information/level of detail now required to be set out in written decisions of a committee of adjustment in respect of a minor variance. Now, in addition to the reasons for a decision, an explanation must be given of the effect that public submissions (oral or written) had on the decision to approve or refuse the variance in question.

Limiting Appeals: Bill 73 limits the ability to appeal certain OP matters to the 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 now be used by a municipal council to resolve certain appeals (those related to OPs and OP amendments, zoning by-law amendments, plans of subdivision and consents) locally and thus avoid 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. WeirFoulds can help with any questions you have about the impact of these changes. Please contact Kim Mullin at 416.947.5066 or kmullin@weirfoulds.com or Stefanie Valente at 416.941.5904 or svalente@weirfoulds.com.

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