

BILL 39: THE PROVINCE'S NEWEST ADDITION TO THE TOOL BELT FOR COMBATING THE HOUSING CRISIS

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On November 16th, the Ontario government tabled more new legislation seeking to address the housing crisis in Ontario: Bill 39, the [Better Municipal Governance Act, 2022](#) (the “**Act**”). If passed, the Act would expand mayoral powers and aim to reduce municipal duplication in order to realize joint provincial-municipal priorities with a primary focus on the construction of 1.5 million new homes over the next decade. The proposed legislation would introduce amendments to existing statutes, including the [Municipal Act](#), the [City of Toronto Act](#), and the [Duffins Rouge Agricultural Preserve Act, 2005](#), to equip certain municipalities with the tools necessary to support their rapidly growing communities.^[1]

This proposal is one in a line of recent proposals by the Province aimed at addressing its housing availability, attainability, and affordability issues (see our [recent bulletin](#) on Bill 23 and the proposed amendments to the Greenbelt Plan and Oak Ridges Moraine Conservation Plan). Unsurprisingly, these proposals have been subject to significant debate and stakeholder input.

Bolstering Regional Capabilities: The Act would task provincially-appointed facilitators to assess select regional governments (Durham, Halton, Niagara, Peel, Waterloo and York) in order to determine how to best extend to these regions the “Strong Mayor” tools introduced under the [Strong Mayors, Building Homes Act](#).^[2] This would include consideration of which roles and responsibilities would be appropriate to download to the various municipalities to ensure they can meet the housing targets. In addition to the expansion of Strong Mayor powers, the Act would also allow the Minister of Municipal Affairs and Housing (the “**Minister**”) to appoint regional heads of council for Niagara, Peel and York Regions, who would work with the provincially-appointed facilitators to determine how best to extend the Strong Mayor powers to their respective municipalities.

“Stronger” Mayor Powers in Ottawa and Toronto: Likely in response to stakeholder discussion and feedback relating to the recently passed *Strong Mayors, Building Homes Act*, the amendments under the Act would increase the Toronto and Ottawa Mayors’ “Strong Mayor” powers, such that they could propose and amend municipal by-laws related to provincial housing priorities. If more than one-third of council members voted in favour of such by-laws, the respective mayors would be able to pass the by-law (in contrast to the current majority vote of council required). Such provincial housing priorities would be as prescribed by the Lieutenant

Governor in Council, and the Minister would be empowered to make regulations respecting this by-law power.

Repealing the *Duffins Rouge Agricultural Preserve Act, 2005*: If passed, the Act would bring into force legislation repealing the [Duffins Rouge Agricultural Preserve Act, 2005](#) (the “**Duffins Rouge Act**”) to remove certain barriers to housing development in the City of Pickering (Durham Region), in order to facilitate the Province’s proposals to amend the Greenbelt.^[3] See our earlier discussion of the proposed amendments to the Greenbelt Plan [here](#). Of note, the proposed legislation would provide that the easements and covenants that were described in the repealed *Duffins Rouge Act* are deemed to have the legal effect they would have had if the repealed *Duffins Rouge Act* had never been in effect, and would provide for the interaction of those covenants and easements with certain provisions of the *Conservation Land Act*.

McMillan will continue to monitor these and other developments to Ontario’s planning legislation. If your lands or interests may be impacted, or you wish to advocate on certain policies to guide the future of Ontario’s planning, development, and land use, please contact Mary Flynn-Guglietti, Annik Forristal, Kailey Sutton or Patrick Pinho, and our team would be pleased to discuss this important piece of legislation and its potential impacts with you. Special thanks to Cole Singleton, Student-at-Law, for his assistance in drafting this bulletin.

[1] 2001, SO 2001, c 25; 2006, SO 2006, c 11.

[2] 2022, SO 2022, c 18.

[3] 2005, SO 2005, c 30.

by [Annik Forristal](#), [Kailey Sutton](#) and [Patrick Pinho](#)

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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