

PROVINCE ANNOUNCES MAJOR CHANGES TO THE RULES GOVERNING LAND DEVELOPMENT

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The Ontario Government announced on Thursday, May 2, 2019 that there will again be significant changes to the *Planning Act* and other development-related legislation through its “*More Homes, More Choices: Ontario’s Housing Supply Action Plan*.” This announcement is the result of the government’s public consultation on how to increase the supply of housing in Ontario.

As of the writing of this bulletin, the draft legislation has not been made available. The Province’s proposed changes are intended to reduce existing barriers to increase the supply of new homes and the building of more rental housing.

A number of key concepts were raised in a statement made today by the Hon. Steve Clark, Minister of Municipal Affairs and Housing for Ontario, including:

- Cutting red tape
- Building the missing middle
- Supporting a variety of housing options
- Encouraging new investment and partners
- Encouraging creative approaches, innovation
- Promoting growth, accountability, predictability, and transparency

Some of the most highly anticipated changes announced today are the proposed changes to the *Planning Act* and the *Local Planning Appeal Tribunal Act*. The Local Planning Appeal Tribunal (the “**LPAT**”), formerly known as the Ontario Municipal Board (the “**OMB**”), will revert to *de novo* hearings with the removal of restrictions around the introduction of new evidence, and the right to call and examine witnesses. The Tribunal’s decisions will once again be based on what constitutes “good planning,” and the Tribunal will have the authority to make a final determination on appeals of major land use planning matters. At first glance it would appear that the OMB is returning in all but name?

The LPAT will also be given greater powers and resources, such as additional adjudicators to address existing backlogs and ensure there are no more “24 to 36 month waits” for a hearing.

Another big change will be the introduction of a “community benefits authority” that will acknowledge the cumulative effect that taxes, fees and charges have on housing affordability. The cost of contributions with respect to section 37, parkland, and soft services development charges will be rolled together and capped based on the property value in the municipality. The section 37 provisions of the *Planning Act* that have led to “let’s make a deal planning” will give way to what is hoped to be a more transparent and predictable process. As well, amendments to the *Development Charges Act* will allow rates to be locked-in at the later of a complete site plan or zoning application, and development charges for rental buildings will not be payable until occupancy.

Clearly, a major part of the Province’s Action Plan will involve supporting intensification near “higher order transit” and “major transit stations areas” (as defined in the Growth Plan, 2017) to allow people to “live where they work”.

Additionally, the Province intends to review the role of Conservation Authorities to ensure that they return to their core mandates, and the *Environmental Assessment Act* will also be reviewed and amended to remove duplications and exempt “low-risk actions”. Appeals of designation and alterations to heritage properties will now be appealed to the LPAT instead of the Conservation Review Board and the LPAT’s decision will be binding.

The new legislation will seek to clarify the rules around rental housing for renters and landlords alike in order to encourage more rental supply on the market. It is expected that the new legislation will also be an impetus for creating thousands of private-sector construction jobs, and will encourage more forms of development through a number of means including the reduction of development charges for rental housing developments.

The Minister also made sure to emphasize in his announcement that the Province will not touch the Greenbelt, and will continue to encourage a vibrant agricultural and industrial sector.

The Province has not yet released many details with respect to how the Province will put this into action, but it is understood that comprehensive legislation will be introduced shortly and that additional changes are expected to be announced in the fall of 2019. We intend to continue to monitor the changes and provide an update once more information is available.

by Mary Flynn-Guglietti and Kailey Sutton

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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