

PROVINCE OF ONTARIO ANNOUNCES MAJOR REFORMS TO THE LAND USE PLANNING APPEAL PROCESS

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On May 16, 2017 the Minister of Municipal Affairs, Bill Mauro and the Attorney General Yasir Naqvi, announced that the province of Ontario will be introducing new legislation that will overhaul the province's land use planning appeals system. It is expected that the new legislation will be introduced in the legislature for first reading of the Bill prior to the summer recess. The proposed new legislation would create sweeping and fundamental changes to the Ontario Municipal Board that would restrict the land use planning matters that can be appealed, the standard for review and how hearings will be conducted. The following are some of the highlights of the proposed changes:

- The Local Planning Appeal Tribunal ("**LPAT**") will replace the Ontario Municipal Board;
- The *Planning Act* will be amended to eliminate "de novo" hearings for the majority of land use planning appeals so that the LPAT would function as an appeal body only, for most land use planning appeals.
- For complex land use planning appeals, the LPAT would only be able to overturn a municipal council's decision if it does not follow provincial policies or municipal official plans.
- The LPAT, after an appeal hearing, will provide written reasons when it overturns a municipal council's decision and must return the matter back to the municipality. The municipality would be allowed 90 days to make a new decision. The LPAT would retain the authority to make a final decision on the matter only after a second appeal, and only if the municipality's subsequent decision still fails to follow provincial policies or municipal official plans.
- The LPAT is required to give greater weight to the decisions of municipal councils.
- The LPAT is required to conduct mandatory case management for the majority of cases in order to narrow the issues and encourage case settlement.
- New statutory rules will be created regarding the conduct of hearings before the LPAT, such as limiting evidence to written materials in the majority of cases and not allowing cross examinations.
- The new legislation would also include measures to exempt a broader range of major municipal land use planning decisions from appeal. No appeals will be allowed for provincially approved official plans and official plan updates and no appeals are allowed of Minister's Zoning Orders.
- The new legislation will restrict applications to amend new secondary plans for two years, unless

permitted by municipal council.

- No appeals will be allowed for interim control by-laws when first passed for a period of up to one year.
- The new legislation would restrict appeals of development approvals that support appropriate development within 500 metres of a protected major transit station.
- The province will create a Local Planning Appeal Support Centre to provide free and independent advice and representation to citizens on land use planning appeals.
- Local Appeal Bodies (“**LAB**”) will be given more authority to hear appeals not only on minor variances and consents, but also on site plan appeals. A LAB is an appeal body permitted under the current *Planning Act* to allow local municipalities to set up their own appeal tribunal, within their local municipality, to hear appeals on minor variance and consent applications only. The only municipality that has established a LAB under the existing legislation is the City of Toronto.

It is intended that the Bill will receive first reading prior to the summer recess, which will allow for feedback during the summer months and prior to the legislature resuming in the fall. At this time no information has been provided regarding the transition rules for appeals that have been filed prior to the new legislation receiving passage. We will continue to monitor all matters related to the new legislation and will update our client Bulletin as information is received.

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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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