

law of the land ... and lay of the land™ bulletin

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City of Toronto releases revised draft harmonized zoning by-law on April 21, 2010 – what impact will it have on land use permissions?

On April 21st, 2010 the City of Toronto unveiled the latest draft of its harmonized zoning by-law. The text and map of the by-law are available by accessing the City's website at <http://www.toronto.ca/zoning/>. Although a draft of the by-law was first released in May of 2009 for discussion purposes, staff have now been directed to move quickly to present a final draft to Council for consideration at its meeting scheduled for **July 6 -7, 2010**, in order to ensure enactment of a harmonized zoning by-law before the municipal elections in the fall.

Opportunities to make submissions on the draft zoning by-law can be made at the public open house meeting on **May 27, 2010** and at the statutory public meeting on **June 16, 2010**. It is important to note that only those persons who make oral submissions at a public meeting or written submissions to City Council have a right to appeal the zoning by-law.

how will the harmonized by-law impact your land holdings?

City of Toronto Staff have consistently stated that the purpose of the new zoning by-law is to harmonize existing zoning standards rather than create new standards. However the May, 2009 version of the by-law created new standards related to built form, minimum heights in commercial/residential zones, new parking and loading standards, a revised definition of gross floor area and restrictions on retail uses in employment zones.

Although site specific zoning by-laws in force prior to the passage of the new zoning by-law are intended to be incorporated as exceptions in the by-law, any term not specifically defined in the site specific exception, such as "gross floor area" will be interpreted by the new definition in the harmonized by-law. This may well have a significant impact.

It is also important to note that minor variances that have been granted for a particular site may not be reflected in the new by-law.

Although the May 2009 draft by-law did not contain transitional provisions to protect existing development permissions and active applications, the new draft zoning by-law has now articulated transitional provisions for sites at certain stages in the development approval process. It will be important to determine if your site qualifies for one of exceptions.

the educated consumer

The burden of determining if the new harmonized zoning by-law will have an impact on existing or proposed development rights rests squarely on the shoulders of the land owner. As noted, only those persons who make either oral or written submissions at the public meetings will have any opportunity to either affect an amendment prior to final approval or the right to appeal the harmonized zoning by-law to the Ontario Municipal Board.

It is critical for landowners to review the draft zoning by-law and determine its impact on their land holdings. City of Toronto staff have indicated that they intend to prepare a report to Council by May 19, 2010 outlining any additional changes resulting from concerns raised in further written submissions or meetings with Stakeholders. The municipal land use planning section of McMillan LLP can assist you in evaluating the impact of the draft zoning by-law as well as formulating written submissions that may result in amendments to protect your property interests and/or safeguarding any right of appeal.

If you require further information with regard to the revised harmonized zoning by-law, please contact Mary Flynn-Guglietti at mary.flynn@mcmillan.ca (416.865.7256).

by Mary L. Flynn-Guglietti

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a cautionary note

The foregoing provides only an overview. Readers are cautioned against making any decisions based on this material alone. Rather, a qualified lawyer should be consulted. © McMillan LLP 2010.

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