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MEMORANDUM

Bill 185: The Cutting Red Tape to Build More Homes Act, 2024

Date: April 10, 2024

By: Stephanie Fleming

On April 10, 2024, Paul Calandra, the Minister for Municipal Affairs and Housing introduced Bill 185, the Cutting Red Tape to Build More Homes Act. It is currently in first reading.

This is an omnibus bill that proposes changes to multiple Acts, including the *City of Toronto Act, 2006,* the *Development Charges Act, 1997*, the *Hazel McCallion Act (Peel Dissolution), 2023*, the *Municipal Act, 2001*, and the *Planning Act.* I have summarized the proposed changes of these below.

The largest change proposed is the limitation of third party appeals of any official plans or zoning by-laws passed under s.17 and 34 of the *Planning Act*. At this time, anyone who has spoken at a public meeting or provided written representations to council is entitled to appeal. This would limit that right of appeal only to "specified persons" as defined under s.1(1) of this *Act*, which I have listed below. In addition, any appeals before the Ontario Land Tribunal brought by an appellant who is not a "specified person" under either s.17(24) or 34(19) will be dismissed unless a hearing on the merits of the appeal was scheduled before April 10, 2024 or a notice of appeal was filed by either a "specified person" or public body in respect of the same plan or by-law to which the appeal relates.

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The *Planning Act*

Changes to Appeal Rights

This Bill proposes certain changes to s.17(24), s.17(36), and 34(19) to limit the appeals by a third party of official plans or zoning by-laws passed by a ***municipality*** to the Tribunal to a "***specified*** person" or public body that made oral submissions at a public meeting or written submissions to council. I note that this limitation only applies to the official plans as passed by the municipalities under s.17, not amendments to same.

A "specified person" is defined under s.1 of this Act as a corporation operating an electric utility in the local municipality or planning area to which the relevant planning matter would apply, Ontario Power Generation Inc., Hydro One Inc., a company operating a natural gas utility in the local municipality or planning area to which the relevant planning matter would apply, a company operating an oil or natural gas pipeline in the local municipality or planning area to which the relevant planning matter would apply, a person required to prepare a risk and safety management plan in respect of an operation under Ontario Regulation 211/01 (Propane Storage and Handling) made under the *Technical Standards and Safety Act, 2000*, a company operating a railway line any part of which is located within 300 metres of any part of the area to which the relevant planning matter would apply, or a company operating as a telecommunication infrastructure provider in the area to which the relevant planning matter would apply.

In addition, this Bill will also have a retroactive effect on any appeals made under s.17(24) or 34(19) by a third party that were made prior to Sched 12 of this Bill coming into force. In short, these appeals will be dismissed unless a hearing on this appeal was scheduled before April 10, 2024 or a notice of appeal was filed by either a specified person or public body listed in the subsection (24). In other words, if a permitted party filed an appeal, a third party could shelter their own appeal under same

However, I note that this limitation on appeal does not apply to the appeals of a request for an official plan amendment under s.22. As such, a third party would still be entitled to appeal to the Tribunal under s.22(7) provided they have provided oral submissions at the public meeting or written submissions to council. There is no such limitation on the appeal of an individual request for a zoning by-law amendment, but that may be a change that is carved out as this Bill is debated.

Upper Tier Municipalities

In addition, this Bill has identified certain upper-tier municipalities as being the "upper-tier municipalities without planning responsibilities" under s.1 of the *Planning Act*. These include the Regional Municipality of Halton, Peel, York, the County of Simcoe, the Regional Municipality of Durham, the Regional Municipality of Niagara, and the Regional Municipality of Waterloo. It can also be any others as prescribed under subsection (6) of same, which permits the Lieutenant Governor to add to this list by regulation. Any upper-tier municipalities listed here that were party to an appeal under ss.1(4.3) may continue with the appeal until the final disposition of same.

Area of Settlement
Landowners will be permitted to apply for an expansion of a municipality's area of settlement and appeal decisions on same to the OLT, provided that land does not include land within the Greenbelt under s.22(7.2)(a) and s.34(11.0.4)(a).

Parking Facilities
Municipalities will also no longer be permitted to require parking standards in their official plans or zoning by-laws, except for bicycle parking, except in certain areas. Parking facilities will be required on land that is part of a highway, is located within a protected major transit station area identified in s.16(15) or (16), or is within an area delineated in the official plan of a municipality that includes and surrounds an existing or planned higher order transit stop or station and where the policies of same identify the minimum number of residents and jobs that are proposed, or any other area prescribed. This will form s.16(22). If there is such a parking policy within an existing official plan or zoning by-law, it will be held to be of no effect.

Refund of Fees
Under ss.22(6.2)-(6.3) and 34(10.12) to (10.14), a landowner who had made an application for a zoning by-law amendment, an official plan amendment, or site plan approval after July 1, 2023 was entitled to a full refund of their fees if a decision was not made on the application within 120 days of the application being deemed complete. These sections will be repealed on the day this Bill comes into force. If a decision in respect of an application has not been made, any refund of fees will be determined as though a decision was made on the day this Bill comes into force, which means no refund will be due.

Motion for Directions on Application
In the current Act, a landowner is only entitled to make a motion for directions to the Tribunal to determine if sufficient information for an amendment to a zoning by-law, amendment to an official plan, application for site plan control, or an application approval of a plan of subdivision has been provided or if a requirement for said application is reasonable once a decision on same has been provided by the municipality. This bill will permit landowners to make this motion *at any time* after the person or municipality has begun to consult with the municipality in respect of said application.

Pre-Consultation
This Bill also now requires applicants to consult with the municipality before submitting plans or drawings for site plan approval (s.41(3.1)). However, most municipalities in Ontario have required pre-consultation as a matter of course.

Expiry of Subdivision and Site Plan Approvals
It has also set out further clarification regarding the expiry of subdivision approval under ss. 41 and 51, stating that these approvals will not lapse if a permit was issued under s.8 of the *Building Code Act, 1992*. In terms of timelines, it permits an authorized person from the municipality to set a time period that cannot be less or exceed the prescribed period applicable to the development; in the event that a prescribed time period is not applicable, the period cannot be less than 3 years.

If subdivision approval was granted before March 27, 1995, approval would lapse at the third anniversary of the date that this section of Schedule 12 to this Bill comes into force.

Student Housing
Under s.62.0.2, a publicly-assisted university or a college and university associated with same is not subject to the provisions of the *Planning Act* or ss. 113 and 114 of the *City of Toronto Act, 2006*, save in the Greenbelt Area. This will apply to both campuses and any land owned otherwise by the university.

Community Service Facility
Under s.62.0.3, community service facilities also will not be subject to any provisions of this Act. A "community service facility" will include the undertaking of a school board, a long-term care home, or a hospital.

The *Hazel McCallion Act (Peel Dissolution), 2023*
This has repealed the dissolution of the Regional Municipality of Peel. Instead, the title of the Act will be amended to be the *Hazel McCallion Act (Peel Restructuring), 2023*.

It will require the transition board appointed in respect of the dissolution will instead provide recommendations on the transfer of powers, responsibilities, or jurisdiction from Peel on land use planning, water and wastewater, stormwater, highways, and waste management. If a lower-tier municipality and/or its local boards intends to enter into a transaction, agreement, etc. between May 18, 2023 and January 1, 2025, they must have regard to the possible transfer of powers, responsibilities, or jurisdiction from Peel to the municipalities. This Bill has retained the limitation on any parties seeking to remedy any damages caused as a result of either the Act or this Bill (s.9).

It is unclear whether any transfer of powers will occur as a result of this proposed restructuring. However, as discussed further below, the proposed amendments to the *Planning Act* have identified the Regional Municipality of Peel as an upper tier municipality without planning responsibilities, under s.1 of said Act, so I would imagine land use planning responsibilities will be delegated to the lower tier municipalities.

The *Municipal Act, 2001*
This Bill would permit a municipality to grant assistance to a certain businesses, particularly those that are industrial, in manufacturing, or any sort of commercial enterprise, if directed by the Lieutenant Governor in Council through regulations authorizing a municipality to provide such assistance. This is ordinarily barred under s.106 of the current Act, but the proposed s.106.1 in this Bill would permit a municipality to offer certain forms of assistance for a set period as directed by the afore-mentioned Lieutenant Governor. The regulations authorizing this assistance could be constrain same by setting out the form that the assistance may take, placing conditions, restrictions, or limitations on same, or requiring that certain conditions be met before any assistance be provided.

Another amendment would permit a municipality to adopt a by-law setting out policies for the allocation of water supply and sewage capacity. This can include a system for tracking said capacity to support approved developments as well as criteria to determine the circumstances for when water supply and sewage capacity is allocated to an approved development, when that allocation is withdrawn, and whether reallocation is possible. The Minister would be able to

exempt an approved development or class of developments from the provisions of any by-law passed under this section. I believe this section is designed to prioritise those developments that are "ready to go", as if they do not proceed, they will lose their "allocated" water supply and sewage capacity. This would be contained in a new s.86.1 if this Bill is granted Royal Assent.

The *Development Charges Act, 1997*
This Bill will permit municipalities to add the cost of certain studies as capital costs as development charges. This includes the studies undertaken to determine the cost acquire or improve land, buildings, or facilities (under ss. 5(3)1-4 of the current Act) and the costs of the development charge background study required under s.10 of same.

In addition, s.26.2(5) of the Act, which sets out the exceptions to how the amount of development charge is determined, the "prescribed length of time" is set at 18 months. It would apply only to applications approved after Schedule 6 to the Bill comes into force.

The *City of Toronto Act, 2006*
The changes described above in the proposed amendments to the *Municipal Act* and several of those in the *Planning Act* are echoed in the *City of Toronto Act*.

This Bill proposes some major changes to the current planning regime, particularly as it relates to third party appeals.

If you have any questions, please feel free to reach out to my contact information at the bottom of the first page.

-SAF