Bill 23 in Ontario: the More Homes Built Faster Act, 2022 receives Royal Assent

December 01, 2022

This bulletin will cover Bill 23 in Ontario and the changes to legislation related to planning and development, development charges, Ontario Land Tribunal (OLT) proceedings, heritage and conservation and new legislation affecting York and Durham Regions. A detailed review of each of the statutes is provided in drop-down links below.

See our previous version published on October 28, 2022 here.

On November 28, 2022, the Ontario government passed the *More Homes Built Faster Act, 2022* (Bill 23), a bill that significantly amends and creates new legislation affecting planning and land development across the Province. The government has described the plan as "part of a long-term strategy to increase housing supply and provide attainable housing options for hardworking Ontarians and their families," with a goal of building 1.5 million homes in 10 years.[1]

Although the comment period on Bill 23 was extended to December 9, it appears that the government had a mandate to pass the new legislation at the same accelerated pace that it passed Bill 108, the *More Homes, More Choice Act, 2019*.

It is important to note that Bill 23 in Ontario is part of a package of new mandates affecting planning and development in Ontario, including changes to related regulations, the introduction of new municipal housing targets and anticipated consolidation of Provincial plans and policies.

Planning and development

Bill 23 in Ontario introduces significant changes to the *Planning Act*[2] to create expanded "as of right" development rights for small scale residential development, regulate the use of inclusionary zoning, require municipalities to be more flexible with parkland dedications, limit the application of site plan control, and change how planning authority is exercised in upper-tier and lower-tier municipalities in the Greater Toronto and Hamilton Area and cottage country.

Amendments to the *Planning Act* following the new Ontario housing bill include:

- Requiring official plans and zoning by-laws to permit "as of right" small scale residential uses of up to three units per lot in areas where municipal services are available
- Restricting rights to appeal for minor variances and consents to applicants, municipalities and certain public bodies and a small list of "specified persons" (for example, utilities and railways) retroactively
- Establishing new limits on and regulation applicable to inclusionary zoning requirements

- Amending how community benefit charges are calculated and secured and providing exemptions for affordable units
- Reducing the scope of site plan control approvals, including exempting residential buildings containing no more than 10 units from site plan control and removing exterior design from the list of matters to be addressed through site plan control, subject to limited exceptions
- Reducing parkland dedication requirements and introducing a new framework for parkland to be identified by landowners, subject to appeal to the OLT
- Simplifying the use of Ministerial orders relating to Official Plans and Ministerial Zoning Orders
- Removing public meeting requirements from draft plan of subdivision approvals
- Requiring municipalities to adopt zoning by-law amendments that implement maximum densities and minimum/maximum heights around certain major transit station areas within one year of identifying such major transit station areas in an official plan
- Removing prohibition of amendments to official plans and secondary plans within two years of such plans coming into effect and prohibition of zoning by-law amendments and minor variances where a comprehensive zoning by-law or site-specific zoning by-law amendment comes into effect
- Removing planning responsibilities from certain upper-tier municipalities including the County of Simcoe and the Regions of Durham, Halton, Niagara, Peel, Waterloo and York

A more detailed review of the changes to the *Planning Act* is available below.

Amendments to the Planning Act following Bill 23:

Requiring official plans and zoning by-laws to permit "as of right" small scale residential uses of up to three units per lot

- Bill 23 creates a new definition of a "parcel of urban residential land," which means land within an area of settlement where residential use, other than ancillary residential use, is permitted by by-law and which is served by municipal sewer and water services.
- This definition helps facilitate small scale residential development and intensification (up to three units per lot) by:
  - Exempting from development charges the creation of new residential units in existing houses and in certain ancillary structures through amendments to the *Development Charges Act, 1997*.
  - Permitting development "as of right" for small scale residential development and intensification, by preventing official plans and zoning by-laws from containing policies and provisions that prohibit the use of three residential units on "a parcel of urban residential land".[3] These provisions replace existing provisions requiring the inclusion of policies and zoning provisions permitting accessory dwelling units.[4]
  - Prohibiting the appeal of any official plan policies or zoning by-laws that authorize small scale residential development of up to three residential units per lot.
- Related provisions prohibit official plan policies or zoning provisions that have the effect of requiring more than one parking space to be provided and maintained in connection with small scale residential development and prohibit policies providing for a minimum floor area. It specifies that any policy in an official plan is of no effect, to the extent that it contravenes any of those legislative prohibitions.

Removing appeal rights from third parties for minor variances and consents

- Under the former *Planning Act*, any person that made oral submissions at a public meeting or written submission to the approval authority regarding the decision related to minor variances and a provisional consent to sever land (and changes to conditions of a provisional consent) was able to file an appeal to the OLT.
- Bill 23 in Ontario amends the *Planning Act* to eliminate what are sometimes referred to a "third party appeals" in these contexts, by removing the broad right to appeal from persons who made submissions to the approval authority and introducing a much more limited definition of "specified person" which includes utility companies, oil and natural gas pipeline operators, railway companies, and telecommunication infrastructure operators (s. 1(1)).[5] The effect of this change is to limit rights of appeal to the applicant, the relevant municipality or approval authority, the Minister and to certain public bodies or specified persons who made submissions to the approval authority prior before a decision was made.
- Bill 23, as initially proposed, would have similarly removed these "third party appeals" for approvals of official plans, zoning by-laws and related amendments. These proposed amendments were removed through changes that were made by the Standing Committee and carried forward into the version of Bill 23 that received Royal Assent.
- The elimination of third party appeals will apply retroactively. Specifically, any appeal made by a person not permitted to appeal under the proposed amendments "shall be deemed to have been dismissed" on the day that the provision comes into force (*i.e.,* November 28, 2022), unless the Ontario Land Tribunal has scheduled a hearing on the merits before October 25, 2022, or a (separate) notice of appeal regarding that decision had already been filed by a permitted party.

Providing additional regulation for inclusionary zoning and affordable housing

- The Minister intends to regulate inclusionary zoning by setting a five per cent cap for affordable units, a maximum 25 year affordability period, and a standardized approach to determining affordability. This direction is not in Bill 23 itself, but through the Minister's proposed amendment to the inclusionary zoning regulation, O. Reg. 232/18.

Amending how community benefit charges (CBCs) are calculated and secured

- CBCs were previously based on a simple prescribed maximum rate of four per cent of the land as of the valuation date, being the day before the day the first building permit is issued. Bill 23 ties CBCs to the valuation of land based on a floor area ratio that corresponds to the amount of new floor area constructed as compared to the existing floor area.
- CBCs do not apply to affordable residential units, attainable residential units and non-profit housing development.
- Municipalities may require landowners to enter into an agreement to address the provision of the facilities, services or matters secured through CBCs, which agreement which may be registered on title.

Scoping matters that can be regulated by site plan control

- Bill 23 in Ontario exempts residential buildings from site plan control where the parcel on which the building is situated will contain no more than ten residential units. This is achieved by exempting such buildings from the definition of "development" in subsection 41(1.2) of the *Planning Act* and subsection 114(1) of the *City of Toronto Act, 2006*.

- Bill 23 amends section 114 of the *City of Toronto Act, 2006* and section 41 of the *Planning Act* to exclude exterior design of buildings from site plan control. This restriction does not prohibit municipalities from regulating exterior design relating to:
  (1) building construction for the purposes of environmental conservation or protection as required under the *Building Code Act, 1992*, such as green roof by-laws;
  (2) access to buildings containing affordable housing units; or
  (3) circumstances where the appearance of the elements, facilities and works impacts matters of health, safety, accessibility, sustainable design, or the protection of adjoining lands.

  These changes only apply to plans and drawings submitted for approval after Bill 23 receives Royal Assent (i.e., November 28, 2022).

Reducing parkland dedication requirements and establishing a process for landowners to identify parkland

- Parkland dedication requirements do not apply to (1) the portion of development that includes affordable residential units, attainable residential units, and inclusionary zoning residential units, (2) non-profit housing development, and (3) development of up to three residential units on a single lot, subject to meeting certain conditions.
- Parkland dedication requirements are calculated based on the date when an application for site plan control was made or zoning by-law amendment passed, and if neither applies, when an application for a building permit was issued. Where a rezoning or site plan approval is approved, the calculation will remain frozen for two years.
- The alternative rate has been reduced to one hectare for each 600 net residential units if land is taken, and one hectare for each 1,000 net residential units for cash-in-lieu of parkland, and is subject to a cap of 10 per cent of the land for lands five hectares or less, and 15 per cent of the land for lands greater than five hectares. The former alternative rate still applies for development where a building permit has been issued.
- A parks plan that examines the need for parkland is now required to be prepared before passing a parkland dedication by-law.
- Owners may propose to identify lands to be conveyed to a municipality to fulfill parkland dedication requirements, including lands that are encumbered by easements or below grade infrastructure (for example, privately-owned publicly accessible spaces (POPS) and stratified parks). If a municipality refuses to accept the proposal, the owner may appeal the refusal to the OLT within 20 days of such notice being given, and the OLT is empowered to make a decision as to whether the proposal meets prescribed criteria.
- As of 2023, municipalities are required to spend or allocate at least 60 per cent of the reserve funds collected for parkland.

Removing public meeting requirements from draft plan of subdivision approvals

- Municipalities can make a decision on draft plans of subdivision without holding a public meeting.

Requiring municipalities to adopt zoning by-law amendments that implement maximum densities and minimum/maximum heights around major transit station areas

- Bill 23 requires municipalities in Ontario to adopt zoning by-law amendments implementing policies identifying protected major transit station areas and associated maximum densities and minimum and maximum heights within one year of the coming into effect of such policies[6].

Eliminating moratoriums on official plan and zoning by-law amendments for pits and quarries

- Previous amendments to the *Planning Act* established a two year moratorium on applications to amend an Official Plan or a Zoning By-law following the adoption of a new Official Plan or a new comprehensive zoning by-law. Bill 23 exempts pits and quarries from such moratoriums.

Simplifying the use of Ministerial orders

- Bill 23 includes a number of provisions which simplify and facilitate the use of Ministerial orders relating to Official Plans and Ministerial Zoning Orders including:
  - Removing the requirement for a written explanation when the Minister removes approval authority for an official plan from an upper-tier municipality[7] or when the Minister by order removes previously granted exemptions from requirements for Ministerial approval[8];
  - Removing the process by which municipalities previously were given an opportunity to resolve a matter of provincial interest which the Minister has determined is affected by an official plan before the Minister could, by order, amend an official plan[9];
  - Providing that Ministerial Orders amending official plans or Ministerial Zoning Orders are not bound by the standard process governing the adoption of regulations in Ontario

Removing planning responsibilities from certain upper-tier municipalities

- Bill 23 removes land use planning responsibilities, and the ability to assume land use planning functions from lower-tier municipalities,10 from the County of Simcoe and the Regional Municipalities of Durham, Halton, Niagara, Peel, Waterloo and York through the addition of new definition of "upper- tier municipality without planning responsibilities" and amendments in s. 1(1). The list of such municipalities may be expanded by regulation.
- On the date that provisions identifying "upper-tier municipalities without planning responsibilities" come into effect, any portion of the upper-tier municipality's official plan which applies to a lower-tier municipality is deemed to constitute an official plan of the lower-tier municipality until the lower-tier municipality revokes or amends it.
- Where an upper-tier municipality without planning responsibilities has an official process in place, where parts of an official plan is not yet in force or where applications for official plan
  amendments have been submitted to upper-tier municipalities without planning responsibilities, Bill 23 mandates the lower-tier municipality taking over responsibility for the relevant plan, process, or amendment application with some assistance from the relevant upper-tier including the delivery of notice, the preparation of records, and the delivery plans documents and other relevant material already prepared by the upper-tier municipality without planning responsibilities.

- Where applications for subdivision approval or for consent have been made to an upper-tier municipality without planning responsibilities, the applications are to be forwarded to the lower-tier along with all papers, plans, documents and other material relating to the application.

Various transitional matters, including transition for upper-tier municipalities that have planning responsibilities removed

- Generally, the proposed amendments to the *Planning Act* will not apply until the day the relevant section of Bill 23 comes into force, i.e. typically on the day Bill 23 receives Royal Assent, with the exception of provisions relating to the removal of planning responsibilities for certain upper-tier municipalities, which come into force at a future proclamation date. For example, municipalities can continue to regulate exterior design for plans and drawings that were submitted until that section of Bill 23 that excludes such regulation comes into force (i.e., November 28, 2022). However, it is still prudent to review the transition provisions carefully as this is not the case in each and every amendment.

The *Municipal Act, 2001* is also amended to permit the Minister to make regulations to limit a municipality's powers to prohibit and regulate the demolition and conversion of residential rental properties.

A more detailed review of the changes to the *Municipal Act, 2001* is available below.

Amendments to the Municipal Act, 2001 following Bill 23:

- Previously, a local municipality could prohibit and regulate (1) the demolition of residential rental properties and (2) the conversion of residential rental properties to any other purpose. These powers were found in section 99.1 of the *Municipal Act, 2001* and section 111 of the *City of Toronto Act, 2006*.
- Bill 23 amends those sections to empower the Minister to make regulations imposing limits and conditions on the powers of a local municipality to prohibit and regulate the demolition and conversion of residential rental properties under those sections. Draft regulations have not yet been published.

Development charges

A number of reductions have been introduced for development charges (DCs), including several new discounts and exemptions to the rates that municipalities can charge for new development. The differential rates for development timing, housing type, and changes to interest rates could have a significant impact on developers' pro formas in the near term, and on the other hand, on municipal budgets and their ability to finance infrastructure in the long-term.

Amendments to the *Development Charges Act, 1997* include:

- Introducing new discounts based on a four-year phased basis and for purpose built rental
- Introducing new exemptions for affordable units
- Revising the eligible capital costs calculation, by removing housing services from eligible costs and extending the service level horizon to 15 years
- Extending the maximum DC By-law term from five to 10 years
- Capping interest on DCs to the average prime bank rate plus one per cent

A more detailed review of the changes to the *Development Charges Act, 1997* is available below.

Amendments to the Development Charges Act, 1997 following Bill 23:

Bill 23 in Ontario introduces a number of amendments to the *Development Charges Act, 1997*, SO 1997, c. 27 (DC Act), including several new discounts and exemptions to the rates that municipalities can charge for new development. The bill aims to reduce the liabilities imposed by development charges (DCs), most significantly for the development of rental and affordable housing. The differential rates for development timing, housing type, and changes to interest rates could have a significant impact on developers' *pro formas* in the near term. Municipalities have also expressed concern that preliminary calculation of the impact of these changes to the development charges regime indicates the potential for material shortfall in infrastructure funding, without an identified replacement source. Municipalities will need to amend their existing forms used for the calculation of DCs to accurately reflect the new discounts and exemptions.

Highlights of Bill 23 pertaining to the DC Act are as follows:

Introducing new discounts from development charges

- **Phased out Cap on Rates:** The bill introduces a cap on prevailing DCs in the first four years of any DC By-law passed on or after January 1, 2022. The discount is phased out over time starting with a cap at 80 per cent of prevailing rates in year one and shifting to a cap at 85 per cent in year two, a cap of 90 per cent in year three, a cap of 95 per cent in year four, and no cap for year five onward; presumably to incentivize developers to advance development as soon as possible to avoid increased fees levied further into the DC By-law term.[11]
- **Rented Residential Premises:** The bill specifically encourages the development of purpose built rental housing with a further discount applied specifically to rented residential premises. This discount is tiered to incentivize multi-bedroom rental units by applying a 25 per cent discount to three+ bedroom rental units, a 20 per cent discount to two bedroom rental units, and a 15 per cent discount to all other forms of rental units (for example, one bedroom and studios).[12]

Introducing new exemptions from development charges for affordable units

- **Affordable Housing Exemption:** A new exemption from DCs is applicable to "affordable residential units", "attainable residential units", "non-profit housing units", and "inclusionary zoning residential units".[13]
- **Multi-Unit Exemption:** DC exemptions are expanded for the construction of rental units in existing rental residential buildings, existing houses, and new residential units/ancillary structures on land where residential uses are permitted.[14]

Changes to the municipal eligible capital costs calculation

- Bill 23 reduces certain types of eligible capital costs that a municipality can recover through DCs. Additional costs for housing services[15] and the costs to complete the DC background study/other studies[16] no longer qualify for recovery by municipalities through their DC by-laws. There is also a change to the historical service level horizon used to calculate eligible capital costs from 10 years to 15 years (save for certain exceptions).[17]

Maximum DC By-law Terms

- Bill 23 allows municipalities to pass a DC By-law with a duration of up to 10 years rather than the former maximum time frame of five years. Consistent with the existing legislation, municipalities could still amend their DC By-laws on a more frequent basis, but updates on a shorter term could re-start the phase-in of the new mandatory rate caps for years one through four of the DC by-law term. Municipalities are therefore incentivized to pass 10-year

DC By-laws in order to capture full rates applied to housing units in year five onwards of the DC By-law term.

Interest rate cap

- Bill 23 caps interest rates from a rate previously prescribed by regulation to the average prime bank rate plus one per cent per annum.[19]

OLT proceedings

Amendments to the *Ontario Land Tribunal Act, 2021* expand the power of the OLT to dismiss appeals and award costs to the successful parties. The OLT may be required, through regulation, to prioritize the resolution of certain classes of proceedings and be subject to timelines during such proceedings.

A more detailed review of the changes to the *Ontario Land Tribunal Act, 2021* is available below.

Amendments to the Ontario Land Tribunal Act, 2021 following Bill 23:

- Bill 23 expands the grounds upon which the Ontario Land Tribunal (OLT) may dismiss a proceeding without a hearing to also include instances where: the party who brought the proceeding has “contributed to undue delay” of the proceeding (s. 19(1)(b.1)), or has failed to comply with an order of the Tribunal in the proceeding (s. 19(4)).
- Bill 23 makes express that the OLT may order an unsuccessful party to pay a successful party’s costs (s. 20(2)). In contrast, the OLT *Rules of Practice and Procedure* currently specify that the OLT may only order costs against a party “if the conduct or course of conduct of the party has been unreasonable, frivolous or vexatious or if the party has acted in bad faith” (Rule 23.9).
- Bill 23 permits the making of regulations that require the OLT to prioritize the resolution of specified classes of proceedings (s. 29(1)(c)); and prescribe timelines to apply to specified steps to be taken by the OLT in specified classes of proceedings (s. 29(2)(a)).

Heritage protection

Amendments to the *Ontario Heritage Act* and related regulations will simplify and expedite the process for removing heritage designations and establish new restrictions governing the application of heritage designations including by:

- Providing for the introduction of additional criteria for new heritage designations and for the identification of heritage conservation districts, through Bill 23 and revisions to O. Reg. 9/06, *Criteria for Determining Cultural Heritage Value or Interest*
- Requiring the removal of properties from the municipality’s heritage register, if certain circumstances exist
- Requiring non-designated properties on the municipality’s heritage register to meet one or more of the criteria in O. Reg. 9/06, through Bill 23 and revisions to O. Reg. 9/06,
- Prohibiting the designation of properties to be of cultural heritage value or interest once applications for official plan amendments, zoning by-law amendments or draft plan of subdivision have been filed unless already on the register

- Permitting the province to override provincial heritage standards and guidelines where they conflict with provincial priorities such as transit, housing, health and long-term care and infrastructure.

Conservation authorities

Amendments to the *Conservation Authorities Act* have the potential to permit development in areas that were previously prohibited through regulation, freeze certain fees payable to the conservation authority (once this section from Bill 139, *Building Better Communities and Conserving Watersheds Act*, 2017, comes into force) and impose new limits on a conservation authority's programs or services, if related to reviewing development applications.

- Under a proposed regulation, a conservation authority cannot perform its review and commenting role, as a "municipal" or "other" program or service, under the following prescribed acts: the *Aggregate Resources Act*, the *Condominium Act*, the *Drainage Act*, the *Endangered Species Act*, the *Environmental Assessment Act*, the *Environmental Protection Act*, the *Niagara Escarpment Planning and Development Act*, the *Ontario Heritage Act*, and *Ontario Water Resources Act*, and the *Planning Act*.
- Under a proposed regulation, conservation authorities will be required, as part of their existing obligation to complete a conservation area strategy and land inventory of lands they own or control, to identify any such lands that could support housing development.

Bill 23 in Ontario also enables conservation authorities to more easily sell, lease or dispose of land previously granted to them by the Minister. The new Ontario housing bill further amends provisions requiring a conservation authority to issue a permit or permission if a Minister's Zoning Order has been made to also apply to orders made under s. 34.1 of the *Planning Act* (as part of the Community Infrastructure and Housing Accelerator process). Further, the Minister may prescribe limits on the conditions a conservation authority may include on a permit it issues where there is a Minister's Zoning Order.

Bill 23 revokes the 36 regulations that set out, for each conservation authority in Ontario, the activities and associated requirements for permits or permissions. The Province is proposing instead a single regulation (see proposed regulation) that will set out the requirements that apply across all conservation authorities and generally limit the ability of a conservation authority to regulate prohibited development and other activities to impacts to flooding control and other natural hazards.

New legislation affecting York and Durham Regions

In addition to revising key statutes related to development, the new Ontario housing enacts the *Supporting Growth and Housing in York and Durham Regions Act, 2022*, which addresses two specific public works projects in the GTA:

- The York Region sewage works project, which will improve and enlarge the York Durham Sewage System to convey sewage to the Dufferin Creek Water Pollution Control Plant. This project is to be an undertaking of York Region and Durham Region.
- The Lake Simcoe phosphorus reduction project, which will address drainage from the Holland Marsh and remove phosphorus before discharge into the West Holland River. This project is to be an undertaking of one or more of the following municipalities (to be prescribed by Regulation): York Region, a lower-tier municipality within York Region, or a lower-tier municipality within the County of Simcoe.

A more detailed review of the *Supporting Growth and Housing in York and Durham Regions Act, 2022* is available below.

Enactment of the Supporting Growth and Housing in York and Durham Regions Act, 2022:

Purpose of New Legislation and Municipal Responsibilities

The *Supporting Growth and Housing in York and Durham Regions Act, 2022*, puts in place requirements to expedite the planning, development, and construction of the York Region sewage works project and the Lake Simcoe phosphorus reduction project. The designated municipalities must "work together to do everything in their respective powers" to develop, construct, and operate the projects. Each project is subject to specific requirements in terms of capacity, cost-efficiency, and meeting timelines to be prescribed by Regulation.

Immediately after the new Act comes into force, the relevant municipalities must commence the preparation of a report to the Minister of the Environment, Conservation and Parks, specifying how the project will meet the project requirements set out in the Act and Regulations. The report will be made public, but consultation on the report is only required with Indigenous communities identified by the Minister. The municipalities can also choose to undergo additional consultation with persons who may be interested in the project.

The two projects and any related enterprises or activities are exempt from the requirements of the *Environmental Assessment Act*.

Minister's Powers

The new Act provides the Minister with additional powers to control, enter upon, or commence work on lands needed for the two projects without resorting to powers under the *Expropriations Act*. These powers can also be delegated to any of the municipalities undertaking the projects, and resemble the powers given to the Minister and delegated to Metrolinx in 2020's *Building Transit Faster Act* for the purposes of accelerating four major transit projects in the GTA (see BLG article on Bill 171, the *Building Transit Faster Act, 2020*), including:

- **Project Land Development Permit:** landowners are prevented from carrying out certain building and construction work on lands in the project area without approval from the Minister. This requirement does not apply to the Crown or certain utilities work, or to developments that have received all authorizations to proceed before the Act is in force.
- **Obstruction Removal:** the Minister can issue a notice requiring a building, structure, tree or other vegetation, or any prescribed thing to be removed from lands in the project area, and can remove the obstruction if it is not done by the timeline set out in the notice.
- **Construction Danger Inspection and Elimination:** allows the minister to enter upon lands needed for the project to inspect a building, structure, tree or other vegetation, or any prescribed thing, without notice or permission to enter, if he is of the opinion it may pose an immediate danger.
- **Preview Inspection:** allows the minister to enter upon lands needed for the project and within 30 metres of the project area to carry out due diligence work for the project, without permission to enter. 30 days' advance notice is required.
- **Stop-Work Orders:** the Minister may issue a stop-work order for any work underway that would obstruct or delay the construction of the project. The Minister can also make this order if he believes work is being done for which a Project Land Development Permit is required but has not been obtained.

- **Utility Company Co-operation:** the Minister can, by notice, require a utility company to remove or change the location of utility infrastructure if necessary for one of the projects.

Like the *Building Transit Faster Act, 2020*, the new Act sets up a compensation scheme for individuals subject to some of the above powers, which applies instead of the compensation scheme set out in the *Expropriations Act*. The new Act makes it an offence to hinder or obstruct the performance of the Minister's duties under the Act and its Regulations.

If a municipality expropriates land interests for either of the projects using their powers under the *Expropriations Act*, registered owners are not permitted to request a Hearing of Necessity, which is an inquiry by the Ontario Land Tribunal into whether the proposed expropriation is fair, sound, and reasonably necessary. Instead, the Minister may establish a process to receive comments in writing from property owners about a proposed expropriation.

BLG's Municipal Law and Land Use Planning lawyers have been monitoring the readings to Bill 23 as this legislation made its way through the Ontario Legislature from its First Reading on October 25, 2022, to receiving Royal Assent on November 28, 2022.

If you have further questions about Bill 23 in Ontario and its impacts on the land development industry and regulation by public authorities, please reach out to any of the authors or key contacts listed below.

Footnotes

1 https://news.ontario.ca/en/backgrounder/1002422/more-homes-built-faster-act-2022
2 R.S.O. 1990, c. P.13
3 Proposed subsections 16(3) and 35.1 (1) of the *Planning Act*
4 Subsection 16(3) of the *Planning Act*
5 Of note, this newly defined "specific person" is the same list of entities in subsection 51(48.3) of the *Planning Act* that are permitted to bring appeals in the context of approvals of draft plans of subdivision or related conditions, introduced by way of Bill 108, the *More Homes, More Choice Act, 2019*.
6 Proposed subsection 16(20) of the *Planning Act*.
7 Subsection 17(6) of the *Planning Act*
8 Subsection 17(12) of the *Planning Act*
9 Section 23 of the *Planning Act*
10 Section 15 of the *Planning Act*
11 Proposed subsections 5(7) and 5(8) of the DC Act.
12 Proposed subsection 26.2(1.1) of the DC Act.
13 Proposed subsections 4.1, 4.2, and 4.3 of the DC Act
14 Proposed subsections 2(3.1), 2(3.2), and 2(3.3) of the DC Act.
15 Repeal of subsection 2(4) para. 17 and proposed section 2(4.0.1) of the DC Act.
16 Repeal of subsection 5(3) paragraphs 5 and 6 of the DC Act.
17 Proposed amendment to subsection 5(1) paragraph 4 of the DC Act.
18 Proposed amendment to subsection 9(1) of the DC Act.
19 Amendment to subsection 26.2(3) and addition to subsection 26.3(1) of the DC Act.

By:

Emma Blanchard, Isaac Tang, Andrew Baker, Laura Robinson, Julie Lesage, Lee English, Byron Taylor-Conboy, Celine Zhen

Services:

Municipal & Land Use Planning, Commercial Real Estate, Expropriation, Environmental

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749