

## Municipal, Planning and Property Tax

January 6, 2010

### Bill 212 – Changes to Planning & Heritage Legislation in the Province’s Latest Omnibus Bill

#### Background

Bill 212 – “An Act to promote good government by amending or repealing certain Acts and by enacting two new Acts” – received Royal Assent on December 15, 2009.

At close to 300 pages, the Bill amends or repeals many pieces of legislation and enacts two new acts. Of note, the Bill amends the *Planning Act*, the *Ontario Heritage Act*, the *City of Toronto Act, 2006*, the *Ontario Municipal Board Act* and the *Municipal Elections Act, 1996*. This update summarizes some of the changes contained in Bill 212 relating to planning and heritage matters.

#### 1. Amendment to the *Planning Act* – Variances to By-laws That Have Been Passed

Section 45 of the *Planning Act* is amended so that variances may be granted from by-laws that have been passed, even if they are under appeal and not yet in effect. This is accomplished by amending subsection 45(1) to strike out “by-law that is in effect” and substituting “by-law that is passed”. This change came into effect on January 1<sup>st</sup>.

The significance of this amendment is that it would allow an applicant to obtain a minor variance from a

zoning by-law under appeal. This is especially relevant in the City of Toronto, where the potential for appeals of the new harmonized zoning by-law could delay its final approval for some time.

#### 2. Amendment to the *Ontario Heritage Act* – Complete Demolition Applications

Section 34 of the *Ontario Heritage Act* is amended to address the issue of when a municipality is deemed to have consented to a demolition application. The amendments allow municipalities:

- to request and receive additional information from an applicant seeking consent to demolish or remove a building; and,
- to specify that the 90-day period to review the application only begins once the municipality sends a notice of receipt to the applicant.

The significance of these amendments relates to the fact that if a municipality does not make a decision on a demolition application within the 90 day period, it is deemed to have consented to the application. The amendments allow a municipality to satisfy itself that it has received a complete application before the 90 day period begins to run. These changes came into effect on December 15<sup>th</sup>.

#### 3. Amendment to the *City of Toronto Act, 2006* – Green Roof By-law

As discussed in previous updates from Goodmans, the *City of Toronto Act, 2006* allows the City of Toronto to pass by-laws respecting green roofs. Such a by-law has been enacted by the City, with important grandfathering deadlines that expire at the end of January 2010.

Bill 212 amends the *City of Toronto Act, 2006* to allow the City also to pass by-laws respecting alternative roof surfaces that achieve similar levels of performance to green roofs. This change is in response to the request by the City and developers for more flexibility in the approach to green roofs. It came into effect on December 15<sup>th</sup>.

# Goodmans<sup>LLP</sup> Update

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## 4. Amendment to the Ontario Municipal Board Act – Elimination of Cabinet Appeals

Bill 212 removes the right to file a petition for the Lieutenant Governor in Council to review an order or decision of the Ontario Municipal Board. However, Section 64 of the *Planning Act* had already eliminated this right in respect of decisions made under the *Planning Act*, so this is not a significant change for certain planning matters before the OMB, although other legislation which allowed for OMB appeals did not contain an equivalent section.

## 5. New Legislation – Public Accountability of Tribunals

Bill 212 contains a new piece of legislation – the *Adjudicative Tribunals Accountability Governance and Appointments Act, 2009*. This legislation will likely require the Ontario Municipal Board to develop documents and procedures to enhance its public accountability, such as a mission statement and a business plan. The new legislation also sets out requirements for the selection of members to tribunals. Although the language is generic, a tribunal's responsible Minister will be required to make the recruitment process public, including the steps intended to be taken in the process and the qualifications on which the candidates will be assessed.

## 6. Amendments to the Municipal Elections Act, 1996

There are numerous changes to the *Municipal Elections Act, 1996*, including the movement of voting day to the fourth Monday in October.

We would be pleased to provide a more detailed summary of the above-noted changes and/or other Bill 212 matters upon request.

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