

Goodmans^{LLP} Update

More Homes For Everyone Act, 2022: A First Step to Address Housing Affordability?

On March 30, 2022, the Ontario government introduced the *More Homes For Everyone Act, 2022*, also known as Bill 109, intended to implement certain recommendations from the Ontario Housing Affordability Task Force (the “Task Force”).

Bill 109 is the first in what the provincial government indicated may be a series of proposed legislative changes to address housing supply and affordability in light of the Task Force’s recommendations. For example, the province is currently seeking public comments on the [Environmental Registry of Ontario](#) for a proposal to permit multi-unit housing as-of-right on sites zoned for single-unit detached homes. The comment period ends on April 29, 2022. The province also stated it intends to prepare a supply action plan every year over four years, starting in 2022-23, with additional policies and tools to support “missing middle” housing.

In the meantime, Bill 109 proposes certain changes to the *Planning Act* which appear intended to facilitate faster processing of development applications, among other things. The key legislative changes proposed in Bill 109 are outlined below.

Site Plan Approval

- **Mandatory Delegation of Site Plan Approval.** Currently, municipal councils may delegate site plan approval to staff, but are not required to do so. Bill 109 would remove the ability for municipal councils to decide on site plan applications; instead, staff would have the sole authority to review and approve site plans submitted on or after Bill 109 comes into force. In the City of Toronto, as an example, this would eliminate the ability of local councillors to “bump up” site plan applications to City Council for approval.
- **Complete Applications.** Bill 109 would establish a process for declaring site plan applications complete, similar to that which currently applies to other planning applications. Municipalities may require applicants to consult with staff to determine the required information and materials for a complete site plan application. Municipalities would be required to declare whether a site plan application is complete within 30 days of submission. The Ontario Land Tribunal (the “Tribunal”) would have the jurisdiction to decide whether a complete application has been submitted.

Bill 109 would also extend the time period for review of a complete site plan application from 30 days to 60 days before an applicant can appeal the site plan application to the Tribunal.

Application Processing Times

Bill 109 would legislate time frames for municipalities to make a decision on complete rezoning and site plan applications, after which a municipality would be required to refund some or all of the application fee. As illustrated by the following table, starting on January 1, 2023, the proposed amount required to be refunded increases over time.

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Instrument	Refund 50% of Application Fee	Refund 75% of Application Fee	Refund 100% of Application Fee
Zoning By-law Amendment	90 days	150 days	210 days
Zoning By-law and concurrent Official Plan Amendment	120 days	180 days	240 days
Site Plan Approval	60 days	90 days	Not Applicable

While the goal may be to encourage more timely review of applications, the requirement for a decision within a limited period of time may result in municipalities refusing applications to avoid providing refunds. Municipalities may also implement more extensive pre-application consultation requirements.

Ontario Housing Accelerator

Bill 109 would formalize the process for municipalities to request that the province accelerate approval of priority community and housing projects. Currently, municipalities may request the Minister of Municipal Affairs and Housing (the “**Minister**”) issue a Minister’s Zoning Order to streamline the approval process, but little guidance has been provided on the requirements for such a request.

Bill 109 would allow a municipal council to pass a resolution for the Minister to exercise the municipality’s zoning powers and accelerate the approval of any other permit, licence, or approval, such as a Conservation Authority permission to develop.

To enact the resolution, the municipality must give notice and consult with the public, identify the lands to which the order would apply, and how the Minister would exercise its authority, including setting out details for the proposed development. The zoning order would not have to be consistent with the Provincial Policy Statement or conform to any official plan or provincial plan, although the power cannot be exercised on lands in the Greenbelt.

Parkland Dedication

Bill 109 would limit the alternative rate for parkland for lands designated as “transit-oriented community lands” under the *Transit-Oriented Communities Act, 2020* as follows:

- development sites that do not exceed five hectares will be subject to a rate of 10%, and
- development sites that are greater than five hectares will be subject to a rate of 15%.

Although no transit-oriented community lands are currently designated under the Act, several locations in Toronto and York Region proposed for development near higher-order transit are candidates for this designation.

Ministerial Approval of Official Plans/Official Plan Amendments

There is no appeal to the Tribunal from a decision by the Minister regarding an official plan or official plan amendment, such as one resulting from the municipal comprehensive reviews currently being undertaken by upper-tier and single-tier municipalities to ensure conformity with provincial policy.

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Bill 109 would grant two significant powers to the Minister where the Minister is the approval authority for official plans and official plan amendments:

1. The Minister would be able to refer an official plan or official plan amendment to the Tribunal to hold a hearing and make either a recommendation back to a Minister or a binding decision. Any person who made submissions to the municipal council would be able to seek party status at that hearing.
2. The Minister would be able to suspend the time period for making a decision on official plans and official plan amendments. Currently, the Minister has 120 days to make a decision or else risk an appeal by the municipality for the Minister's failure to make a decision. The proposed legislation would have the effect of permitting the Minister to extend that time period indefinitely. Bill 109 would also apply retroactively to suspend the time period for any official plan or official plan amendment forwarded to the Minister on or before March 29, 2022.

Next Steps

Bill 109 was introduced in the Ontario Legislature for first reading. There may be further changes to the legislation before its final enactment. The release of additional regulatory proposals, such as the proposal to permit "missing middle" housing as-of-right, may also have implications for these legislative changes. We will continue to monitor Bill 109 as it proceeds through the legislative process.

For further information, please contact any member of our [Municipal, Planning, and Property Tax Group](#).

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