

Ontario Municipalities Gain Ability to Approve Development Applications During Emergency

April 17, 2020

On April 14, 2020, Ontario introduced Bill 189, the *Coronavirus (COVID-19) Support and Protection Act, 2020*, which included amendments to the *Planning Act* authorizing the Minister to make regulations respecting the calculation of time for development applications in connection with the emergency declared under the *Emergency Management and Civil Protection Act* (O. Reg 50/20).

Ontario Regulation 149/20, Special Rules Related to the Declared Emergency (the Regulation), was subsequently released and came into force on April 15, 2020 which, among other things, overrides Regulation 73/20 made under the *Emergency Management and Civil Protection Act*, which had previously suspended all limitation periods under any statute, regulation, rule, by-law or order of the Government, and now permits certain statutory timelines under the *Planning Act* and *City of Toronto Act, 2006* to proceed. The Regulation provides municipalities with additional flexibility during the COVID-19 emergency to process and advance development applications, particularly where there is no dispute, without concern that appeals may be filed on the basis of non-decision. This should also come as welcome news to applicants and new homebuyers, who have faced technical challenges to project delivery and new home closings during this emergency.

The statutory timelines under the *Planning Act* that are no longer suspended during the COVID-19 emergency include, but are not limited to:

- Appeal periods to the Local Planning Appeal Tribunal (LPAT) with respect to the approval of zoning by-laws, and approval or refusal of official plans, official plan amendments, zoning by-law amendments, draft plan of subdivision, minor variance and consent applications, and community planning permits;
- Appeal periods with respect to consent conditions or changes thereto;
- Appeal periods with respect to draft plan conditions or lapsing provisions;
- Lapsing of draft plan approval;
- Applications to Council for relief from demolition permit conditions; and,
- Appeal periods with respect to the passing of interim-control by-laws.

This will allow certain applications to be approved, and where there is no appeal, come into force. However, in the event of an appeal, timelines will be suspended as per below.

The statutory timelines under the *Planning Act* that are suspended for the duration of the COVID-19

emergency include, but are not limited to:

- Appeal periods to the LPAT for an approval authority's failure to make a decision on official plans, official plan amendments, zoning by-law amendments, demolition permits and conditions, applications to remove holding provisions, draft plans of subdivision, consent applications, community planning permits and site plan applications under both the *Planning Act* and the *City of Toronto Act, 2006*;
- In the event of an appeal, timelines to forward records to the LPAT;
- Timing of expiry and extensions of interim control by-laws, but only in respect of interim by-laws in effect on March 17, 2020;
- Other appeal periods to the LPAT for payment under protest for parkland dedication and other municipal tariffs;
- Timing for notices of complete application for official plan amendments, zoning by-law amendments and plans of subdivision;
- Timing for circulation and notice for official plan amendments, zoning by-law amendments and draft plan of subdivision applications;
- Timing for hearings of Committee of Adjustment applications;
- Timing for fulfillment of consent conditions and lapse of consent approval; and,
- Other statutory timing with regard to withdrawn appeals.

The Regulation provides that if the period of time listed above ended on or after March 17, 2020 and before April 15, 2020, the period of time is deemed to not have ended. In addition, appeals that were filed on or after March 17, 2020 and before April 15, 2020 with respect to official plans, official plan amendments, demolition control applications, zoning by-law amendments, holding provision by-laws, draft plans of subdivision, consents, community planning permits and site plan control applications under both the *Planning Act* and the *City of Toronto Act, 2006* are deemed not to have been filed, and would need to be re-filed, provided that the appeals meet certain criteria.

Similarly, any motions to the LPAT that were made on or after March 17, 2020 and before April 15, 2020 for the purpose of determining the completeness of official plan amendment, zoning by-law amendment and draft plan applications are deemed not to have been made.

The Regulation also impacts notice requirements for various planning applications and mechanisms. Notices of decision issued on or after February 26, 2020 and before April 15, 2020 are to be issued again, no later than 15 day after the COVID-19 emergency is terminated. There are additional notice requirements for decisions that were made on or after March 2, 2020 and before April 15, 2020 for adoption of official plans, official plan amendments, zoning by-laws, zoning by-law amendments, draft plans of subdivision, consent applications and community planning permits. The Regulation also provides specific notice requirements for Committee of Adjustment decisions made on or after February 26, 2020 and before April 15, 2020.

Cassels

Please refer to the Regulation text for full details.

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