Cassels

More Homes Built Faster Act (Bill 23) Receives Royal Assent: What's Changed and What's In Force

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On November 28, 2022, Bill 23, *More Homes Built Faster Act, 2022*, received Royal Assent. The original version, which went to First Reading on October 25, 2022, contained many regime-changing proposals, the significant details and anticipated impact of which was commented on in our November 10, 2022 article.

Major Amendments to Bill 23 as Finally Passed Include

	First Proposed	As Revised
Schedule 1: City of Toronto Act, 2006	• Absolute prohibition on exterior design control	• Limits exterior design control, however, site plan can continue to apply to Green Roof By-laws and protection or conservation of the environment where permitted under the
Schedule 3: Development Charges Act, 1997	• Discounts of development charges payable for rental housing developments provided no building permit had been issued by the time the legislation came into force. • DC reductions applicable to DC By-laws passed on or after June 1, 2022.	• Discount remains unchanged, however, further transitional matters now provided. Rental Housing discounts do not apply for a development in which a building permit was issued prior to November 28, 2022, unless a Development Charges Agreement has been entered into. If there is a Development Charges Agreement, the rental housing discounts will apply to all development charges payable after November 27, 2022. • DC reductions now based on DC By-laws passed on or after Jan 1, 2022.
Schedule 9: Planning Act	• Removal of third-party appeal rights under official plans, official plan amendments, zoning by-laws, minor variances, and consents.	• No removal of third-party appeal rights of official plans, official plan amendments, or zoning by-laws. • Third-party appeal rights of consent and minor variance applications significantly restricted to certain public bodies. Current third-party appeals are dismissed unless they qualify for limited transition.

• Ss.22(2.1) and (2.1.1) prohibit requests for official plan amendments to be made within two years of a new official plan or a secondary plan coming into effect. A new subsection added to provide exception for requests related to pits and quarries. Similar change made for zoning by-law amendments.	• Applications to amend official plans, secondary plans, and new comprehensive zoning by-laws that were adopted to conform with new official plans, may now happen at any time. The previous 2-year prohibition has been repealed. • Minor variances to zoning by-laws may also be requested at any time.
• N/A	• Municipalities with a CBC by-law may allow an owner of land to provide services/facilities in lieu of a cash payment. New provisions allow municipality to further require such owners to enter into agreement with the municipality, and for it to be registered against the land.
• N/A	• Land lease communities within the greenbelt area will be required to receive plan of subdivision and part-lot control approval, regardless if they are within an area of site plan control.

No changes were made to the original amendments proposed by Bill 23 to the *Conservation Authorities Act, New Home Construction Licensing Act, 2017,* the *Municipal Act,* the *Ontario Heritage Act,* the *Ontario Land Tribunal Act*, the *Ontario Underground Infrastructure Notification System Act, 2012;* and the *Supporting Growth and Housing in York and Durham Regions Act, 2022.*

What's Now in Force

Much of Bill 23 has come into force as of November 28, 2022, including the following matters...

Under the *Planning Act:*

- Removal of third-party appeal rights for consent and minor variance applications, unless the third party is a "specified person" under the *Planning Act;*
- Removal of requirements for public meetings on draft plans of subdivision;

- Removal of two-year suspension periods to amend official plans, secondary plans, comprehensive zoning by-laws, and to bring minor variance applications for newly adopted zoning by-laws;
- Exemption for land lease communities from subdivision and part-lot control if site plan approval obtained (unless community is in the greenbelt);
- Most parkland dedication changes except for certain matters specified below;
- Exemptions for developments up to 10 residential units from site plan control;
- Changes to regulation of exterior design under site plan;
- As of right permissions for up to three residential units per lot; and
- Introduction of a time-limited incentive for zoning by-law amendments enacted to implement approved official plan policies for Protected Major Transit Station Areas.

Under the *Development Charges Act:*

- Exemptions for rental housing development;
- Exemptions for non-profit housing development;
- Exemptions for inclusionary zoning units;
- Transition periods for development charge by-laws passed after January 1, 2022; and
- Note that various other amendments described in our previous article are in force, but only apply to future development charges by-laws.

What's Still to Come

The following changes have received approval of the legislature, but are not yet in force...

Under the *Planning Act:*

- Removal of upper-tier approval authority;
- Community benefit charges exemption for affordable housing;
- Reductions to the rate of parkland dedication required for affordable, attainable, or otherwise exempt units;
- Parkland dedications of encumbered lands; and
- Minister's power to amend official plans if they are of the opinion the official plan may adversely affect a matter of provincial interest.

Under the *Development Charges Act:*

- New definitions of affordable and attainable residential units; and
- Exemptions for affordable and attainable residential units from development charges, where they are not part of an inclusionary zoning contribution.

Under the *Ontario Land Tribunal Act:*

- All changes proposed.

Dozens of consultations related to Bill 23 remain ongoing. These include proposals for:

- Consolidation of the Provincial Policy Statement, 2020 and Growth Plan (Consultation open until December 30, 2022);
- Cap to inclusionary zoning (Consultation open until December 9, 2022);
- Most changes to the *Ontario Heritage Act* (Consultation open until December 9, 2022), which following consultation may come into force as early as January 1, 2023; and
- Rental housing replacement requirements (Consultation open until December 9, 2022).

It is expected that further significant legislative changes will be brought forward following the end of these consultations.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.