

Limited Appeal Rights Reinstated: Cutting Red Tape to Build More Homes Act, 2024

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On June 6, 2024, Bill 185: the *Cutting Red Tape to Build More Homes Act, 2024*, received Royal Assent, after being amended by Standing Committee. This Cassels Comment reports on key updates since our [prior comment](#) detailing the amendments to land development legislation proposed in the first reading of Bill 185.

What's Changed

1. *Planning Act* appeal rights continue for landowners

Amendments from first reading

As of June 6, 2024, the Act removes existing rights of appeal of municipally approved instruments, but the categories of exceptions on this restriction (i.e., those that may still have the right to appeal) have expanded. Significantly, the owners of lands subject to municipally initiated official plans, official plan amendments, zoning by-laws, or zoning by-law amendments will retain the right to appeal instruments. Third-party appeals of privately initiated applications approved by a municipality will continue to be limited. The definitions of “public body” and “specified persons,” both of which will continue to have appeal rights, have been expanded:

- “public body” is expanded to include hospitals.
- “specified person” is expanded to include:
 - NAV Canada
 - Airport owners and operators, subject to certain conditions
 - Licensees under the *Aggregate Resources Act*, Environmental

What this means for you

Privately initiated official plan and zoning by-law amendment application approvals are not subject to appeal by adjacent landowners, concerned residents or other third parties, unless the third party is a “specified person” or a “public body,” which made submissions at a public meeting prior to adoption of the applications. Landowners remain empowered to appeal municipally initiated instruments to the Ontario Land Tribunal, provided they make an oral submission at a public meeting or written submission prior to instrument adoption. ECA and EASR holders will have the ability to appeal approvals for developments within 300 metres and within areas of employment on the basis of inconsistency with land use compatibility policies under provincial policy statements. Airports with zoning regulations and NAV Canada will have the opportunity to appeal approvals, providing the ability to further protect flight paths.

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Compliance Approval (ECA) holders, and Environmental Activity Sector Registrants (EASR), each subject to certain conditions, or the owner of any such lands subject to these permissions

2. Existing appeal dismissals have likewise been scoped

Amendments from first reading

As of June 6, 2024, appeals by those no longer permitted to appeal and where no hearing has been scheduled before April 10, 2024 will continue to be statutorily dismissed. Those persons who have maintained the right to commence appeals described above will be permitted to maintain their appeal as long as the instrument would apply to their lands.

What this means for you

Landowners who commenced an appeal of a municipally-initiated official plan or zoning by-law will not have their appeals dismissed provided the instrument would apply to their lands. Any other appeals where no hearing was scheduled by April 10, 2024 and no other appeal was filed by a person who continues to have a right to appeal are statutorily dismissed.

What's Not Changed

All other matters previously covered in our prior [Cassels Comment](#) have not been amended between first and Royal Assent. Some of the key items that *have not* been changed include the following, all of which came into force on June 6, 2024:

1. Repeal of Application Fee Refund Requirements

The *Cutting Red Tape to Build More Homes Act, 2024* has repealed all development application fee refund requirements. Municipalities will no longer have a financial incentive to make a decision on a development application within the statutory time frame under the *Planning Act*.

2. Repeal of Mandatory Pre-application Consultation

The *Cutting Red Tape to Build More Homes Act, 2024* has repealed the ability for municipalities to require mandatory pre-application consultation prior to submitting development applications. Applicants will remain enabled to request a pre-application consultation.

3. Repeal of Statutory Phase-In of Development Charge Rates

The *Cutting Red Tape to Build More Homes Act, 2024* has repealed the 5-year phase-in of development charges, except where a particular development is already subject to the development charge freeze under

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the *Development Charges Act, 1997*. Developers can generally expect to see an immediate jump in the development charges payable on an application.

4. Limits on Minimum Parking Requirements

The Cutting Red Tape to Build More Homes Act, 2024 has imposed limitations on minimum parking requirements in official plans and zoning by-laws, which will likely create a radical shift in the GTA and beyond.

5. Appeals of Settlement Area Boundary Expansions

Appeals by applicants or permitted parties of official plan or zoning by-law amendment applications that propose to alter all or part of the boundary of a “area of settlement” may be appealed to the Ontario Land Tribunal.

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