

BACKGROUND

Proposed *Strong Communities (Planning Amendment) Act, 2003 (Bill 26)*

Proposed *Greenbelt Protection Act, 2003 (Bill 27)*

Minister's New Zoning Orders under the *Planning Act*

- ▶ On Monday, December 15th and Tuesday, December 16th, the Provincial Government introduced *Bill 26*, to amend the *Planning Act*, and *Bill 27*, to initiate a greenbelt protection strategy for the Golden Horseshoe. In addition, the Minister of Municipal Affairs and Housing issued two Zoning Orders prohibiting development.
- ▶ While the Minister's Zoning Orders are effective immediately, Bills 26 and 27 will not become law until they receive third reading and Royal Assent, and are proclaimed. Based on current information, this will not likely happen until March or April. However, both bills are retroactive to the date they were first introduced. It is also important to understand that they may be amended before they become law.
- ▶ This memo provides general and summarized information only. Please contact us at 416-977-7088 for more specific information and advice.

Bill 26: Key Parts of the Planning Act Amendments

Force of the *Provincial Policy Statement*

- ▶ All decisions of planning approval authorities, including municipal councils and the Ontario Municipal Board ("OMB"), will be required to be "consistent with" the *Provincial Policy Statement* ("PPS") rather than to "have regard for" it. This is intended to strengthen the force of the *PPS* in planning decisions.

Appeal Periods

- ▶ The time periods for appealing to the OMB based on a municipality's failure to decide on planning applications will be increased to:
 - ▶ 180 days for official plan ("OP"), subdivision and condominium applications;
 - ▶ 120 days for zoning and holding by-law applications; and
 - ▶ 90 days for consent (severance) applications.
- ▶ Municipal councils and planning boards will no longer be required to hold a public meeting within 65 days of an official plan amendment ("OPA") application, and an



applicant will no longer have the right to appeal to the OMB based on failure by the council or planning board to give notice of a public meeting within that time period.

Urban Expansions

- ▶ An “urban settlement area” is defined as *an area of land designated in an official plan for urban uses including urban areas, urban policy areas, towns, villages, hamlets, rural clusters, rural settlement areas, urban systems, rural service centres or future urban use areas.*
- ▶ Although landowners will still be able to make planning applications to expand or change the boundary of an urban settlement area, there will no longer be a right to appeal to the OMB if a municipality rejects or fails to make a decision on the application.

Declaration of Provincial Interest

- ▶ The Minister is given a new power to declare a provincial interest in any OMB appeal which involves an application for an OP, OPA, zoning by-law or holding by-law. If the Minister does so, the OMB’s decision is not final unless confirmed by the Provincial Cabinet, which will also have the power to revoke or change the decision.

Applications Already in the Process

- ▶ The Minister can create regulations to deal with applications and appeals that were already in the planning approval process when the Bill becomes law. These regulations can be retroactive.

Bill 27: Key Parts of the Greenbelt Legislation

- ▶ The main purpose of *Bill 27* is to create a one year moratorium on urban development on rural and agricultural lands in the Golden Horseshoe area *i.e.* lands outside of designated urban areas. The moratorium is to enable the Government to conduct a study of the greenbelt area and determine which lands should be permanently included in a new Golden Horseshoe Greenbelt.

The Greenbelt Study Area

- ▶ The study area consists of the Regional Municipalities of Durham, Halton, Peel and York, and the Cities of Hamilton and Toronto, as well as lands within the Niagara



Escarpment Plan, the Oak Ridges Moraine Area and the tender fruit area of the Regional Municipality of Niagara.

- ▶ The Minister will have the power to order the OMB and the Joint Board to defer any hearing that involves land in the study area, even if the land is in an urban settlement area, and even if the hearing has nothing to do with an urban boundary change or expansion. The Minister's order will not be subject to appeal.

Prohibitions on Development in the Greenbelt Study Area

- ▶ Municipalities will not be permitted to approve urban uses on lands outside urban settlement areas, whether by way of OP's, OPA's, zoning by-laws, holding by-laws, interim control by-laws or plans of subdivision.
- ▶ Landowners will not be permitted to apply for planning approvals on lands outside urban settlement areas, whether by way of OPA's, zoning by-laws, holding by-laws, interim control by-laws or plans of subdivision.
- ▶ All proceedings before the OMB or a Joint Board with respect to an OP, OPA, zoning, holding or interim control by-law, or a plan of subdivision, for lands outside an urban settlement area, will be "stayed", meaning that the hearing will adjourn and remain in "limbo" during the moratorium.
- ▶ All applications for an OP, OPA, zoning, holding or interim control by-law, or a plan of subdivision, for lands outside an urban settlement area, will also be "stayed" during the moratorium.
- ▶ Cabinet will be able to pass regulations to exempt specific lands from these prohibitions.

Exceptions to the Prohibitions on Development

- ▶ The development prohibitions do not apply to lands in the Niagara Escarpment Plan or lands in the Oak Ridges Moraine Area, which are already subject to restrictive development rules. The prohibitions also do not apply to lands in the City of Toronto.
- ▶ However, Cabinet will be able to pass regulations to make the prohibitions apply to specific lands in these areas.



Changes to Oak Ridges Moraine Legislation

- ▶ For Moraine cases appealed to the OMB, whether before or after *Bill 27* comes into force, the Minister will be given the power to amend the relevant official plan or zoning by-law, and/or to order that the hearing be deferred. The Minister's powers under this provision will not be subject to appeal, but the Minister may appoint a hearing officer to make non-binding recommendations about deferred hearings.
- ▶ *Bill 27* also proposes a change to the *Oak Ridges Moraine Conservation Act, 2001* which may have serious implications for planning applications filed prior to November 17th, 2001. This change is complex, and highly fact-dependent; if you or your clients may be affected, you are welcome to contact us for a full explanation and analysis based on the specific facts of the situation.

No Litigation Based on Impact of Legislation

- ▶ *Bill 27* purports to bar all lawsuits and claims for expropriation compensation arising out of its application and implementation, including proceedings against the Provincial Government and its agents and employees.

Minister's Zoning Orders

The Golden Horseshoe Order

- ▶ By Regulation 432/03, as amended by Regulation 435/03, the Minister issued a zoning Order which prohibits use of any lands in the Golden Horseshoe which are outside an "urban settlement area", other than existing legal uses and any uses permitted by existing zoning.
- ▶ The Order does not apply to lands in the City of Toronto. Nor does it apply to the Niagara Escarpment Planning Area or the Oak Ridges Moraine Area, which are already subject to development restrictions, and it does not apply to certain lands in Pickering and Markham which were the subject of previous zoning Orders.

The Richmond Hill Order

- ▶ By Regulation 431/03, the Minister issued a zoning Order which prohibits use of specific Moraine lands in the Bayview Avenue/19th Avenue area.

December 19, 2003