



Proposed Amendments to *Planning Act* Regulations and
Proposed Transitional Regulation relating to the *Smart Growth for
Our Communities Act, 2015* (Bill 73)

(EBR Registry #012-6823; #012-6824; #012-6825; #012-6826; and #012-6827)

Date: April 14, 2016

Submitted to: Ministry of Municipal Affairs and
Housing, Provincial Policy Planning Branch

Submitted by: Ontario Bar Association



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Introduction

The Ontario Bar Association (“OBA”) appreciates the opportunity to provide comments to the Ministry of Municipal Affairs and Housing (the “Ministry”) on the proposed amendments to the existing regulations under the *Planning Act* relating to the *Smart Growth for Our Communities Act, 2015* (Bill 73) and the proposed new regulation to prescribe transitional provisions for Bill 73.

As the wording of the proposed amendments to the existing regulations and the proposed new transitional regulation has not been provided for public comment, our comments are based solely on the descriptions and purposes of the regulations posted on the EBR Registry.

The OBA

Established in 1907, the OBA is the largest voluntary legal organization in Ontario representing over 16,000 lawyers, law professors and students. In addition to providing legal education for its members, the OBA is pleased to analyze and assist government with dozens of legislative and policy initiatives each year – both in the interest of the profession and in the interest of the public.

This submission was prepared by the Municipal Law Section (the “Section”), which has more than 350 lawyers who are leading experts in land use planning law matters, representing a diverse range of clients including proponents, municipalities, the public, developers, and other stakeholders. Members of the Section appear before tribunals and the courts, including the Ontario Municipal Board. The Section also provided comments to the Ministry and the Standing Committee on Bill 73, which received Royal Assent on December 3, 2015.

Comments

Our comments on the proposed regulatory changes are as follows.

Proposed Amendment/Regulation	Comments
EBR Registry Number: 012-6823	
It is proposed that matters included in O. Reg. 543/06 “Official Plans and Plan Amendments”, O. Reg. 545/06 “Zoning By-laws, Holding By-laws and Interim Control By-laws”, O. Reg. 544/06 “Plans of Subdivision” and O. Reg. 546/06 “Requests to Amend or Revoke Minister’s Zoning Orders” be updated to require that public consultation strategies be	More clarity is required as to what is meant by “public consultation strategies” and the extent of the “public consultation strategies” proposed. We suggest that the requirement be framed in broad terms, as appropriate “public consultation strategies” will likely depend on the scale and type of development proposed in any given application.



Proposed Amendment/Regulation	Comments
submitted by applicants as part of complete applications.	As the regulation would require that “public consultation strategies” be submitted as part of complete applications, we suggest that municipalities should be required to provide some guidance as to what they would expect for different types of applications to ensure that applicants are not faced with notices of incomplete applications and to ensure some level of consistency within the municipality.
EBR Registry Number: 012-6824	
Proposed amendments to matters included in the regulations under the <i>Planning Act</i> would include enhancements for relevant notices (e.g. notice of public meetings) for proposed OPs, OPAs, ZBs, ZBAs, plans of subdivision, minor variances and consents.	We support the proposal to enhance, modernize and simplify notices. Specifically, we support the proposal to allow notice to be given by email. This approach is also consistent with the manner in which notice is provided for matters before the Ontario Municipal Board.
EBR Registry Number: 012-6825	
It is proposed that O. Reg. 200/96 “Minor Variance Applications” be amended to add a requirement that minutes of the public hearing be included in the record forwarded to the Ontario Municipal Board following an appeal of a minor variance.	While we do not have a specific concern regarding this proposal, we are uncertain as to whether this might delay the forwarding of the record to the Board.
EBR Registry Number: 012-6826	
<p>It is proposed that O. Reg. 608/06 “Development Permits” be revised to:</p> <ul style="list-style-type: none"> • rename the “development permit system” to the “community planning permit system” • provide that no person or public body shall apply to amend the relevant 	We do not have any comments with the proposed name change. We are concerned with the use of a regulation to restrict application or appeal rights, rather than including such restrictions in the legislation itself.



Proposed Amendment/Regulation	Comments
<p>official plan policies or the by-law establishing a “community planning permit system” within 5-years of the establishment of the system in a municipality, unless the municipality passes a resolution to allow applications during the 5-year period</p>	
EBR Registry Number: 012-6827	
<p>The proposed transition regulation would set out rules for planning matters in process at the time of proclamation of the Bill 73 changes to the <i>Planning Act</i> and would provide certainty regarding the processing and decision-making on planning matters. Changes to the <i>Planning Act</i> through Bill 73 not addressed in the proposed transition regulation would apply immediately upon the coming into force of those changes.</p> <ul style="list-style-type: none"> Restricting applications after certain planning documents come into force (i.e. 2-year timeout for new official plans and comprehensive zoning by-laws; 5-year timeout for development permit system; 2-year timeout for minor variances of site specific zoning by-laws;) – these provisions would apply to applications in respect of new planning documents that come into force after the Bill comes into force 	<p>More clarity is required with respect to the applicability of the proposed transitional regulation to existing planning documents that are currently not in force but may come into force after Bill 73 comes into force. The implications of the proposed transitional regulation on such planning documents are unclear.</p> <p>For example, the City of Toronto’s New Comprehensive Zoning By-law was enacted by Council of the City of Toronto on May 9, 2013, and is currently not in force as it has been appealed to the Board. How will the transition provisions impact any approved applications for minor variances to this New Comprehensive Zoning By-law?</p>
Other	
<p>Minor Variance criteria</p>	<p>We would appreciate the opportunity to comment on any future regulation that may be proposed under new Section 45(1.0.1)(a) of the <i>Planning Act</i>.</p>



Proposed Amendment/Regulation	Comments
	Stakeholders would also benefit from guidance from the Province as to the type of criteria that could be included in by-laws that may be passed by municipalities under Section 45(1.0.1)(b).

Conclusion

We appreciate the opportunity to provide comments to the Ministry on the proposed amendments to the existing *Planning Act* regulations and the proposed new transitional regulation. We would also appreciate having an opportunity to review and make further comments on the actual wording of the proposed amendments and new transitional regulation, once the proposed wording is released and prior to enactment of the regulations.