



Ontario Heritage Act (Bill 108) – Proposed Regulation

**Development Services Committee
October 26, 2020**



Overview

- *More Homes, More Choice Act, 2019* (Bill 108) made amendments to several pieces of legislation, including the *Ontario Heritage Act* (OHA).
- The government's objective was to provide clearer direction and timelines for local decision-makers, heritage professionals and development proponents about protecting heritage properties, and create a consistent appeals process.
- The OHA amendments have yet to come into force through proclamation (delayed).
- Some of the legislative amendments require additional details to be prescribed through regulation.
- **A draft Regulation has been released for comment with a deadline of November 5, 2020**
- The proposed date for all amendments to the *OHA* and the proposed Regulation to come into force is January 1, 2021



Previous Comments on Legislation

- In 2019, Markham provided comments on Bill 108 to amend the Ontario Heritage Act
- We had identified concerns with:
 - the concept of provincial **Principles** to guide municipal councils
 - Changes to the **property listing process** for the Heritage Register
 - Unknown **requirements for designation by-laws** to be prescribed
 - The for certain planning applications – impac**90 day deadline for a Notice to Designate** t on staff and holistic planning
 - The **loss of local control and decision-making** with all appeals now to LPAT and not the Conservation Review Board
 - Changes to what is considered demolition versus alteration
 - **Proceeding with the legislation** without the benefit of what was to be prescribed by Regulation



Proposed Regulation

- Key components to be prescribed in Regulation:
 - **Principles** that a municipal council shall consider when making decisions under specific parts of the *OHA*.
 - **Mandatory content** for designation by-laws.
 - Prescribed events such as Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications which would trigger the **new 90-day timeline for issuing a Notice of Intention to Designate (NOID)** and exceptions to when the timeline would apply.
 - **Exceptions to the new 120-day timeline to pass a designation by-law** after a NOID has been issued.
 - **Minimum requirements for complete applications** for alteration or demolition of heritage properties.
 - New Steps that must be taken when council has **consented to the demolition or removal** of a building or structure, or a heritage attribute.



Proposed Regulation

- Required info now needed for Local Planning Appeal Tribunal (LPAT) when there is an appeal of a municipal decision.
- Housekeeping amendments related to amending a designation by-law.
- Transition provisions.



Our Comments

- **Principles** to guide decision-makers (Council)
 - Consider making the principles in the OHA consistent with the PPS heritage policies.
 - Provide clarity as to how adherence to the Principles is to be reflected in the decision-making by a Council.
 - Provide clarity on whether the reference to considering views only refers to those person or communities who have expressed an interest or is broader in intent
 - Ensure that the reference to considering views is related to heritage conservation as the primary goal in achieving this principle. Other interests should be considered, but should not be subjugated to those interests



Our Comments

- **Mandatory content for designation by-laws**
 - Confirm that the provincial Land Registry Office will permit the required images to be placed in by-laws.
 - Provide greater clarity on how to achieve requirement #4 while still being brief (the description of the attribute must be brief but then requires an explanation as to how this attributes supports the cultural heritage value of the property)
- **90-day timeline to issue a Notice of Intention to Designate**
 - The timeframe does not appear to be sufficient or appropriate given the need to research and evaluate a property, seek input from the MHC on designation, prepare staff reports and secure Council approval for issuance of a NOID. Suggest the timeline be increased.



Our Comments

- may result in registering the by-law on the entire development parcel rather than the final lot or block which is problematic from a land registration and administrative perspective.
- Provide more clarity as to what constitutes “where a MHC would be unable to provide its recommendation to council”.
- Provide more clarity as to what constitutes “new and relevant” information which would support a further extension of the timeline.
- **120-day timeline to pass a designation by-law**
 - Provide more clarity as to what constitutes “new and relevant” information which would support a further extension of the timeline
 - Clarify what happens if the by-law is not passed within the timeframe.



- **60-day timeline to confirm complete applications, alteration or demolition and contents of complete applications**
 - No comments; supportive
- **Prescribed steps following council's consent to a demolition or removal under s. 34.3**
 - Can the requirement for Council to determine the impact of the demolition or removal on the by-law and the corresponding administrative action be delegated to a named staff position or staff member (after consulting with the MHC) to avoid a second report to Council
- **Information to be provided to LPAT upon an appeal**
 - Consider making the timeframe for submission of materials consistent with Planning Act appeals (20 days)



Next Steps

- **Recommendation:**

- The Development Services Committee report including the summary chart of comments and feedback (Appendix 'A') should be forwarded to the Provincial government as Markham's response prior to November 5th.
- To advise the Province that to proceed with implementation of these changes (proclamation of new legislation and the proposed Regulation) on January 1, 2021 (which will require substantive changes to municipal protocols and procedures during a pandemic) imposes an unreasonable burden on stakeholders whose focus should be on responding to this unprecedented health challenge, and therefore proclamation should be postponed to July 1, 2021;