

Ontario planning process undergoes significant changes: Bill 139 receives Royal Assent

DECEMBER 13, 2017 3 MIN READ

Related Expertise

- [Commercial Real Estate](#)
- [Construction](#)
- [Environmental](#)
- [Infrastructure](#)
- [Municipal, Land Use Planning and Development](#)
- [Real Estate](#)
- [Regulatory, Indigenous and Environmental](#)

Authors: [Evan Barz](#), Michael Bowman

On December 12, 2017, Bill 139 received third reading and [Royal Assent](#) [PDF] in the provincial legislature, coming into force as the *Building Better Communities and Conserving Watersheds Act* (the Act). Bill 139 amends the *Local Planning Appeal Tribunal Act, 2016*, the *Ontario Water Resources Act*, the *Ontario Municipal Board Act*, the *Planning Act*, the *Ontario Planning and Development Act, 1994* and the *Municipal Act, 2001*. In addition, Bill 139 also enacts the *Local Planning Appeal Support Centre Act, 2017*.

As we have discussed [before](#), Bill 139 significantly overhauls the manner in which local planning decisions are reviewed in Ontario, placing greater authority in the hands of elected municipal councils and local planning authorities. Fundamental to these changes is the establishment of the Ontario Land Tribunal, which will replace the Ontario Municipal Board (OMB). For additional information on the changes effected by Bill 139 and a broader discussion on recent cross-county land use planning and development legislation affecting the commercial real estate sector, please refer to our webinar "[Cross-Canada Land Development Update: Opportunities in a Changing Legislative Landscape](#)."

Timing of legislative amendments

Although the Act came into force on December 12, 2017, the legislative amendments that will effect these changes will not come into force until the Schedules to the Act receive proclamation from the Lieutenant Governor of Ontario. The Ministry of Municipal Affairs (the Ministry) has yet to provide a definitive date on when the Schedules will be proclaimed, but a Ministry press release has suggested a "Spring 2018" timeline, coinciding with the finalization of rules and regulations applicable to the new LPAT.

Transitioning matters from the OMB to the LPAT

Importantly, the Ministry has also provided clarity, through a ministerial [statement](#), with regard to transitioning planning matters from the OMB to the LPAT. If the transition provisions are introduced as proposed, transitions from the OMB to the LPAT will occur in the following manner:

- appeals that are already before the OMB as of the date of Royal Assent of Bill 139 would be subject to the existing rules and would be heard by the OMB
- appeals made after the new rules come into force would be subject to the new rules and heard by the new LPAT

- appeals of matters between the date of Royal Assent and the date that the new rules are proclaimed into force:
 - would be heard by the OMB if the planning matter began (e.g., the complete application was received) before the date of Royal Assent, and
 - would be heard by the LPAT if the planning matter began after the date of Royal Assent

Commentary

These legislative changes represent a significant shift in Ontario's approach to land planning by placing greater authority in the hands of elected municipal councils and planning authorities to determine the fate of proposed projects. As a result, builders, developers and project proponents may encounter greater resistance if a project is opposed by local constituents. Given the significance of these changes, project proponents should, at the earliest opportunity, engage with planning professionals and legal counsel to better understand their legal rights and ensure that the project has the greatest potential to obtain approval.