

Committee of the Whole report

DATE: Tuesday, June 04, 2019

WARD(S): ALL

TITLE: ANALYSIS – ONTARIO GOVERNMENT’S BILL 108 AND BILL 107

FROM:

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ACTION: DECISION

Purpose

On May 2, 2019, the Ontario government introduced both *Bill 108, More Homes, More Choices Act, 2019* and *Bill 107, Getting Ontario Moving Act, 2019*. This report provides analyses of the impacts of both pieces of legislation. Of note, the recommendations outlined in this report are in response to Bill 108. The proposed changes outlined in Bill 108 have the potential to impact the City’s finances, service levels and land use planning. The analysis of Bill 107 is for information purposes.

Report Highlights

- *Bill 108, More Homes, More Choices Act, 2019* addresses the shortage of affordable housing across the Province by finding faster ways of getting a greater mix of housing supply on the ground. It proposes to amend 13 different statutes that directly impact municipalities.
- *Bill 107, Getting Ontario Moving Act, 2019* updates numerous road safety rules and allows the Province to assume ownership over Toronto’s subway infrastructure.

Recommendations

1. That Mayor and Members of Council inform the Province that the City of Vaughan does not support Bill 108 in its current form because of the potential impacts to community building and proper planning;
2. That staff recommend that the Province does not proceed with Bill 108 until fulsome consultation with municipalities has taken place and that feedback from the municipal consultations be used to revise the draft legislation;
3. That this report be submitted to the Ministry of Municipal Affairs and Housing as the City of Vaughan's submission, consistent with the Ministry's provincial commenting period;
4. That the City of Vaughan's recommendations, as outlined in this report, be forwarded to the Premier, the Minister of Municipal Affairs and Housing, Vaughan's Members of Provincial Parliament, York Region and the Association of Municipalities of Ontario; and
5. That the actions taken by the Committee are ratified by Council.

Background

On May 2, 2019, the Ontario government introduced the following pieces of legislation:

- *Bill 108, More Homes, More Choices Act, 2019* addresses the shortage of affordable housing across the Province by finding faster ways of getting a greater mix of housing supply on the ground. It proposes to amend 13 different statutes that directly impact municipalities; and
- *Bill 107, Getting Ontario Moving Act, 2019* updates numerous road safety rules and allows the Province to assume ownership over Toronto's subway infrastructure.

Both pieces of legislation have passed first reading.

Previous Reports/Authority

N/A

Bill 108, More Homes, More Choices Act, 2019:

Several of the proposed changes will require regulations, which have yet to be released. For Bill 108, the Provincial commenting period closes on June 1. The Province has confirmed the City's submission can be sent June 4 to accommodate the committee schedule.

While regulations that will inform the implementation of the proposed legislation have yet to be provided, upon analysis of the draft legislation, the City can anticipate impacts to:

- Finances;
- Ability to secure parkland;
- Ability to provide community facilities;
- Development applications evaluations;
- Public consultation process;
- Preservation of heritage resources; and
- Administrative process.

Community Benefit Authority:

- Substantive changes to sections 37 and 42 of the *Planning Act* propose a new Community Benefits Charge (CBC) which would replace existing density bonusing provisions, some cases of parkland dedication, and soft services from the Development Charges Act. Changes would allow municipalities to collect CBCs up to a percentage of the appraised value of land to pay for capital costs of facilities, services and matters required because of development or redevelopment.
- Under the existing DC framework, soft services such as libraries, recreation, parks, and growth-related studies are subject to the statutory 10 per cent deduction, which is co-funded by taxation. DCs for soft services are determined based on the forecasted needs within the historic average service levels.
- Under the proposed amendments a new CBC Strategy would need to identify the forecasted capital needs that would otherwise be funded out of Section 37, Cash-in-lieu (CIL) Parkland, and soft service DC reserves. A new strategy would be required before a CBC By-law could be enacted. Timely completion of a new CBC Strategy and By-law is essential to avoid loss of revenues.
- All money received under the proposed CBC must be paid into a separate special account, 60 per cent of which must be allocated at the beginning of the year. This may have a negative impact on the planned recreation facilities and may create pressure in setting priorities funded through the blended CBC fund, as well as the cash flow required to deliver large capital projects.
- Parks and Open Space funding may be impacted, including the ability to acquire parkland and development of outdoor recreational facilities to the recommended provision standards of the ATMP.
- The approved 2018 ATMP provides provisions and service targets for recreation facilities to 2030. The development of recreation facilities planned or currently underway are 90 per cent funded by DCs and Bill 108 may cause a funding shortfall and negatively impact the delivery of these facilities and services.

- Bill 108 significantly alters the financial tools which have been available to municipalities.
- Further details regarding the implementation of the CBC will be provided in regulation.

Timing of DC Calculation and Collection:

- The amount of DCs payable would be determined based on the date of an application for the later of site plan or zoning approvals but continued to be paid at the usual time, which is generally at building permit issuance. Interest may be charged up to a prescribed rate from the date of application to the date the DCs are payable.
- Proposed amendments to the DC Act include new rules for when DCs are payable in respect of five types of development: rental housing, institutional, industrial, commercial, and non-profit housing, which includes payments in instalments. Allowing payments to be made over instalments poses added financial risk to the City if a developer is unable to fulfil payment obligations.
- At the time of application, specific information that is pertinent to the calculation of DCs payable may not be finalized, which will impact a municipality's ability to accurately collect DCs to fund eligible growth-related services. This may inadvertently incentivize applications that are prematurely submitted for locking in lower rates and as a result, add risk to the City's planning review process when considered in conjunction with the proposed reduction in approval timelines discussed below.
- The added need to track applications over a prolonged period and calculate the interest charges applicable will require significant changes to current administrative processes and significantly increase the administrative burden of the municipality.
- The proposed lapse in the timing of DC calculation and collection will impact the municipality's ability to fund infrastructure that is required to support growth as the DCs collected will be lower than the forecasted need at the time of development.

Bill 108 introduces shorter timelines for appeals arising from an approval authority's failure to decide as follows:

Instrument	Pre-Bill 139	Bill 139	Bill 108
Official Plan/Official Plan Amendment	180 days	210 days	120 days
Zoning By-law Amendment	120 days	150 days	90 days
Draft Plan of Subdivision	180 days	180 days	120 days

- Agencies and City departments will be challenged to meet to review timelines and will leave little opportunity for re-circulations, even for the most straightforward applications. Shortening the review period may ultimately have the opposite effect of lengthening the approval process by prematurely pushing complicated applications into the appeal/mediation process, where it could languish, consuming staff time across several departments and increasing the cost to a municipality to process development applications.
- The one-size-fits-all applications is unrealistic as each has its own complications and special circumstances.
- The proposed changes may make it significantly more difficult for a municipality to fulfil the purposes of the *Ontario Heritage Act* to preserve and protect heritage properties. Further limits and restrictions in the *Ontario Heritage Act*, regarding timelines and events, do not allow for a municipality to be flexible in its approach to development application and may inadvertently extend the process due to the intensified timeline and proposed appeal process.
- Proposed exemptions/process changes to the *Environmental Assessment (EA) Act* will streamline and reduce the number of EAs required. The impact will expedite the process and potentially provide more predictable timelines; however, exemptions may introduce risks to adverse environmental effects.
- Proposed caps/exemptions changes to the DC Act may impact the amount of funding provided to build required infrastructure. Should tax source be used to offset costs, this will impact costs for maintenance and operations. Consequently, service levels may need to be reviewed/adjusted.

Secondary Suites:

- Under the proposed amendments, subsection 2 (3.1) of the DC Act would provide that the creation of one second dwelling unit in prescribed classes of new residential buildings (and ancillary structures) would be exempt from development charges.
- The classes of residential buildings would be prescribed in regulation.
- This provides clarity to the City's interpretation of the DC Act and is aligned with the City's current treatment of secondary suites to *existing* residential buildings.

Bill 107, Getting Ontario Moving Act

The analysis of Bill 107 is for information purposes.

2019 Metrolinx Act:

The proposed amendments to the *Metrolinx Act* relate to the creation of a mechanism for the Ontario government to prescribe rapid transit project design, development or construction as the sole responsibility of Metrolinx through regulation, and to prohibit further action on that project by the City of Toronto. The changes in this legislation are limited to the Toronto Transit Commission (TTC). However, the Association of Ontario Municipalities has noted that these proposed provisions could set precedents for changes beyond the TTC subway where the provincial government assumes municipal assets without fair compensation.

Highway Traffic Act:

The key proposed amendment to the *Highway Traffic Act* as it affects municipalities is the creation of an Administrative Monetary Penalty regime. Based on the accompanying press release, this administrative penalty appears to provide a tool to municipalities “to target drivers who blow-by school buses and threaten the safety of children crossing roads near their school or home.”

Forthcoming regulations will better define these penalties and when they can be assessed. This could prove to be an important tool in managing traffic around schools, and potentially in other areas of the City depending on the situations that the penalty can be assessed.

Conclusion

Staff believe the proposals in Bill 108 would impact Vaughan’s municipal finances and service levels. It would necessitate the City establish a new Community Benefits Charge that would replace existing density bonus provisions and potential parkland dedication requirements, and soft services from the Development Charge Act. It has the potential to create a challenge for staff to meet the review timelines. The shortening of the review period may ultimately have the opposite effect of lengthening the development application approval process. In addition, it may make it significantly more difficult for Vaughan to fulfill the mandate of the *Ontario Heritage Act*.

Staff will continue to analyze both pieces of legislation and keep Mayor and Members of Council updated as further information becomes available.

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