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Bill 88

An Act to amend the Planning Act

Mr. D. Downey

Private Member's Bill

1st Reading March 25, 2019

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill makes multiple changes to the *Planning Act*. Some of the more significant changes are outlined below.

Subsection 53 (1) of the Act is amended so that in addition to an owner of land or the owner's agent, a chargee of land or the chargee's agent, as well as a purchaser of land or the purchaser's agent, may apply for a consent as defined in subsection 50 (1).

Section 53 is amended to allow an applicant to amend its application for a consent at any time before the council or the Minister gives or refuses to give a consent, subject to any terms the council or the Minister considers appropriate. Section 53 is also amended to allow the cancellation of a consent given under that section.

The Act is also amended to provide that a contravention of section 50 in respect of a parcel of land that is being dealt with does not have, and is deemed never to have had, the effect of preventing the conveyance of the land or the creation of any interest in the land if the contravention occurred more than 20 years before the date of dealing with the parcel.

An Act to amend the Planning Act

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 (1) Subsection 50 (1.1) of the *Planning Act* is repealed and the following substituted:**Removal of power**

(1.1) The Minister may by order, accompanied by a written explanation for it, remove the powers of the council of a municipality under this section and sections 53 and 57 and the order may be in respect of one or more applications for a consent or for a certificate of validation specified in the order or in respect of any or all applications for consents or for certificates of validation made after the order is made.

(2) Subsection 50 (1.2) of the Act is amended by striking out “to give approvals under subsection (18)”.

(3) Subsection 50 (1.3) of the Act is amended by striking out “give approvals under subsection (18)”.

(4) Subsection 50 (1.4) of the Act is amended by striking out “to give approvals under subsection (18)”.

(5) Subsection 50 (1.5) of the Act is amended by striking out “to give approvals under subsection (18)”.

(6) Clause 50 (3) (b) of the Act is repealed and the following substituted:

(b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of any land abutting the land that is being conveyed or otherwise dealt with other than,

(i) land that is the whole of one or more lots or blocks within one or more registered plans of subdivision,

(ii) land that is within a registered description under the *Condominium Act, 1998*,

(iii) land that was previously conveyed by way of a deed or transfer with a consent given under section 53, or was mortgaged or charged with a consent given under section 53, and the consent did not stipulate that this subsection or subsection (5) applies to any subsequent conveyance or transaction,

(iv) the whole of the remaining part of a parcel of land, the other part or parts of which parcel have been conveyed by way of a deed or transfer with a consent given under section 53 and the consent did not stipulate that this subsection or subsection (5) applies to any subsequent conveyance or transaction, or

(v) land that was previously owned by, or abutted land previously owned by, joint tenants if title and ownership of the land merged with the ownership of abutting land as a result of the death of one of the joint tenants;

(7) Clause 50 (3) (g) of the Act is amended by adding “or to that person’s successor in title” after “from whom it was acquired”.

(8) Subsection 50 (5) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Part-lot control

(5) If land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey any land other than the whole of any lot or block of the land by way of a deed or transfer, or grant, assign or exercise a power of appointment in respect of such land, or mortgage or charge such land, or enter into an agreement of sale and purchase of such land or enter into any agreement that has the effect of granting the use of or right in such land directly or by entitlement to renewal for a period of 21 years or more unless,

(9) Clause 50 (5) (a) of the Act is repealed and the following substituted:

(a) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may

be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than,

- (i) land that is the whole of one or more lots or blocks within one or more registered plans of subdivision,
- (ii) land that is within a registered description under the *Condominium Act, 1998*,
- (iii) land that was previously conveyed by way of a deed or transfer with a consent given under section 53, or was mortgaged or charged with a consent given under section 53, and the consent did not stipulate that this subsection or subsection (3) applies to any subsequent conveyance or transaction,
- (iv) the whole of the remaining part of a parcel of land, the other part or parts of which parcel have been conveyed by way of a deed or transfer with a consent given under section 53 and the consent did not stipulate that this subsection or subsection (3) applies to any subsequent conveyance or transaction, or
- (v) land that was previously owned by, or abutted land previously owned by, joint tenants if title and ownership of the land merged with the ownership of abutting land as a result of the death of one of the joint tenants;

(10) Clause 50 (5) (g) of the Act is amended by adding “or to that person’s successor in title” after “from whom it was acquired”.

(11) Subsection 50 (6) of the Act is repealed and the following substituted:

Conveyance of remaining part

(6) Despite subsections (3) and (5), if land is the remaining part of a parcel of land, the other part or parts of which parcel have been the subject of a certificate given under subsection 53 (42), the whole of the remaining part may be conveyed or otherwise dealt with before the other part or parts are conveyed as long as the certificate has not lapsed under subsection 53 (43).

(12) Subsection 50 (9) of the Act is amended by striking out “the use of or right in a part of a building or structure for any period of years” at the end and substituting “the use of or right in a part of a building or structure, including the use of or right in lands that are ancillary to the use of or right in the building or structure”.

(13) Section 50 of the Act is amended by adding the following subsection:

Same

(12.1) For greater certainty, subsection (12) applies in respect of a consent regardless of whether the consent was given before or after the coming into force of subsection (12).

(14) Subsection 50 (16) of the Act is amended by striking out “mentioned in the mortgage or charge” and substituting “that is then subject to the mortgage or charge”.

(15) Subsection 50 (17) of the Act is repealed and the following substituted:

Saving

(17) Subsection (16) does not apply to a partial discharge of mortgage or partial cessation of charge if the land described in the partial discharge or partial cessation could otherwise be conveyed by way of a deed or transfer by the registered owner of the land in compliance with the provisions of this section.

(16) Subsection 50 (18) of the Act is repealed and the following substituted:

Foreclosure or exercise of power of sale

(18) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without a consent given under section 53 unless,

- (a) all of the land that is then subject to the mortgage or charge is included in the foreclosure or exercise of the power of sale; or
- (b) all of the land included in the foreclosure or exercise of the power of sale could otherwise be conveyed by way of a deed or transfer by the registered owner of the land in compliance with the provisions of this section.

(17) Subsection 50 (18.1) of the Act is repealed.

(18) Subsection 50 (19) of the Act is repealed and the following substituted:

Release of interest by joint tenant or tenant in common

(19) If two or more persons are joint tenants or tenants in common of a parcel of land while also together holding the fee in any abutting land and one of those tenants releases or conveys their interest in the parcel of land to one or more of the other tenants, the tenant is deemed, for the purposes of subsections (3) and (5), to convey the land by way of deed or transfer and to retain the fee in the abutting land.

(19) Subsection 50 (22) of the Act is amended by striking out “the conveyance of any interest in the land” in the portion following clause (d) and substituting “the conveyance of or creation of any interest in the land”.

(20) Subsection 50 (23) of the Act is amended by adding “or otherwise determining compliance with this section” after “subclause (22) (c) (ii)”.

2 (1) Subsection 53 (1) of the Act is amended by striking out “An owner of land or the owner’s agent duly authorized in writing may apply” at the beginning and substituting “Any owner, chargee or purchaser of land, or such owner’s, chargee’s or purchaser’s agent duly authorized in writing, may apply”.

(2) Section 53 of the Act is amended by adding the following subsections:

Amended application

(7.3) An applicant may amend its application at any time before the council or the Minister gives or refuses to give a consent, subject to any terms the council or the Minister considers appropriate.

Notice re amended application

(7.4) If an application is amended under subsection (7.3), the council or the Minister shall ensure that an additional notice of application is given under subsection (5) unless, in the opinion of the council or the Minister, the amendment is sufficiently minor that an additional notice is not necessary.

Provisional consent

(7.5) The council or the Minister may give a provisional consent that includes conditions to be satisfied before a certificate is issued under subsection (42).

Extension of time to fulfil conditions

(40.1) The applicant may apply for an extension of the one-year period allowed for fulfilling conditions in the form and manner that the council or the Minister considers appropriate.

Same

(40.2) An application referred to in subsection (40.1) must be made before the one-year period allowed for fulfilling conditions has expired.

Same

(40.3) The one-year period allowed for fulfilling conditions may be extended only once, for a period of up to one year from the date that the extension is granted.

Same

(40.4) The decision of the council or the Minister with respect to an application referred to in subsection (40.1) is not subject to appeal or review.

(3) Subsection 53 (41) of the Act is amended by striking out “fulfilled the conditions, the application for consent” and substituting “fulfilled the conditions, and has not been granted an extension within that period, the application for consent”.

(4) Subsection 53 (42) of the Act is amended by adding “in respect of the land that was the subject of the consent and, if requested by the applicant, in respect of the remaining part of the parcel that was the subject of the consent” after “shall give a certificate to the applicant”.

(5) Section 53 of the Act is amended by adding the following subsections:

Certificate for cancellation of consent

(45) Any owner of land or the owner’s agent duly authorized in writing may apply to the council or to the Minister, as the case may be, for a certificate cancelling a consent.

Provision of certificate

(46) If an application for a certificate cancelling a consent is made in accordance with subsection (45), the council or the Minister shall provide the certificate to the applicant.

Content of certificate

(47) The certificate shall provide that subsection 50 (12) does not apply in respect of the parcel of land that is the subject of the cancelled consent and that either subsection 50 (3) or (5) shall apply to any subsequent conveyance or transaction involving the parcel of land.

Cancellation of consent

(48) Upon the registration of a certificate referred to in subsection (45), subsections 50 (3) and (5) will apply to any subsequent conveyance or transaction involving the parcel of land that is the subject of the cancelled consent.

3 (1) Subsection 57 (6) of the Act is amended by striking out “the prescribed criteria” at the end and substituting “the same criteria that apply to the granting of consents under section 53”.

(2) Subsection 57 (7) of the Act is repealed.

4 The Act is amended by adding the following section:

Contravention of s. 50 has no effect after 20 years

57.1 (1) A contravention of section 50 or a predecessor of it in respect of a parcel of land that is being dealt with does not have, and is deemed never to have had, the effect of preventing the conveyance of the land or the creation of any interest in the land if the contravention occurred more than 20 years before the date of dealing with the parcel.

Exception

(2) Subsection (1) does not affect rights acquired by any person from a judgment or order of any court given or made in the course of proceedings commenced on or before the day that is 20 years after the day on which the contravention occurred.

5 Paragraph 26 of subsection 70.1 (1) of the Act is amended by striking out “subsection 50 (18.1) and”.

Commencement

6 This Act comes into force on the day it receives Royal Assent.

Short title

7 The short title of this Act is the *Planning Amendment Act, 2019*.