

June 3, 2020

## COVID-19: June 3rd Update on the Impacts to Development Applications and Hearings

This is an update to our previous bulletins (most recently, May 13 and 20, 2020) detailing the impacts of COVID-19 on development applications and municipal planning hearings in Ontario. An updated list reflecting the status of a number of GTA municipalities may be found at the end of this update.

### The Provincial State of Emergency & Emergency Orders

The Provincial State of Emergency as declared pursuant to the *Emergency Management and Civil Protection Act*, RSO 1990, c. E.9 (the “**EMCPA**”) was **extended** a further 28 days on June 2, 2020 until **June 30, 2020**. Almost all **Emergency Orders** made under the *EMCPA* are made pursuant to s.7.0.2(4), and have been **extended** until **June 9, 2020** pursuant to **O. Reg. 106/20**. The Orders include closure of establishments, work deployment measures in long-term care homes, and closure of outdoor recreational amenities (click [here](#) for a full list). In contrast, the Order respecting suspension of Limitation Periods (**O. Reg. 73/20**, made under s.7.1(2)) is effective for the “duration of the emergency”.

### The Stages and Status of Reopening the Province

The Province continues to operate in **Stage 1** of Phase 2 of its “**Framework for Reopening Our Province**” (which began **May 19, 2020**, PDF [here](#)). The list of **Stage 1 businesses** permitted to open includes all construction, certain retail operations not located in malls, vehicle dealerships and retailers, and general maintenance

and repair services. The Province has released [90 sector-specific health and safety guidance documents](#), including, for example, “[Construction site health and safety during COVID-19](#)”. See [here](#) for a current update on the status of the construction industry throughout the various provinces and territories in Canada.

The Province will not progress to Stage 2 (opening more workplaces and outdoor spaces, and allowing some larger public gatherings) unless the number of new daily COVID-19 cases remains stable over a period of 2-4 weeks. As can be seen [here](#), while there was an initial increase in reported cases at the beginning of this stage, the trend over the past 2 weeks appears to be an overall continued decline (although this week has seen another bump up, possibly due to reporting errors of certain public health units). On May 28<sup>th</sup>, Health Minister Christine Elliott said it would be another 1-2 weeks until the Province considers entering Stage 2.

Because of the varying experience by region of COVID-19 cases, the Province is reconsidering a phased approach to reopening Ontario. Indeed, recent analysis of province-wide statistics has shown that 76% of all COVID-19 cases are in the Toronto and surrounding area. More information is expected to be provided in the near future.

At a higher level, regular sittings and procedures of the House of Commons will be suspended until September, 2020, with parliamentarians gathering as a special COVID-19 committee 4 times a week until June 17<sup>th</sup>, and 4 more times during the summer.

### [The Status of \*Planning Act\* Timelines & the Local Planning Appeal Tribunal](#)

Pursuant to [O. Reg. 149/20](#), some *Planning Act* timelines remain suspended to allow municipalities flexibility respecting timing for decision-making during the pandemic, but a number of key timelines (including certain appeal periods) are no longer subject to suspensions (for further detail, see our [previous bulletins](#)).

At this time, the Local Planning Appeal Tribunal (“**LPAT**”) is not scheduling hearings of new appeals, and all contested hearings remain adjourned until June 30, 2020 (as described in our [previous](#)

bulletin). Indeed, we have been advised by one member that the current LPAT direction is not to schedule any contested hearings, and it is our information that the LPAT has even released dates for contested hearings previously scheduled into July, with no information on when such hearings may be rescheduled. However, it is our understanding that some contested in-person hearings have been scheduled to proceed in the months of July and August. Prior to scheduling or confirming hearings, the Tribunal wants to ensure that there is “a detailed proposal as to how the hearing would be physically undertaken and what facilities would be provided by the municipality to ensure safe, fair and full participation by all of the parties”, and such detailed proposal must be approved.

About one such hearing, in a recent disposition, Member Swinkin noted that:

“As with all good intentions, until the details are actually carefully scrutinized and finally approved, this remains a provisional disposition. Depending upon the number of persons who would be attending, their susceptibility to infection, their ability to get to the hearing facility, a protocol for the safe entry and assembly in the premises, including reasonable accommodation regarding washroom access and eating facilities, the ability to support an in-person hearing will vary from one context to another.”

Member Swinkin concluded that, until a number of factors are institutionally addressed, it remains “premature to undertake an in-person hearing in the Toronto chambers of the Tribunal.”

With respect to certain outstanding settlement and other less contentious hearings, the LPAT continues to exercise its discretion under O. Reg. 73/20 to lift the suspension of timelines on a case-by-case basis.

Additionally, the LPAT continues to be open to the potential to schedule virtual mediations, Case Management Conferences (“CMCs”) and settlement hearings. We understand that the LPAT continues to operate with minimal staff on site at its offices, and that the mailroom remains closed. We have been advised that no parties will be stepping foot into the LPAT offices at 655 Bay Street at this

time. While the LPAT is continuing to consider electronic options such as teleconference calls for CMCs and settlement hearings, as well as written submissions for motions and hearings in writing, we have been advised that there have been no established procedures for alternative hearings arrangements for contested hearings at this time (such as video conference or hybrid hearings). However, we have been informed that a “working committee” of private and public sector lawyers, together with representatives of the LPAT are in discussions to determine if appropriate rules that respect the social distancing rules can be implemented that would allow hearings scheduled in the late summer and fall to proceed. We will continue to monitor this situation and update you as information becomes available.

### Addressing the Logistics of Public Consultation

As a number of municipalities have now begun hosting virtual Council and committee meetings (see below for more details), they must now begin to consider the implications on statutorily mandated public consultations. Options to ensure public participation include written submissions, telephone participation, and virtual/online participation. For example, at the City of Mississauga’s Council Meeting of May 27<sup>th</sup>, Council considered a recommendation that such matters resume online, as put forth by the City’s commissioner of planning and building, Andrew Whitemore. This motion was approved by council with unanimous support.

### Spotlight on the City of Toronto and the Status of the Toronto Local Appeal Body

The City of Toronto held a special City Council meeting on May 28<sup>th</sup>, at which the City Manager brought forward an information report titled “[City of Toronto Services Restart and Recovery Update](#).” This report provides an update on the City’s response activities and a description of the status and plans to restart some City services, including information on the financial impact of the pandemic on the City, and the Province’s framework for reopening. Per the report, the City’s focus is on three main areas for continuing priority services to support social and economic recovery: 1) development reviews, 2)

strategic city building initiatives, and 3) the Committee of Adjustment.

In particular, the report provided an update on the proceedings at the Toronto Local Appeal Body ("**TLAB**"), including that:

- it has resumed remote hearings for some eligible matters at the beginning of May;
- it will now consider holding remote hearings by video conference for single-party uncontested variance and consent matters, in addition to motion and settlement hearings;
- it has 82 appeal matters pending and waiting for hearing dates; parties are being consulted to schedule remote hearings; and
- the first videoconference was scheduled for May 20, 2020, which is being supported by the City's Court Services in consultation with Technology Services

The report also provides an update respecting the City's building permit activity from March 17<sup>th</sup> to May 6<sup>th</sup>, including the following highlights:

- By May 6, 2020, of the 9,997 active permit applications (in the system on March 17, 2020): (i) 2,649 (26%) permits had been issued; (ii) 9,083 (91%) of the applications had been reviewed at least once; (iii) an additional 4936 applications had been received by Toronto Building, for which 527 (10.6%) permits had been issued and 3328 (67%) applications had been reviewed at least once;
- 7,141 new residential units were permitted and 2,399 new dwelling units were granted occupancy; and
- 9,633 inspections were conducted.

On Friday, May 29<sup>th</sup>, Mayor Tory [announced](#) that the City is partnering with a number of major employers in a joint effort to gradually reopen the City's employment centres and offices. This move is, in part, an effort to remove pressures from the TTC and

Metrolinx as the City moves into its restarting and recovery period. The aim is to support employees, where possible, working from home until at least September of 2020, with use of telecommuting, a phasing-in of return to work, and staggering start times. As an employer itself, the City “will also continue to prioritize working remotely and will encourage all staff who are able to continue to work from home.” This initiative involves the new Toronto Office of Recovery and Rebuild (“**TORR**”) working with finance and insurance companies, universities and colleges, and other large employers, and TORR has already received commitments from several such major employers. More information on the City’s “COVID-19: Recovery & Rebuild” plan may be found [here](#), and the City is requesting stakeholders to complete a survey to share their thoughts [here](#).

## The Status of GTA Municipalities

The below represents a list of those municipalities in which we experience the most volume of development applications and appeals (alphabetical order). The information has been obtained from the municipalities’ websites or from direct communication from the municipalities and, as such, is subject to confirmation. Please also note that the status of the matters contained herein are evolving rapidly and may not be the most current. If you have a question relating to a specific municipality not included in the list below, please do not hesitate to contact us.

### *City of Brampton*

- **Declared a State of Emergency** as of March 24, 2020; all City facilities closed until further notice, including City Hall.
- **Meetings:** City Council and some committee meetings are occurring **virtually** with in-person attendance limited to Members of Council and essential City staff only.
- **Planning Applications & Appeals:** Existing applications are continuing to be processed. New applications can be submitted digitally using the City’s FTP Server (click [here](#) for more information). Reports are still being completed, external agencies are still providing comments, and meetings are being held via Skype as necessary. All appeals will be accepted digitally. During

this time, fees are not required at the time of submission and applications will not be deemed to be Complete (as per the Planning Act) until payment is processed once the City offices are reopened.

- **Building Permits and Inspections:** Buildings Division desk is closed until further notice. Applications for residential building permits can be submitted electronically; larger Industrial, Commercial and Institutional application submissions will continue by appointment only. Building Division is conducting inspections of unoccupied buildings, and are conducting occupied building inspections (including second units) virtually. Building Division will be accepting requests for remote video inspections of occupied residential buildings until the onsite operations resume. Staff will continue to process applications, and will be reaching out to the individual applicants to communicate next steps.
- Provincial Offences courtrooms, public counters, email and call centre services are closed until further notice. All Provincial Offences Act matters that are scheduled between Monday, March 16, 2020 through to Friday, July 3, 2020 inclusive will be rescheduled to a later date. Applications to be submitted through the City drop box. Payments can be submitted by regular mail, telephone or online.

#### *City of Hamilton*

- Declared a State of Emergency on March 17, 2020. City facilities remain closed, including municipal service centres, public counters and City Hall.
- **Meetings:** City Council will take place virtually on June 3 and 24, 2020. Some Committee meetings are being scheduled to take place virtually as well (e.g., Planning Committee on June 16). **Other meetings** are cancelled until at least June 30, 2020.
- Provincial Offences courtrooms closed; appearances scheduled until July 3, 2020 will be adjourned and rescheduled.
- **Planning Applications and Appeals:** The City is updating its FAQs for Development Approvals [here](#). Staff are still accepting planning

applications and processing planning applications, with the exception of Committee of Adjustment applications, which are being accepted but will not be processed until such time as a determination has been made on future meetings of the Committee. Applications that have been delegated to staff for review and approval are being processed and decisions are being issued on these applications. Applications that require public participation prior to a decision are being received and processed. These applications will be brought forward to Planning Committee upon the resumption of the standing committees. Inquiries can be sent by email to [pd.generalinquiry@hamilton.ca](mailto:pd.generalinquiry@hamilton.ca) or by phone at 905-546-2424 extension 1355. Online Zoning Verifications can be requested at [zoningverification.hamilton.ca](http://zoningverification.hamilton.ca).

- **Building Permit Applications & Inspections:** Applications may be made [online](#); questions can be sent to [eplans@hamilton.ca](mailto:eplans@hamilton.ca); status of Building Permits can be searched for [here](#); for inspections, call: 905-546-2424 ext. 7777. City is still completing the following inspections: (i) Construction without a permit (proactive/reactive) visible from the street (but not interior at this time), (ii) unsafe conditions, (iii) new houses/semis/towns, (iv) new small Part 3 and 9 buildings, (v) Interior Part 3 renovation work (case-by-case basis), (vi) sign, septic, and solar collector permits, (vii) pools – new and unsafe. City Building Inspection team has final say, and may refuse an inspection. The City is contemplating use of virtual inspections.

#### *City of Markham*

- All City facilities are closed to the public until further notice.
- **Meetings:** The City is holding Council and Committee Meetings [electronically](#) . Other public meetings have been cancelled until further notice. The Mayor can call a special meeting of Council, if required. Contact [clerkspublic@markham.ca](mailto:clerkspublic@markham.ca) for additional information.
- **Planning & Urban Design Department:** Closed to the public with staff working remotely to support City projects. Staff remain accessible by phone. Most planning applications (Pre-



consultation, Site Plan, Official Plan, Subdivision, Zoning, Minor Variance, Consent and Condominium) can be submitted through ePLAN (email inquiries to [dsc@markham.ca](mailto:dsc@markham.ca) or 905.475.4861). Re-submissions related to existing (pre-ePLAN) applications must be submitted through consultant's FTP site/Dropbox, and notify the Development Services Front Counter ([dsc@markham.ca](mailto:dsc@markham.ca)) by email and copy the project planner. Payments can be made by cheque using the drop box which is located outside the Markham Civic Centre. Additional information respecting planning submissions may be found on the City's recent adopted platform, "ePLAN".

- Building Permits & Inspections: Questions related to building permit applications and zoning inquiries can be emailed to: [buildingstandards@markham.ca](mailto:buildingstandards@markham.ca), and related to building permit inspections, email: [bins@markham.ca](mailto:bins@markham.ca).
  - Applications: Staff continue to release building permits and compliance letters. Building Permit applications can be submitted online. All on-line permit application functionality including payments of permit fees less than \$60K will continue to operate (contact [buildingstandards@markham.ca](mailto:buildingstandards@markham.ca) for permit status). Plan review and permit issuance will continue and plan review staff will be available by email. Permit processing of all permit types will continue via ePLAN. Please refer to the online [Guide to Building Permits](#) for a list of forms, drawings and documents required to be uploaded for building permit applications.
  - Inspections: Limited inspections at this time. Still conducting commercial inspections and new home inspections with limited outside personal; no inspections will take place in occupied buildings. Make inspection requests through ePLAN or by calling 905 475-4850. Permit holders are required to book all required inspections as per the Ontario Building Code. Inspections for occupied buildings will be suspended until further notice.
- Construction Investigation Requests: Unsafe building reports will be investigated immediately.

- Engineering Department is closed to the public with staff working remotely to support City projects.

#### *City of Mississauga*

- **Declared a State of Emergency** as of March 23, 2020. All public service counters closed until further notice, including City Hall and the Provincial Offences Courthouse. All general inquiries can be processed via 3-1-1 Contact Centre (905-615-4311 outside city limits).
- **Meetings:** Council meetings are being **live-streamed**. Committee meetings have been cancelled until further notice.
- **Planning Applications & Appeals:** Committee of Adjustment is accepting applications and general enquiries via email to [committee.adjustment@mississauga.ca](mailto:committee.adjustment@mississauga.ca). Planning and Building Department continues to process all existing and new development applications and building permit applications. Can apply, update and complete application-related tasks via **ePLANS**. For resubmissions, new Official Plan and/or Zoning By-law applications, call 3-1-1 or email [eplans.devdes@mississauga.ca](mailto:eplans.devdes@mississauga.ca) to communicate with a member of the Planning Services Centre Team. Meetings are being conducted remotely through WebEx, emails or by phone. Planning reports are still being written. Commissioners now have delegated authority to sign agreements. Appeals (including fees) to be filed by registered mail or courier. Only online payments are currently being accepted.
- **Building Permits & Inspections:** All online application functionality will continue at this time. Can apply, update and complete application-related tasks via **ePLANS**. Services at the Inspection Services counter suspended until further notice. Inspections can be scheduled online at **Building Permit Inspections**; however, inspection requests will be prioritized, delayed and/or deferred where possible. Only online payments are currently being accepted.

### *Town of Oakville*

- [Declared State of Emergency](#) on March 24, 2020. Town hall remains closed.
- [Meetings](#): All Council and Committee meetings are being held virtually. Live meetings can be viewed [here](#).
- [Planning Applications, Building Permit Applications & Inspections](#): Planning, building, engineering and development applications and permits can be submitted [online](#). This includes plans of subdivision, rezoning and site plans among others. Larger Industrial Commercial and Institutional application submissions will continue by appointment only. Information on how to submit application forms online can be found [here](#). Electronic payments for various permit applications are now accepted via e-transfer of electronic funds transfer.
- Review of existing permits only; new building permit applications are not being accepted at this time. Staff are currently working on reviews of active permit applications submitted before March 18. Inspections will be restricted to unoccupied buildings for new building construction and investigations/inspections of unsafe buildings. Limited remote video inspections in occupied buildings, excluding structural and fire separation elements. Requests for a video inspection must be approved by a Manager of Inspections.

### *City of Ottawa*

- [Declared State of Emergency](#) on March 25, 2020. Facilities and services closed or cancelled until further notice, including City Hall and Building Code Services Counters.
- [Provincial Offences Courthouse](#): All court matters scheduled during COVID-19 closures will be rescheduled to a later date.
- [Meetings](#): City Council or Committee meetings, as warranted, will be held electronically until further notice and can be viewed live on the [Ottawa City Council Youtube Channel](#). Upcoming meetings of the Committee of Adjustment and other Boards can be found [here](#). Comments may be provided to Committee or Council on

any agenda items by submitting such comments in writing, by emailing or calling the Committee Council Coordinator.

- **Planning Applications & Appeals:** processes are in place to ensure applications are received, approved and permits are issued in a timely fashion. Electronic Fund Transfers are the preferred method of payment for Planning and Heritage Applications.
- **Building Permits & Inspections:** Building Code Services (“BCS”) counters are closed, but BCS will continue to accept and process applications: via courier, and smaller residential applications can be submitted online email ([buildingpermits@ottawa.ca](mailto:buildingpermits@ottawa.ca)). The preferred method of payment for BCS applications and permits is by cheque. BCS Inspections staff will not enter occupied areas of the certain building types for the purposes of carrying out their duties (personal dwellings, long-term care facilities, seniors’ residences and retirement homes, hospitals, and daycare facilities). While all permit submissions will be processed to approval, only applications that qualify as an essential service under the Emergency Management and Civil Protection Act will be made available for issuance

#### *City of Toronto*

- **Declared a State of Emergency** as of March 23, 2020. All City buildings, including City Hall, Metro Hall and all civic centres are closed to public.
- **Meetings:** As noted above, a special meeting of City Council was held on May 28, 2020. As of June, 2020, the City’s regular committee meetings will resume with a revised schedule and digital submissions from deputants. The schedule of meetings may be found [here](#).
- **Planning Applications & Appeals:** All City Planning services have resumed, either as full or modified service at this time. The Committee of Adjustment’s first virtual hearing is scheduled for June 3, with subsequent virtual hearings now being pre-booked to July 31. Staff will triage and schedule applications on a 'first come, first served' basis (based on those received by March 16), starting with less complex cases. Appeals will be accepted

electronically. Fee payments will be collected after regular service delivery resumes. The most up-to-date information on city operations and planning and development-related city services affected by COVID-19, can be found [here](#). The Application Information Centre is active, but some updates may be delayed.

- **Building Permits & Inspections:** All Toronto Building permitting and inspection services are now being offered. Some of the services are modified with new applications being accepted electronically only and in-person inspection protocols have been established to ensure health and safety. At this time, the focus is on permits that were received prior to the service disruption. New building permit applications are being accepted electronically and staff are evaluating the timeframe for review and processing. Permit fees, development charges and other permit related fees are only accepted by credit card payments through website and telephone, or electronic fund transfer. Additional information has been posted on the City's [website](#) regarding the City's Building Permits and Inspection services.
- Provincial Offences courtrooms, public counters, email and call centre services are closed. Applications and payments can be submitted by regular mail. All online services remain available to the public. No Provincial Offences Act proceedings will be conducted until at least July 6. Remote judicial pre-trials will begin to proceed virtually and/or via teleconference.

#### *City of Vaughan*

- **Declared a State of Emergency** on March 17, 2020. Public closures until further notice, including City Hall.
- **Meetings:** Council and Committee of the Whole meetings are being held electronically and can be viewed [here](#) (all other committee and task force meetings cancelled). Written communications can be emailed to the Office of the City Clerk at [clerks@vaughan.ca](mailto:clerks@vaughan.ca).
- **Planning:** City Staff continue to accept planning applications (digitally or drop-off) and pre-consultation meeting requests. Payments can be made by cheque via mail or drop-off. Contact

the planner on file or the department at [developmentplanning@vaughan.ca](mailto:developmentplanning@vaughan.ca) for further information.

- Building Permits & Inspections: Continuing to receive and process building permits, however processes may change without notice. Staff are working to establish a virtual solution for submissions and mark-ups. Building permits will continue to be issued so long as payment is received. Continuing to book inspections. Contact Building Standards Department at [buildingstandards@vaughan.ca](mailto:buildingstandards@vaughan.ca). For building inspections, email [buildinginspections@vaughan.ca](mailto:buildinginspections@vaughan.ca) or call 905-832-8511.

### *Region of Peel*

- Declared a State of Emergency on March 18, 2020. Counters are currently closed to the public.
- Development Services staff are available to participate in one-on-one phone calls, conference calls, or virtual meetings.
- Submissions via courier or mail will not be accepted. Contact the Peel employee assigned to your application directly to arrange for electronic submissions. Development Services has established a process whereby fees and deposits (refundable and non-refundable) may be submitted via electronic fund transfer. Approvals, clearances or correspondence will be issued electronically via email.
- Building Permit Application & Inspections: Applications are administered at the local municipality; Region provides Servicing Approval for Water and Waste/Storm Water connection approval. Servicing staff are still reviewing applications and taking them to the approval stage. Payments cannot be processed by cheque, visa or debit at this time. Region is working with accounts receivable to receive payments in the form of Electronic Fund Transfers so that they can provide their final Site Servicing clearance to the applicant. Meanwhile, Region is working with the local municipalities on alternative payment options.
- Issuing for Construction (IFC) process is being evaluated case-by-case based on criticality of the site and availability of Water

Operators (this is under review as resources are very limited, therefore field services may be temporarily delayed or deferred).

*Region of York*

- Declared State of Emergency on March 23, 2020. York Region facilities are closed to the public.
- Planning: Offices are closed to the public; No in-person meetings; All staff, including construction inspection, can be reached for any inquiries by [email or phone](#). Development and construction resources continue to be accessible through the Region’s Website. All applications must be submitted electronically; online payment is not available at this time – payment via cheques to be sent through mail or courier (use dropbox outside Administrative Building entrance).
- Building Permits: Administered at the local municipality.

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*a cautionary note*

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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