



Further Refinements to "Bill 108" Amendments

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On November 6, 2019, the Government of Ontario introduced Bill 138, the [Plan to Build Ontario Together Act, 2019](#), in the Legislative Assembly. The Bill contains further amendments to the [Planning Act](#) and the [Development Charges Act, 1997](#), including modifications of some of the changes that the Legislature recently passed in Bill 108, the [More Homes, More Choice Act, 2019](#).

The Bill 138 amendments are essentially refinements to the Bill 108 amendments (see our previous discussion [here](#)), which have been passed but are not yet all in force. We discuss two key proposed amendments from Bill 138 below.

Community Benefits Charge By-Laws: Providing for Appeals

The most significant proposed changes relate to section 37 of the *Planning Act*. Among other things, these changes would rectify the absence in Bill 108 of a provision for appealing a community benefits charge by-law ("CBC By-law").

Under Bill 138, appeals of CBC By-laws could be brought on notice "by any person or public body". The required notice of appeal is to be submitted within 40 days of the by-law's passage and must state the nature of the objection, with supporting reasons. Having received the notice, the clerk of the municipality must forward it to the [Local Planning Appeal Tribunal](#) (LPAT) within 30 days of the end of the 40-day notice period. LPAT will then hold a hearing and render a decision.

Amendments to CBC By-laws may also be appealed, although any resulting LPAT order must relate to the amendment only, rather than to the underlying CBC By-laws.

Development Charges for Industrial and Commercial Projects: Deferred Payments To Be Repealed

Bill 138 introduces a second significant change, which relates to Section 26.1 of the Development Charges Act, 1997. Under Bill 108, developers were to have been able to pay DCs for certain forms of development in six equal annual installments (and in 20 annual installments for non-profit housing). The Bill 138 amendments carve out industrial development and commercial development from deferred DC collection, leaving only rental housing, institutional development and non-profit housing in that category.

Going Forward

Please note that Bill 138 has only passed the first reading stage and could be amended when it is considered at committee stage. Similarly, as noted above, many sections of Bill 108, including some of those amended in Bill 138, have not yet been proclaimed in force. We will keep you informed of further developments as they occur.

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