

## **COMMITTEE OF THE WHOLE - FEBRUARY 2, 2010**

### **BILL 212 – THE GOOD GOVERNMENT ACT, 2009**

#### **Recommendation**

The Commissioner of Legal and Administrative Services and City Solicitor recommends that this report be received for information purposes.

#### **Contribution to Sustainability**

Not applicable.

#### **Economic Impact**

Not applicable.

#### **Communications Plan**

City departments impacted by the *Good Government Act, 2009* will be provided with the specific details of the legislation that are applicable to their operations.

#### **Purpose**

The purpose of this report is to provide Committee of the Whole with a summary of Bill 212 – the *Good Government Act, 2009*.

#### **Background - Analysis and Options**

Bill 212, “*An Act to Promote Good Government by Amending or Repealing certain Acts and by enacting two new Acts*”, also referred to as the *Good Government Act, 2009*, was introduced in the Ontario Legislature on October 27, 2009 and received Royal Assent on December 15, 2009. The *Act* is not entirely in effect. Parts of it came into force on the day the Bill received Royal Assent. The balance of it will come into force on a date to be named by proclamation of the Lieutenant Governor.

The Province has advised that this *Act* is intended to improve clarity, increase transparency, and enhance accountability in the province’s laws, regulations and systems. As well, it includes technical changes and general housekeeping measures that should simplify government processes, update language and clarify administrative processes.

The *Act* includes nearly 600 items, affecting multiple statutes, including the *Building Code Act, 1992*, the *Municipal Act, 2001*, the *Municipal Elections Act, 1996*, the *Ontario Heritage Act*, the *Planning Act*, and the *Provincial Offences Act*, among others. 80 statutes have been amended while 16 have been repealed. There are two new Acts which are the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* and the *Public Inquiries Act, 2009* (which repeals and replaces the previous *Public Inquiries Act*).

City departments impacted by the *Good Government Act, 2009* will be provided with the specific details of the legislation that are applicable to their operations. A general overview of the legislative changes most relevant to the municipality is provided below.

### ***Building Code Act, 1992***

The *Building Code Act, 1992* has been amended to vary the time in which the City can lay charges for violations of the Act. Under the former provision, the City could only lay charges 1 year after the "subject matter of the proceedings arose". This was interpreted by the courts to mean 1 year after the illegal act was done, regardless of whether the City had knowledge of the illegal act. This provision has been amended to provide that a municipality can lay charges 1 year after the City became aware of the illegal acts. This amendment will assist the City in curbing illegal building constructions.

The Act has also been amended to require the Chief Building Official to provide building permit application forms for new homes and the dates of these applications to the Tarion Warranty Corporation. The building permit application forms must be provided within 45 days of receipt. This will assist Tarion Warranty Corporation in determining if builders are registered under the *Ontario New Home Warranties Act*.

The amendments are not currently in effect and will come into force on a day to be named by proclamation of the Lieutenant Governor.

### ***Municipal Act, 2001***

The majority of the changes to the *Municipal Act, 2001* are administrative in nature and deal with the municipal finance sections of the Act. Specifically, deadlines currently imposed on a municipality's ability to make tax policy by-laws have been removed, replacing them with the requirement to pass a by-law "in each year". This eliminates the need to seek ministerial approval for relief from the deadlines. The provisions pertaining to tax sales have also been amended, by improving the procedures that municipalities are required to follow when undertaking the sale of property to recover tax arrears by setting a minimum amount that municipalities would not be required to pay into court, and simplifying the legislative authority for regulation that requires municipalities to provide certain information in the conduct of a tax sale.

In addition, there is an amendment clarifying that a municipal Auditor General's functions are to be carried out in an independent manner. There are also amendments that allow municipal services corporations to put in place corporate structures and subsidiaries (secondary corporations).

With the exception of Schedule 21, subsections 6 (6) and (33) which came into effect upon the date of Royal Assent, the majority of the *Municipal Act, 2001* amendments are not currently in force. They will come into force on a day to be named by proclamation of the Lieutenant Governor.

### ***Municipal Elections Act, 1996***

The Province has advised that the reforms to the *Municipal Elections Act, 1996* are intended to make local elections more transparent, accountable and efficient; create a more level playing field for all candidates; and promote greater accessibility for voters and candidates with disabilities. The summary below is intended to highlight some of the amendments and is not exhaustive but should provide an indication as to the significance of the changes to the *Municipal Elections Act, 1996*.

The following is provided for information only, as candidates are responsible to familiarize themselves with the *Act*, including any recent changes.

A number of the amendments include changes to the election calendar, such as voting day being moved forward to the fourth Monday in October (this year October 25), the closing of nominations being moved to the second Friday in September (this year September 10) and the withdrawal of nominations being moved to the close of nominations. Common time-of-day deadlines (2:00 p.m.) have been set for election activities such as filing documents and withdrawing nominations.

The voting process has also been amended. In an effort to improve the accuracy of voters' lists, the Municipal Property Assessment Corporation (MPAC) will now be permitted to have access to birth, death and name change information for inclusion in the production of the preliminary voters' list. The City Clerk is permitted to utilize any information in the municipality's custody or control to update the preliminary list. Furthermore, voters will be required to provide prescribed proof of identity and proof of address at voting places or complete a prescribed application with statutory declaration that he/she is the voter shown on the voters' list. It has also been mandated that each voting place be accessible to persons with disabilities and that the Clerk report on election accessibility measures within 90 days after voting day.

Election finance provisions have been amended. The City Clerk is required to provide candidates with a certificate of maximum expenses, calculated in accordance with the formula prescribed by the new amendments. Ontario Regulation 499/09 was filed on December 17, 2009 and it amends Ontario Regulation 101/97 made under the *Municipal Elections Act, 1996*, increasing the cents per elector calculation for maximum campaign expenses and also provides new prescribed forms. Amendments are made regarding the list of expenses that are not subject to the spending limit (for example, expenses related to compliance audits are not included but interest on loans is included in the spending limit) and "fund-raising functions" (for example, precluding certain costs).

Fundraising provisions have been revised to establish an aggregate contribution limit of \$5,000.00 per contributor. Contributors who exceed the limit may be subject to penalties. Any campaign surplus is held in trust by the Clerk until the election is concluded. If these funds are not used for proceedings related to a recount, controverted election or compliance audit, they become the property of the municipality and cannot be carried forward by the candidate to use in the next election.

Compliance and enforcement provisions have also been amended. Candidates must file their campaign financial statements by the prescribed deadline dates or be subject to penalty. The current 90-day grace period for sitting council members who miss the deadline is eliminated. The City Clerk is required to make all financial statements filed by candidates available to the public in electronic format, free of charge.

It is now mandatory for all municipalities and school boards to appoint an audit committee to hear and decide on applications for compliance audits. This committee must be appointed by October 1<sup>st</sup> of the election year. The new legislation provides further details regarding the composition and procedures of compliance audit committees. On June 30, 2009, Council directed that a compliance audit committee be established.

The limitation period for commencing a prosecution for contravening the *Act* has been amended, requiring that prosecutions be commenced before December 1<sup>st</sup>, the fourth year following the election. Another revision to the *Act* specifies that a person who believes that a candidate has contravened the election campaign finance provisions of the *Act* may proceed with legal action without having first obtained a compliance audit. In addition, penalties for all offences under the *Act* have increased, with fines up to \$25,000 and/or imprisonment up to six months for individuals, including candidates, and \$50,000 for unions and corporations. Offences related to candidates may also lead to removal from office and/or ineligibility to be elected to office for a period of time.

The amendments to the *Municipal Elections Act, 1996* were proclaimed in force on January 1, 2010.

### ***Ontario Heritage Act***

The *Ontario Heritage Act* has been amended to clarify that grants and loans made under the *Act* to the owners of designated properties do not constitute “bonusing” as defined by the *Municipal Act*. It also contains other changes which provide for modern options to communicate with property owners and members of the public, including internet communications.

In addition, the demolition provisions have been changed to allow municipalities to request and receive additional information from an applicant seeking consent to demolish or remove a building and to specify that the 90-day period to review the application only begins once the municipality sends a notice of receipt to the applicant. As well, the provisions regarding property altered in contravention of the *Act* have been amended to permit the Minister, as well as Council of a municipality, to restore a property and recover costs from the owner of a property designated under Part IV of the *Act* or a property within a heritage conservation district under Part V of the *Act*.

The amendments to the *Ontario Heritage Act* came into force on December 15, 2009.

### ***Planning Act***

One of the amendments to the *Planning Act* provides Committees of Adjustment with the ability to authorize variances from zoning by-laws that have been passed, whether or not they are in effect. This provision came into effect on January 1, 2010.

Also, the *Act* has been amended to clarify the uses to which money may be spent that was paid in lieu of conveying land for park or other public recreational uses. Specifically, cash-in-lieu of parkland can now be used for the improvement of buildings and not just the erection or repair of buildings. This provision came into effect on December 15, 2009.

There are also amendments to certain regulations made under the *Planning Act* that came into force on January 1, 2010. They require municipalities to provide notification to propane operators when specific planning applications are located within the operator’s “hazard distance”, even where the propane facility is not located in the municipality. The “hazard distance” is to be determined by the individual propane operator and approved by the Technical Standards and Safety Authority (TSSA). The TSSA is responsible for informing municipalities of the extent/boundaries of a propane operator’s “hazard distance”.

The balance of the amendments to the *Planning Act* are very technical in nature and, with the exception of two subsections, have come into effect on December 15, 2009.

### ***Provincial Offences Act***

The majority of the amendments to the *Provincial Offences Act* relate to changes in court procedures and fine enforcement mechanisms. Under these amendments, it is now possible for a municipality to add defaulted fines to the tax roll for any property in the municipality for which the owner is responsible for paying the fine. This amendment gives a municipality greater enforcement powers, as it allows a municipality to collect unpaid fines without having to commence court proceedings or utilizing a collection agency.

The maximum set fine for Part I offences (minor offences) has been increased to \$1000 from \$500. This increased penalty will promote greater compliance with City by-laws.

The Act has also been amended to allow for judicial pre-trials. At these pre-trials, the prosecutor and the defendant meet with a Justice of the Peace to discuss the case. Through this process, issues are narrowed, facts are agreed upon, and the Justice of the Peace provides his or her opinion as to the strength of the case. This process will result in settlements and streamlined trials, which will free up court time for other matters.

Some amendments came into force on December 15, 2009 when Bill 212 received Royal Assent, while others will take effect six months or 1 year after Royal Assent. Other amendments will come into force on a day to be named by proclamation of the Lieutenant Governor. The power to add defaulted fines to the tax roll comes into force six months after Royal Assent. The increased set fine and judicial pre-trial amendments came into effect on December 15, 2009.

### ***Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009***

The purpose of this new *Act* is to ensure that adjudicative tribunals, as prescribed by the Lieutenant Governor in Council, are accountable, transparent and efficient in their operations while remaining independent in their decision-making. The tribunals subject to this legislation will be required to develop public accountability documents (ie. mandate and mission statement, a service standard policy, ethics plan) and governance accountability documents (business plan, annual report). The selection process for the appointment of members is set out as well as the process for the designation of clusters of tribunals. In addition, the process for the review of an adjudicative tribunal is prescribed.

The Lieutenant Governor in Council is expected to issue a regulation prescribing the agencies, boards, commissions, corporations or other entities included in the definition of “adjudicative tribunal”, along with other time lines to be complied with in the *Act*. This new *Act* will come into force on a day to be named by proclamation of the Lieutenant Governor.

### ***Public Inquiries Act, 2009***

The Province has advised that the new *Public Inquiries Act, 2009* will provide the government and commissioners of inquiry with better tools to determine the scope and manage the cost and length of public inquiries. The changes authorize a range of public inquiries with specific powers, procedures, rights and protections tailored to the specific circumstances and also provide rules and requirements for completion dates. In addition, future commissions will be required to rely, where appropriate, on factual sources that promote efficiency, such as representative witnesses, agreed statements of facts, and existing records and reports. As well, the *Act* clarifies the protections regarding other uses of witness testimony and provides more robust protections regarding employment reprisals.

The *Public Inquiries Act, 2009* will come into force on a day to be named by proclamation of the Lieutenant Governor.

### **Relationship to Vaughan Vision 2020/Strategic Plan**

This report is consistent with the priorities previously set by Council.

### **Regional Implications**

There are no Regional implications as a result of this report.

### **Conclusion**

Bill 212 amends multiple statutes that affect municipalities, as well as the introduction of two new statutes. The Province indicates that Bill 212 will improve clarity, increase transparency, and enhance accountability in the province's laws, regulations and systems. City departments impacted by the Bill 212 will be provided with the specific details of the legislation that are applicable to their operations.

### **Attachments**

None.

### **Report prepared by:**

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Respectfully submitted,

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