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BARRISTERS AND SOLICITORS

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Ontario Greenbelt Legislation
by Robert Welch

The Ontario Government recently implemented the Greenbelt Protection Act. The implications of this legislation are wide-ranging and could have some significant effect on land use planning in the province, and specifically in Niagara.

Background

When Dalton McGuinty's Liberals swept into power in the provincial election in 2003 they did so on a platform comprising of a number of planks wrapped up in the slogan "Choose Change". Land use issues, while not attracting a great amount of attention, were mentioned. The Oak Ridges Moraine north of Toronto was under severe development pressure and, notwithstanding the previous Tory government's moves to limit urban sprawl, McGuinty vowed to stop house construction.

Here in Niagara we didn't hear a lot of rhetoric about these matters in the provincial campaign. Comments about trying to soften up urban area boundaries, musings about amalgamations to provide more land for development in certain areas—primarily St. Catharines – and views about the possible loss of key grape growing land as articulated by high-profile wine industry people were heard for a few years before the provincial election, and received some play in municipal election campaigns a month later. But for the most part, these matters while front and centre among those directly affected, were flying "under the radar", as it were.

Premier McGuinty, and the government soon discovered that they could not order a freeze on already approved development on the Moraine without the province being subject to lawsuits. Instead, the government responded, in December, 2003, with two bills and a Minister's zoning order which basically prohibited any development except that which was legal before the order was made, or could be permitted in accordance with zoning rules already in place. The measure also tightened up the Planning Act and created a greenbelt study area. These initiatives applied to lands in many parts of Ontario, including North Niagara. They were to last until December, 2004, but were extended until the permanent legislation was passed, earlier this year. Extensive public consultations took place over the interim control period, involving many stakeholders including some in Niagara.

The Legislation

The legislation reflects the interim guidelines referred to above, except that it is stricter. As far as Niagara is concerned, the new rules apply to the same part of the Peninsula. Minimum farm sizes are now prescribed by region within Niagara. No new development is allowed outside of recognized urban areas, except under rigid conditions. The Planning Act now contains stricter sanctions concerning development outside urban areas.

Conclusion

The new Greenbelt Protection Act tilts the scale towards a greater protection of agricultural lands. It will result in increased tension between those who wish these sensitive lands preserved and those who support future development. For further information please do not hesitate to contact us at Lancaster, Brooks & Welch.

The foregoing is provided to you for information purposes only. We caution you to obtain legal advice specific to your situation in all circumstances.

Should you prefer to receive our Bulletins by email, contact Jennifer (jnye@lbwlawyers.com).

Rodger Gordon rgordon@lbwlawyers.com
Harry Thorsteinson hthorsteinson@lbwlawyers.com
Gary Black gblack@lbwlawyers.com
David L. Edwards dedwards@lbwlawyers.com

Robert Welch rwelch@lbwlawyers.com
R. Bruce Smith bsmith@lbwlawyers.com
Del C. Daignault ddaignault@lbwlawyers.com
Michael A. Mann mmann@lbwlawyers.com

Lancaster, Brooks & Welch LLP

PO Box 790, 80 King Street, St. Catharines, Ontario L2R 6Z1 Tel. 905.641.1551, Fax 905.641.1830
PO Box 67, 247 East Main Street, Welland, Ontario L3B 5N9 Tel. 905.735.5684, Fax 905.735.3340
www.lbwlawyers.com