1978

c 93 The Planning Amendment Act, 1978

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

1. Section 19 of The Planning Act, being chapter 349 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

   (2a) Notwithstanding subsections 1 and 2, the council of a municipality, including a metropolitan, regional or district municipality, may take into consideration the undertaking of a public work that does not conform with an official plan that is in effect, and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this subsection authorizes the actual undertaking of any public work that does not conform with an official plan.

2.—(1) Section 29 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 2, section 1, 1972, chapter 118, section 3, 1973, chapter 168, section 6, 1974, chapter 53, section 4 and 1976, chapter 38, section 2, is further amended by adding thereto the following subsections:

   (4b) Where a parcel of land is conveyed by way of a deed or transfer with a consent given under this section, subsections 2 and 4 do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land unless the committee of adjustment, the land division committee or the Minister, as the case may be, in granting the consent, stipulates either that subsection 2 or subsection 4 shall apply to any such subsequent conveyance or transaction.

   (4c) Where a committee of adjustment, a land division committee or the Minister stipulates in accordance with subsection 4b,
(a) in the case of the committee of adjustment or the land division committee, the certificate provided for in subsection 20 of section 42; and

(b) in the case of the Minister, the consent given by the Minister, shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been granted without the stipulation.

(2) The said section 29 is further amended by adding thereto the following subsection:

(4d) Where land is within a registered plan of subdivision or within a registered description under The Condominium Act or where land is conveyed with a consent given under this section or a predecessor thereof, any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause b of subsection 1 of section 27, as it existed on the 25th day of June, 1970, of The Planning Act, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that occurred prior to the registration of the plan of subdivision or description or prior to the conveyance, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance or creation of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day on which this section comes into force.

(3) The said section 29 is further amended by adding thereto the following subsection:

(5f) Where a joint tenant or tenant in common of land releases or conveys his interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either by himself or together with any other person, he shall be deemed, for the purposes of subsections 2 and 4, to convey such land by way of deed or transfer and to retain the fee in the abutting land.

(4) Subsections 9 and 11 of the said section 29 are repealed and the following substituted therefor:
(9) A by-law passed under subsection 3 is not effective until the requirements of subsection 10 have been complied with.

(11) No notice or hearing is required prior to the passing of a by-law under subsection 3, but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person.

(11a) The council shall hear in person or by his agent any person to whom a notice was sent under subsection 11, who within fifteen days of the mailing of the notice to him gives notice to the clerk of the municipality that he desires to make representations respecting the amendment or repeal of the by-law.

3. Clause b of subsection 5a of section 32 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 118, section 4, is repealed and the following substituted therefor:

(b) where the land affected is situate in territory without municipal organization, to be lodged in the proper land registry office, where it shall be made available to the public as a production.

4.—(1) Subsection 9 of section 33 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 118, section 5, is repealed and the following substituted therefor:

(9) Land conveyed to a municipality under subsection 5 shall be used for park or other public recreational purposes but may be sold at any time.

(2) Subsection 11 of the said section 33, as amended by the Statutes of Ontario, 1972, chapter 118, section 5, is repealed and the following substituted therefor:

(11) All moneys received by the municipality under subsections 8 and 10 and all moneys received on the sale of land under subsection 9, less any amount expended by the municipality out of its general funds in respect of such land, shall be paid into a special account, and the moneys in such special account shall be expended only for the acquisition
of lands to be used for park or other public recreational purposes, for the development or improvement of lands used or to be used for park or other public recreational purposes, including the erection or repair of buildings or other structures thereon or for the maintenance of lands, buildings or structures used for park or other public recreational purposes, including the acquisition of machinery and equipment required for such maintenance, and the moneys in such special account may be invested in such securities as a trustee may invest in under The Trustee Act, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account.

3. The said Act is amended by adding thereto the following section:

**33a.**—(1) Where an action or proceeding for the partition of land is brought under The Partition Act, notice shall be given to the Minister.

(2) The notice shall include a copy of the application for the partition of land and shall state the day on which the matter is to be heard, and, subject to the rules of court, shall be served not less than ten days before the day of the hearing.

(3) The Minister is entitled as of right to be heard either in person or by counsel notwithstanding that the Crown is not a party to the action or proceeding.

(4) Where the Minister appears in person or by counsel, the Minister shall be deemed to be a party to the action or proceeding for the purpose of an appeal and has the same rights with respect to an appeal as any other party to the action or proceeding.

6. **(1)** Subsection 26 of section 35 of the said Act is repealed and the following substituted therefor:

(26) Where an official plan is in effect in a municipality and notice is given in the manner and form and to the persons prescribed by the regulations and a notice of objection has been filed with the clerk of the municipality within the time prescribed by the regulations, the by-law does not come into effect without the approval of the Municipal Board.

(2) Subsection 28 of the said section 35 is repealed and the following substituted therefor:
Any by-law approved by the Municipal Board under this section and any by-law that comes into effect under subsection 25 shall be conclusively deemed to be in conformity with the official plan then in effect in the municipality.

7. Subsection 20 of section 42 of the said Act is amended by adding at the end thereof "and that, notwithstanding any other provision of this Act, the committee had jurisdiction to grant such consent and after the certificate has been given no action may be maintained to question the validity of such consent".

8. Section 43 of the said Act is repealed and the following substituted therefor:

43. In addition to any other remedy or penalty provided by law, any contravention of a by-law that implements an official plan and any contravention of section 19 may be restrained by action at the instance of the planning board of the planning area in which the contravention took place or any municipality within or partly within such planning area or any ratepayer of any such municipality, and any contravention of an order of the Minister made under section 32 may be restrained by action at the instance of the Minister or the planning board of the planning area in which the contravention took place or the municipality in which the contravention took place or any adjoining municipality or any ratepayer of any such municipality or adjoining municipality.

9. Subsection 2 of section 44b of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 38, section 4, is repealed and the following substituted therefor:

(2) The Minister on the request of a council may by order delegate to the council any of the Minister's authority under this Act, under section 24 of The Condominium Act, R.S.O. 1970, c. 77, s. 281, under subsection 8 of section 443 and subsection 2 of section 450 of The Municipal Act, under subsection 4 of section 86 of The Registry Act and under section 163 of The Land Titles Act and where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.
10. (1) This Act, except subsections 1 and 3 of section 2 and section 7, comes into force on the day it receives Royal Assent.

(2) Section 7 shall be deemed to have come into force on the 27th day of June, 1970.

(3) Subsection 3 of section 2 shall be deemed to have come into force on the 23rd day of November, 1978.

(4) Subsection 1 of section 2 comes into force on the 31st day of March, 1979.