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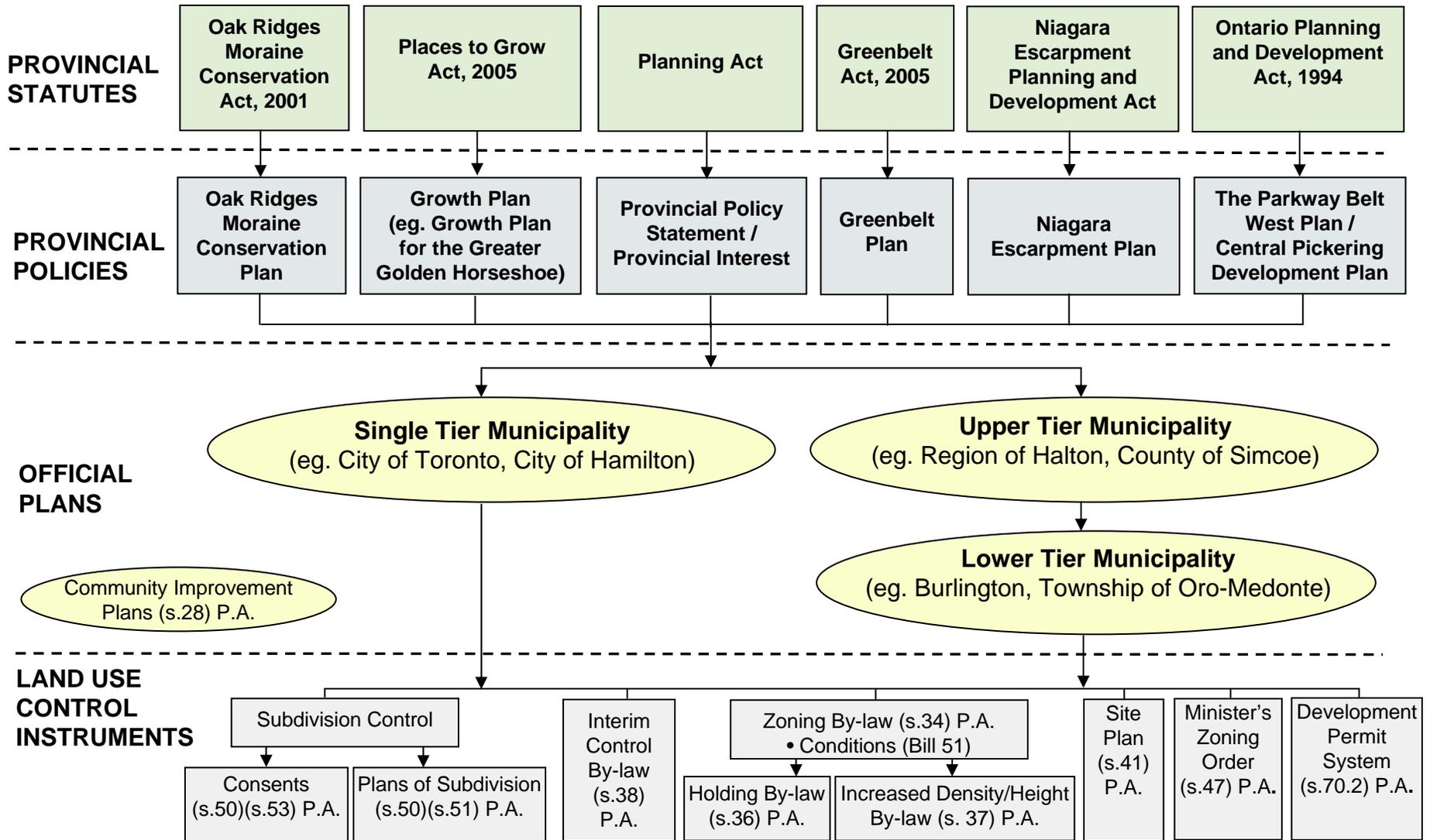
MUNICIPAL, PLANNING & DEVELOPMENT LAW

The Planning Act: Bill 51 What's New, What Remains, What You Must Know – Part II

Introduction – Dennis Wood

February 2007

Provincial / Municipal Planning Structure



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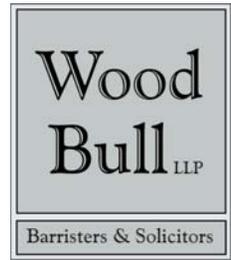
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MUNICIPAL, PLANNING & DEVELOPMENT LAW

The Planning Act: Bill 51 What's New, What Remains, What You Must Know – Part II

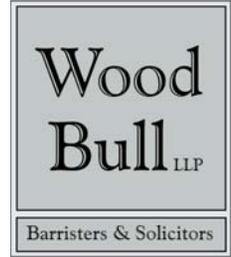
**“Have Regard To”, “Shall Be Consistent With” and “Shall Conform With”:
When Do They Apply and How Do You Apply Them?**

February 2007



“Have Regard To”

“have regard to”

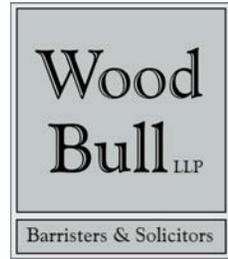


Provincial interest

2. The Minister, the council of a municipality, a local board, a planning board and the Municipal Board, in carrying out their responsibilities under this Act, [shall have regard to](#), among other matters, matters of provincial interest such as,

- (a) the protection of ecological systems, including natural areas, features and functions;
- (b) the protection of the agricultural resources of the Province;
- (c) the conservation and management of natural resources and the mineral resource base;
- (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- (e) the supply, efficient use and conservation of energy and water;
- (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- (g) the minimization of waste;

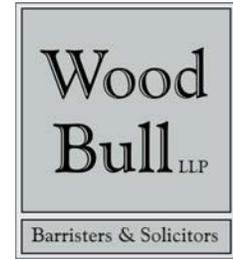
“have regard to”



Provincial Interest (cont'd)

- (h) the orderly development of safe and healthy communities;
- (h.1) the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;
- (i) the adequate provision and distribution of educational, health, social, cultural and recreational facilities;
- (j) the adequate provision of a full range of housing
- (k) the adequate provision of employment opportunities;
- (l) the protection of the financial and economic well-being of the Province and its municipalities;
- (m) the co-ordination of planning activities of public bodies;
- (n) the resolution of planning conflicts involving public and private interests;
- (o) the protection of public health and safety;
- (p) the appropriate location of growth and development. 1994, c. 23, s. 5; 1996, c. 4, s. 2; 2001, c. 32, s. 31 (1).
- (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians. 2006, c. 23, s. 3.

“have regard to”

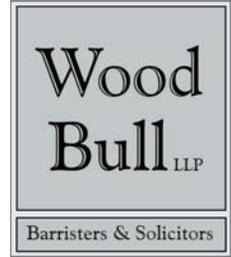


Decisions of councils and approval authorities

2.1 When an approval authority or the Municipal Board makes a decision under this Act that relates to a planning matter, it [shall have regard to](#),

- (a) any decision that is made under this Act by a municipal council or by an approval authority and relates to the same planning matter; and
- (b) any supporting information and material that the municipal council or approval authority considered in making the decision described in clause (a). 2006, c. 23, s. 4.

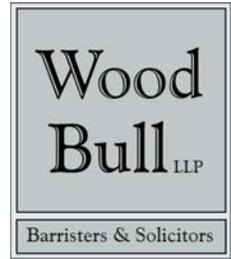
“have regard to”



Updating official plan

- 26.** (1) If an official plan is in effect in a municipality, the council of the municipality that adopted the official plan shall, not less frequently than every five years after the plan comes into effect as an official plan or after that part of a plan comes into effect as a part of an official plan, if the only outstanding appeals relate to those parts of the plan that propose to specifically designate land uses,
- (a) revise the official plan as required to ensure that it,
 - (i) conforms with provincial plans or does not conflict with them, as the case may be,
 - (ii) [has regard to](#) the matters of provincial interest listed in section 2, and
 - (iii) is consistent with policy statements issued under subsection 3 (1); and

“have regard to”

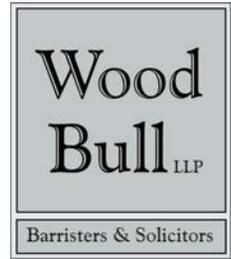


Criteria

51(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;

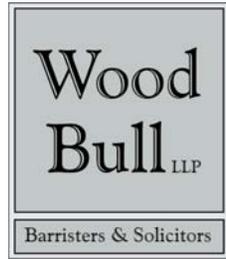
“have regard to”



Criteria (cont'd)

- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes; and
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy.
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41(2) of this Act or subsection 114(2) of the *City of Toronto Act, 2006*.

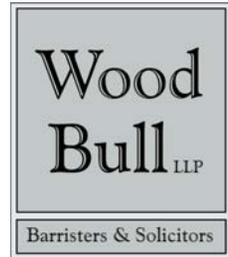
Dictionary Definitions: Regard



Regard (verb) 1. think of in a particular way. 2. gaze at in a specified fashion. 3. archaic [pay attention to](#) (noun) 1. [heed or concern](#): *she rescued him without regard for herself*. 2. high opinion; esteem. 3. a steady look. 4. (regards) best wishes (used especially at the end of letters). *Catherine Soanes, The Compact Oxford English Dictionary, 2nd ed. (Oxford: Oxford University Press, 2002)*

Regard 1. gaze upon (usu. w. adv. phr. or adv.; *found him regarding me with curiosity, intently*). 2. [give heed to](#), [take into account](#), let one's course be affected by, (esp. w. neg.; person, advice, etc., or abs.) 3. look upon or contemplate mentally *with* reverence, horror, etc., or in specified manner (*regard it in that light*) or with specified sentiment (*I still regard him kindly*), or as being (*is to be regarded as a wild beast; regard it as madness or indispensable, him as among my friends*). 4. (Of thing) concern, have relation to, have some connection with; as ~s, ~ing (*part. or prep.*), about, concerning, in respect of, so far as it concerns, (*considerations regarding peace; am innocent as regards or regarding the former*). [ME, f. F *re(garder)* Guard]; see RE- 6; cf. REWARD] *H.W. Fowler, H.G. Fowler, The Concise Oxford Dictionary of Current English, 7th ed. (Oxford: Oxford University Press, 1982)*

Dictionary Definitions: Regard

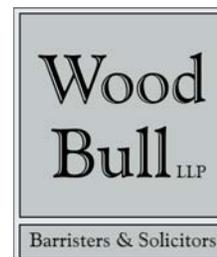


Regard (noun) 1. [Attention, care, or consideration](#) <without regard for the consequences>. 2. Hist. In England, an official inspection of a forest to determine whether any trespasses have been committed. 3. Hist. The office or position of a person appointed to make such an inspection. *Bryan A. Garner, Black's Law Dictionary, 7th ed. (St Paul: West Group, 1999)*

Regard noun 1. archaic : appearance 2. a: [attention](#), [consideration](#) <due regard should be given to all facets of the question> b: a protective interest : care <has no regard for her health> 3. look, gaze 4. a: the worth or estimation in which something or someone is held <a man of small regard> b (1): a feeling of respect and affection : esteem <she soon won the regard of her colleagues> (2) plural : friendly greetings implying such feeling <give him my regards> 5. a basis of action or opinion : motive 6. an aspect to be taken into consideration : respect <is a small school, and is fortunate in this regard> 7. obsolete : intention *Meriam-Webster Online Dictionary*

Caselaw: “have regard to”

Concerned Citizens of King Township Inc. v. King (Township)
(2000), 42 O.M.B.R. 3 (Div. Ct.)



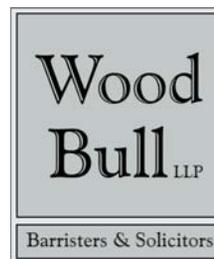
To "have regard to" falls somewhere on the scale that stretches from "recite them then ignore them" to "adhere to them slavishly and rigidly".

The question is whether the Board had "regard to" provincial policies within the meaning given to that expression in Juno Developments (Parry Sound) Ltd. V. Parry Sound (Town) [\(1997\)](#), [35 O.M.B.R. 1](#) (Ont. Div. Ct.)per Molloy J. at p. 10:

It has been held that the Board is required to have regard to the Provincial Policy Statements issued under s. 3 of the Planning Act. In other words, to consider them carefully in relation to the circumstances at hand, their objectives and the statements as a whole and what they seek to protect: Ottawa Carleton (Regional Municipality) Official Plan. Amendment 8 (Re) (1991), 26 O.M.B.R. 132 at pp. 180-182...

Caselaw: “have regard to”

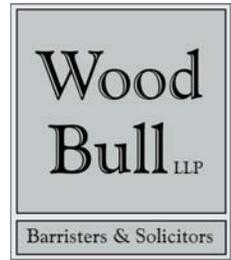
Concerned Citizens of King Township Inc. v. King (Township)
(2000), 42 O.M.B.R. 3 (Div. Ct.) cont’d...



The passage from Ottawa Carleton (D.H. McRobb and P.H. Howden, Q.C., Vice-Chairs and R.D.M. Owen) at pp. 181-2 reads as follows:

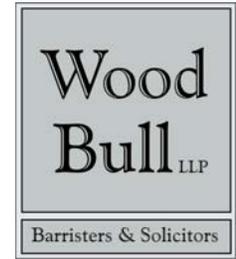
“Statements of government policy...must be regarded by the board. The board is not bound to follow them; however, the board is required to have regard to them, in other words, to consider them carefully in relation to the circumstances at hand, their objectives and the statements as a whole, and what they seek to protect. The board is then to determine whether and how the matter before it is affected by, and complies with, such objectives and policies, with a sense of reasonable consistency in principle.”

Taking the reasons as a whole it is open to serious question whether the Board "had regard" to the provincial policies in the sense of considering them carefully in relation to the circumstances at hand, their objectives and the statements as a whole, and what they seek to protect, and determining whether and how the matter before it is affected by, and complies with, such objectives and policies, with a sense of reasonable consistency in principle.



“Consistent With”

“consistent with”



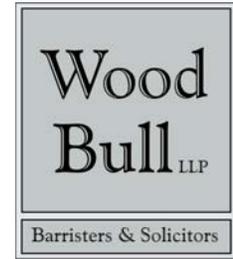
Policy statements and provincial plans

3(5) A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Municipal Board, in respect of the exercise of any authority that affects a planning matter,

(a) [shall be consistent with](#) the policy statements issued under subsection (1) that are [in effect on the date](#) of the decision; and

(b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. 2006, c. 23, s. 5.

“consistent with”



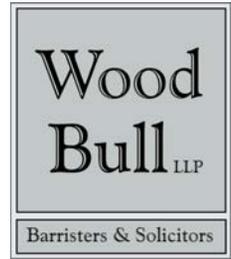
Same

3(6) Comments, submissions or advice affecting a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government,

(a) [shall be consistent with](#) the policy statements issued under subsection (1) that are [in effect on the date](#) the comments, submissions or advice are provided; and

(b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. 2006, c. 23, s. 5.

“consistent with”

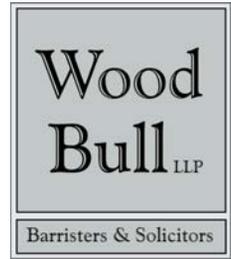


Updating official plan

26. (1) If an official plan is in effect in a municipality, the council of the municipality that adopted the official plan shall, not less frequently than every five years after the plan comes into effect as an official plan or after that part of a plan comes into effect as a part of an official plan, if the only outstanding appeals relate to those parts of the plan that propose to specifically designate land uses,

- (a) revise the official plan as required to ensure that it,
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 - (ii) has regard to the matters of provincial interest listed in section 2, and
 - (iii) is consistent with policy statements issued under subsection 3 (1); and

Dictionary Definitions: Consistent

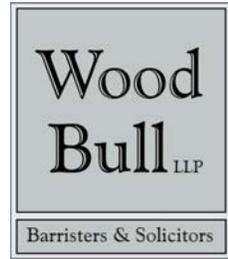


Consistent (adverb) 1. [conforming to a regular pattern](#); unchanging. 2. (usu. consistent with) [in agreement](#). *Catherine Soanes, The Compact Oxford English Dictionary, 2nd ed. (Oxford: Oxford University Press, 2002)*

Consistent a. [compatible](#), [not contradictory](#), (with); (of person) [constant to same principles](#); hence ~LY adv. [f. L consistere (see CONSIST, -ENT)] *H.W. Fowler, H.G. Fowler, The Concise Oxford Dictionary of Current English, 7th ed. (Oxford: Oxford University Press, 1982)*

Consistent *adjective* 1. *archaic* : possessing firmness or coherence 2. a: marked by harmony, regularity, or steady continuity : free from variation or contradiction <a *consistent* style in painting> b: marked by agreement : [compatible](#) — usually used with *with* <statements not *consistent* with the truth> c: [showing steady conformity](#) to character, profession, belief, or custom <a *consistent* patriot> 3. tending to be arbitrarily close to the true value of the parameter estimated as the sample becomes large <a *consistent* statistical estimator> *Meriam-Webster Online Dictionary*

Ministry Interpretation: “consistent with”

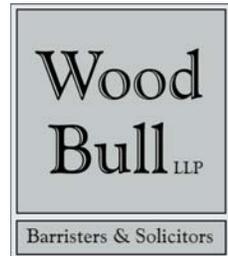


“Dictionary meanings are a useful starting point for the purpose of establishing the meaning of a term. As an example, the Webster Dictionary defines the term “consistent” to mean:

- Marked by agreement and concord;*
- Coexisting and showing no noteworthy opposing, conflicting or - contradictory qualities or trends;*
- In harmony with;*
- Compatible with;*
- Constant to the same principle as; and,*
- Not contradictory with.*

“Shall be consistent with” is a higher policy implementation standard and is a more demanding test than “shall have regard to”. It requires decision-makers to apply the policies and make decisions that are consistent with the applicable policies of the PPS, 2005. It is a stronger implementation standard focusing on achieving policy outcomes, while retaining some flexibility in how it is implemented.” [MAH – website - http://www.mah.gov.on.ca/userfiles/HTML/nts_1_26905_1.html]

Caselaw: “consistent with”



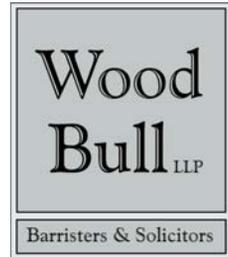
***Loewen v. Coquitlam (City)* 1999 CarswellBC 2112, 5 M.P.L.R. (3d) 135, British Columbia Supreme Court, 1999**

47 Since the OCP mandates that the project for which the development project application was made "shall be consistent" with the Guidelines, the first part of that advice must, as a matter of logic, be wrong if the second part, that only "a number" and not all of the Guidelines have been met, is correct. It is a necessary logical inference from the second part of the advice that "a number" of the Guidelines have not been met. If that is so, it logically follows that the application is not consistent with the provision of the OCP which mandates that the project be consistent with the Guidelines.

48 The detailed written submission of the applicant makes a persuasive case that many aspects of the project are not consistent with the Guidelines. At the least, it raises considerable doubt that the project is entirely consistent with the Guidelines. On the view I take of this case, I need not decide whether the project is consistent with the Guidelines, for reasons which follow.

Caselaw: “consistent with”

Loewen v. Coquitlam (City) 1999 CarswellBC 2112, 5 M.P.L.R. (3d) 135,
British Columbia Supreme Court, 1999 cont’d...



56 *At the very least the applicant has demonstrated there is doubt that the project met all the Guidelines. City officials in their advice to the council indicated, by implication at least, that "a number" of the Guidelines had not been met. In light of the doubt about whether all the Guidelines had been met, the City council did not act in conformity with its obligation to act judicially as dictated by the Westfair case, before authorizing the development permit.*

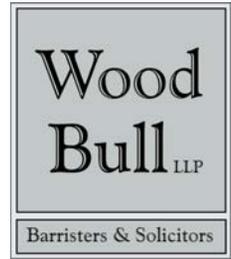
57 *To meet that obligation the City council had to establish clearly and in a manner open to public scrutiny that all Guidelines had been met. Alternatively, assuming the council had the jurisdiction to authorized the development permit even if "each an every" one of the Guidelines was not met, its obligation was to address the questions of which Guidelines were not being met and why directly and in a manner open to public scrutiny.*

58 *Since the City council did not do either of those things, I find that it did not act judicially in authorizing the development permit and therefore acted without jurisdiction. It follows that the development permit must be set aside.*

[Emphasis added]

“In Effect”

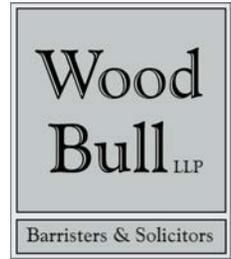
Case law: Retroactive Application of Policies (Clergy line of cases)



Menkes Lakeshore Ltd. v. Toronto (City)
2006 Carswell Ont. 6458

*In determining which planning instruments are applicable, the Board adopts the principle enunciated in Clergy Properties Ltd. v. Mississauga (City) (1996), 34 O.M.B.R. 277 (O.M.B.) , namely that the application should be judged on the regime in place at the time of the application. This is not a situation where applications were made and then lay dormant for a considerable period of time. The proponents worked steadily with the City and City procedures prior to appealing these matters to this Board. And the appeals to this Board only occurred after the City decision to simply defer these applications indefinitely. Nonetheless, because the City was, coincidentally, in the process of developing a new official plan, the Board also adopts the approach enunciated in Dumart v. Woolwich (Township), [1997] O.M.B.D. No. 1817 (O.M.B.), relying on Boothman v. Newcastle (Town) (1993), 29 O.M.B.R. 26 (O.M.B.) , that the new Plan is "admissible, relevant but not determinative".
[Emphasis added]*

CaseLaw: Retroactive Application of Policies (Clergy line of cases)



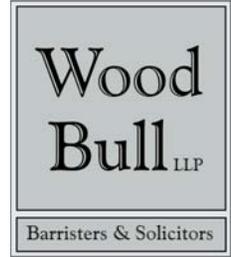
James Dick Construction Ltd. v. Caledon (Town)
(2003), 47 O.M.B.R. 87

Having considered the lengthy submissions of counsel for the parties to this motion, the Board concludes that what we commonly refer to as the "Clergy principle" as modified by Dumart, remains a useful doctrine and practice. It should continue to serve as a firm guide when faced with the question of which policies should be used to evaluate an application in those infrequent cases where the policy environment pertaining to the application has changed before the application could be finally decided. It is a practice that promotes fairness, consistency and predictability -- all of which are of value to the planning process and to all participants in that process.

In short people should continue to expect that the policies that are in place when they apply will be made to apply to them. In the vast majority of cases, this should continue to be the practice of the Board as it has been in the past. [Emphasis added]

“Conform With” or “Not Conflict With”

“conform with” or “not conflict with”



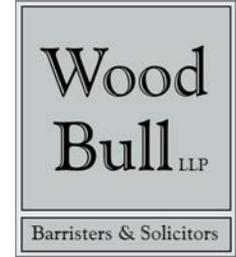
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“conform with” or “not conflict with”



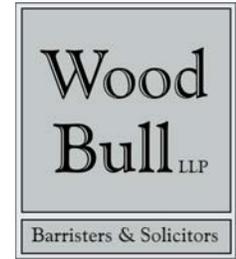
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(a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date the comments, submissions or advice are provided; and

(b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. 2006, c. 23, s. 5.

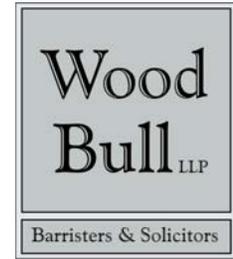
“conform with” or “not conflict with”



Public works and by-laws to conform with plan

24. (1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith. R.S.O. 1990, c. P.13, s. 24 (1); 1999, c. 12, Sched. M, s. 24.

“conform with” or “not conflict with”

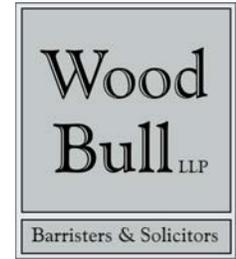


Updating official plan

26. (1) If an official plan is in effect in a municipality, the council of the municipality that adopted the official plan shall, not less frequently than every five years after the plan comes into effect as an official plan or after that part of a plan comes into effect as a part of an official plan, if the only outstanding appeals relate to those parts of the plan that propose to specifically designate land uses,

- (a) revise the official plan as required to ensure that it,
 - (i) [conforms with](#) provincial plans or does [not conflict with](#) them, as the case may be,
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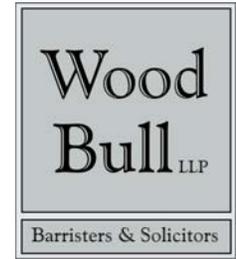
“conform with” or “not conflict with”



Amendments to conform to official plan

27. (1) The council of a lower-tier municipality shall amend every official plan and every by-law passed under section 34, or a predecessor of it, to conform with a plan that comes into effect as the official plan of the upper-tier municipality. 2002, c. 17, Sched. B, s. 7.

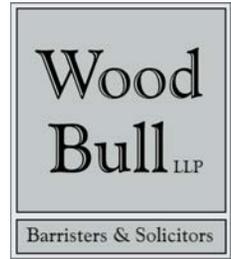
“conform with” or “not conflict with”



Updating zoning by-laws

26(9) No later than three years after a revision under subsection (1) or (8) comes into effect, the council of the municipality shall amend all zoning by-laws that are in effect in the municipality to ensure that they [conform with](#) the official plan. 2006, c. 23, s. 13.

Dictionary Definitions: Conform

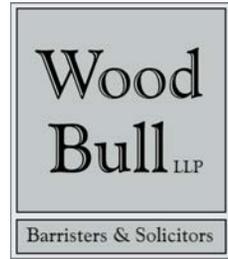


Conform (verb) 1. [comply with rules, standards, or conventions](#). 2. [be similar in form or type](#). *Catherine Soanes, The Compact Oxford English Dictionary, 2nd ed. (Oxford: Oxford University Press, 2002)*

Conform v. 1. v.t. [form according to pattern, make similar \(to\)](#). 2. v.i. [be conformable \(to, or abs.\)](#); [comply with rules or general custom](#); ~ to or with, comply with. 3. Hence ~ ANCE, ~ ER, ns. [ME, f. OF conformer f. L con (formare f. forma shape)] *H.W. Fowler, H.G. Fowler, The Concise Oxford Dictionary of Current English, 7th ed. (Oxford: Oxford University Press, 1982)*

Conform *transitive verb*: to give the same shape, outline, or contour to : bring into harmony or accord <conform furrows to the slope of the land> *intransitive verb* 1: [to be similar or identical](#); also : [to be in agreement or harmony](#) — used with *to* or *with* <changes that conform with our plans> 2 a: to be obedient or compliant — usually used with *to* <conform to another's wishes> b: [to act in accordance with prevailing standards or customs](#) <the pressure to conform> *Meriam-Webster Online Dictionary*

Dictionary Definitions: Conflict

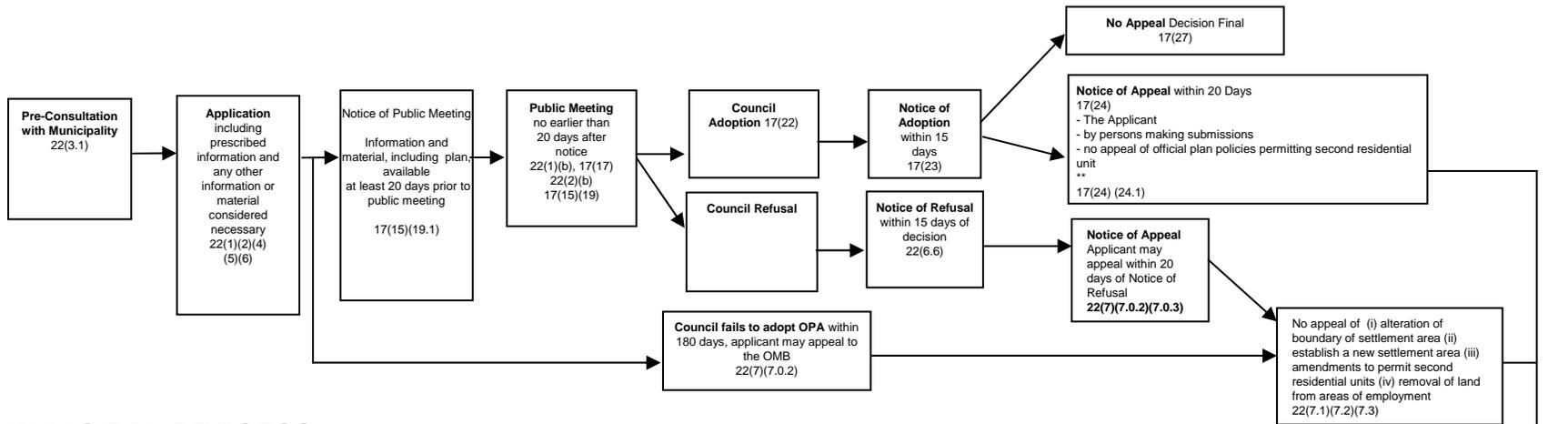
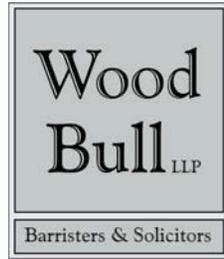


Conflict (noun) 1. A serious disagreement or argument. 2. A prolonged armed struggle. 3. [an incompatibility between opinions, principles](#), etc.: *conflict of interests* (verb) be incompatible or at variance with. *Catherine Soanes, The Compact Oxford English Dictionary, 2nd ed. (Oxford: Oxford University Press, 2002)*

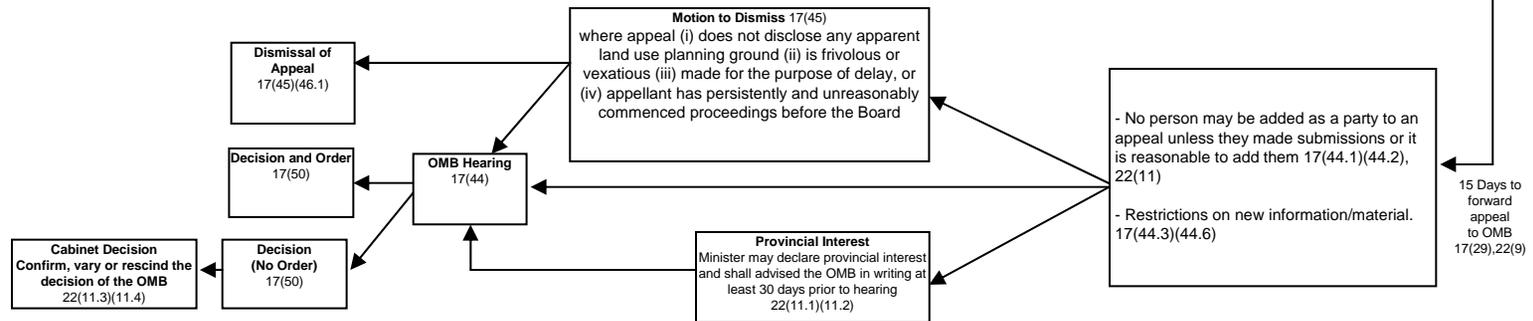
Conflict n. fight, struggle, (lit. or fig.; in -, discrepant (*with*)); collision; clashing (*of* opposed principles etc.); (Psych.) (distress due to) opposition of incompatible wishes etc. in a person. v.i. struggle (*with*, or abs., usu. fig.); clash, [be incompatible](#); so –
ION n. *H.W. Fowler, H.G. Fowler, The Concise Oxford Dictionary of Current English, 7th ed. (Oxford: Oxford University Press, 1982)*

Conflict (noun) 1: fight, battle, war <an armed conflict> 2 a: competitive or [opposing action of incompatibles](#) : antagonistic state or action (as of divergent ideas, interests, or persons) b: mental struggle resulting from incompatible or opposing needs, drives, wishes, or external or internal demands 3: the opposition of persons or forces that gives rise to the dramatic action in a drama or fiction *Meriam-Webster Online Dictionary*

OPA Initiated by Applicant and Exempt from Approval

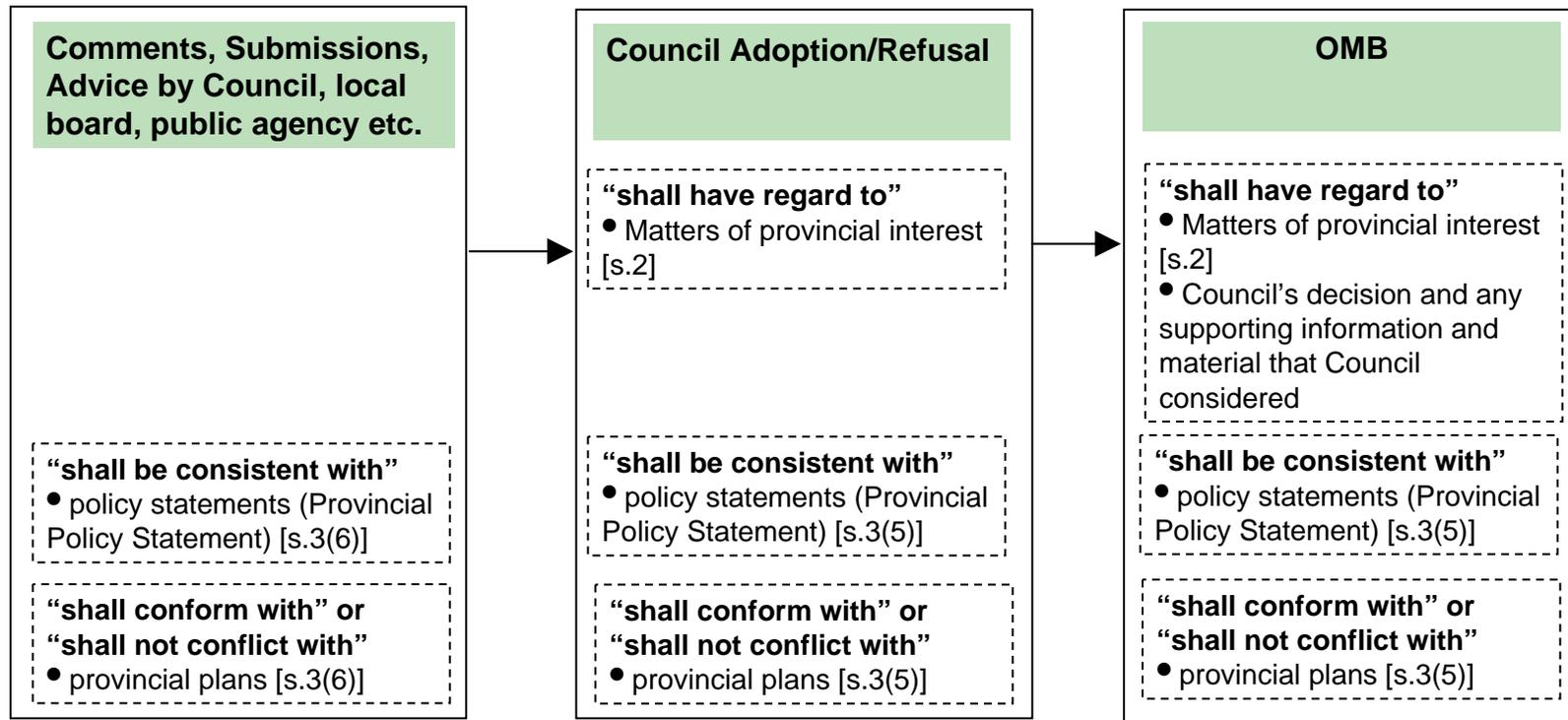
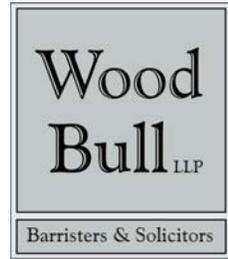


MUNICIPAL PROCESS

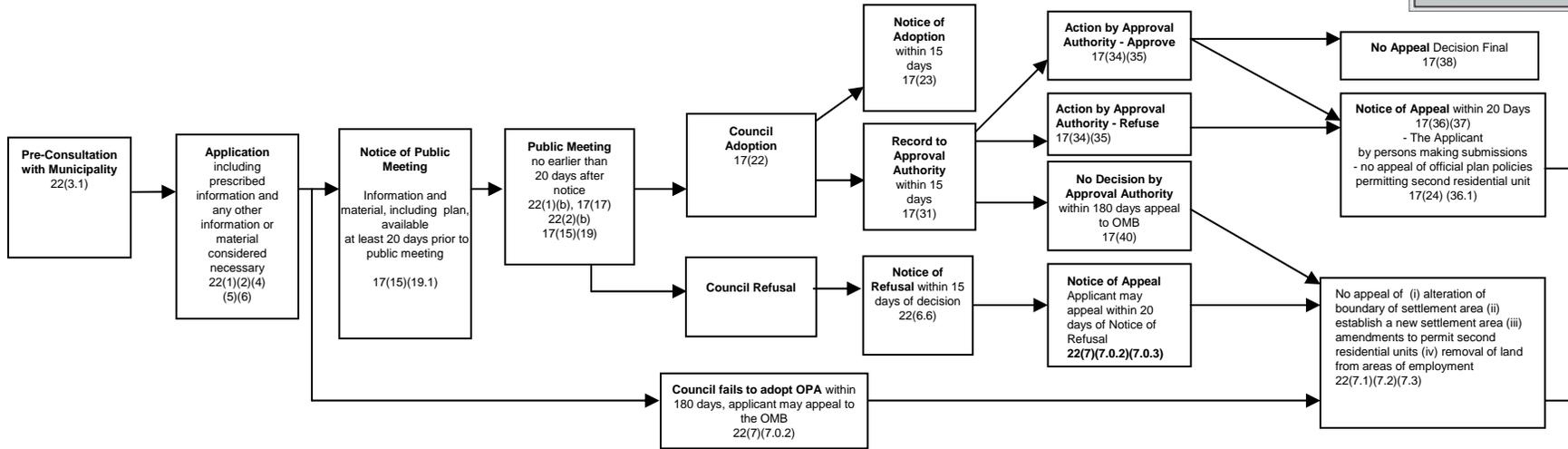
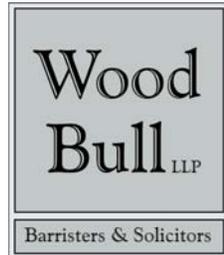


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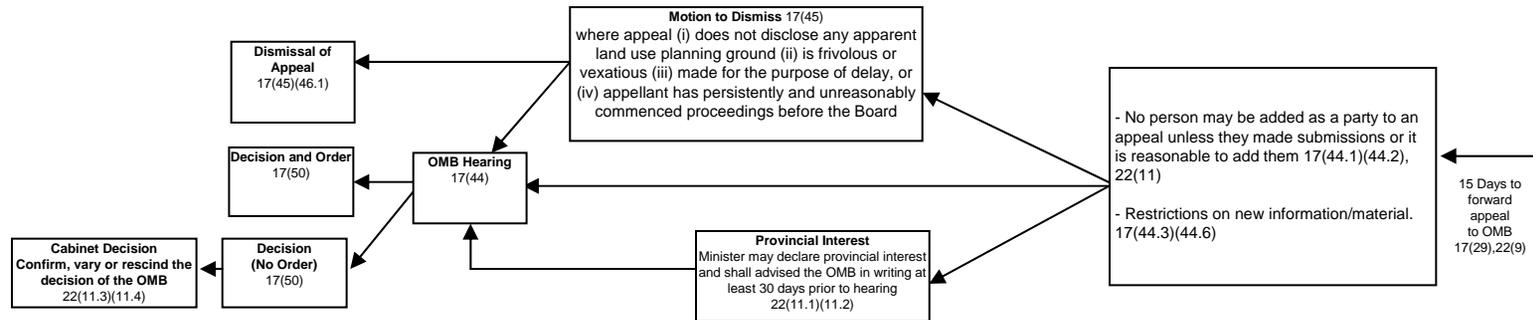
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OPA Initiated by Applicant and Not Exempt from Approval

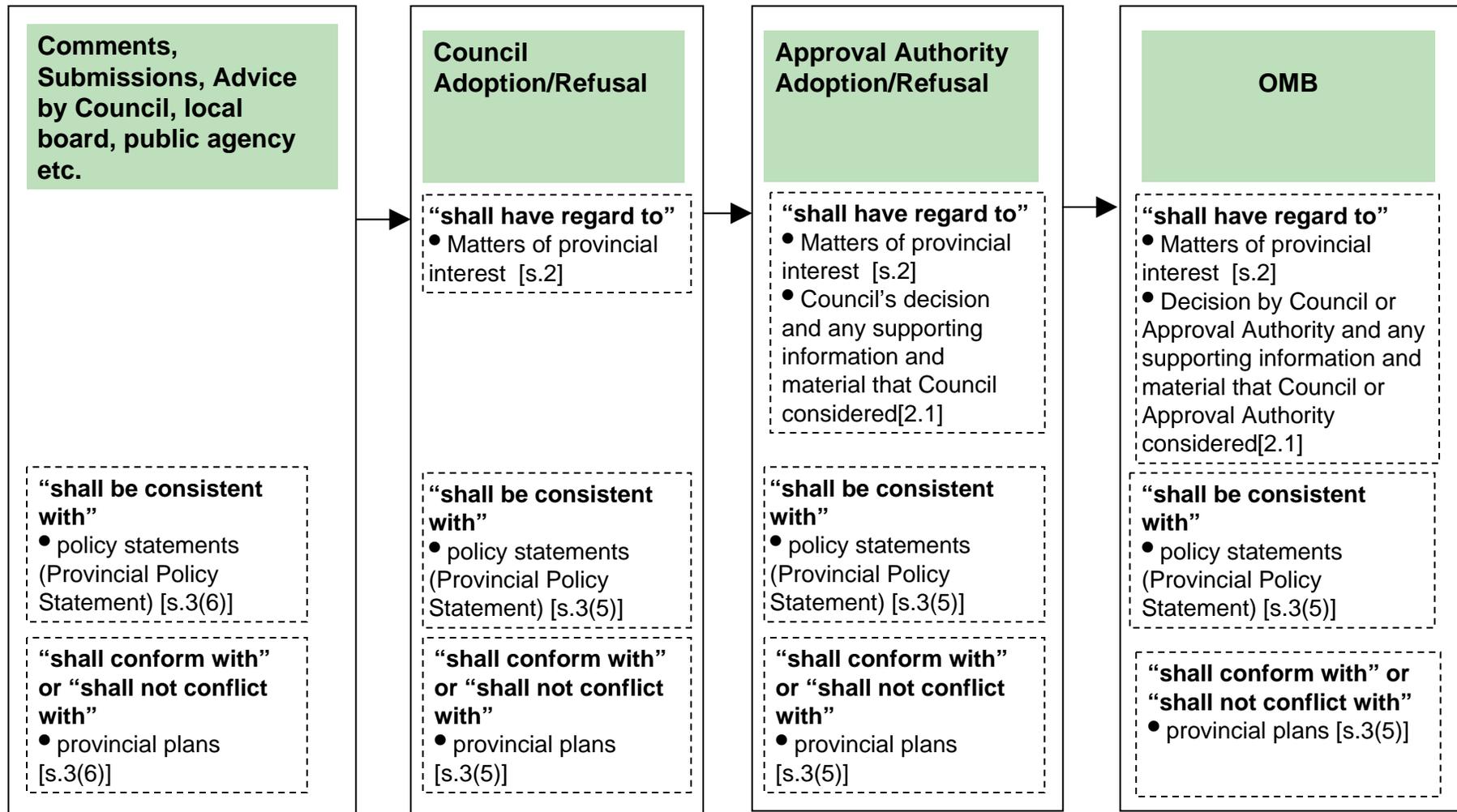
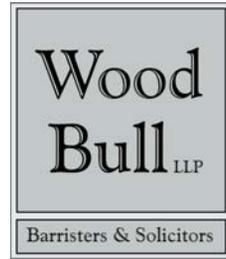


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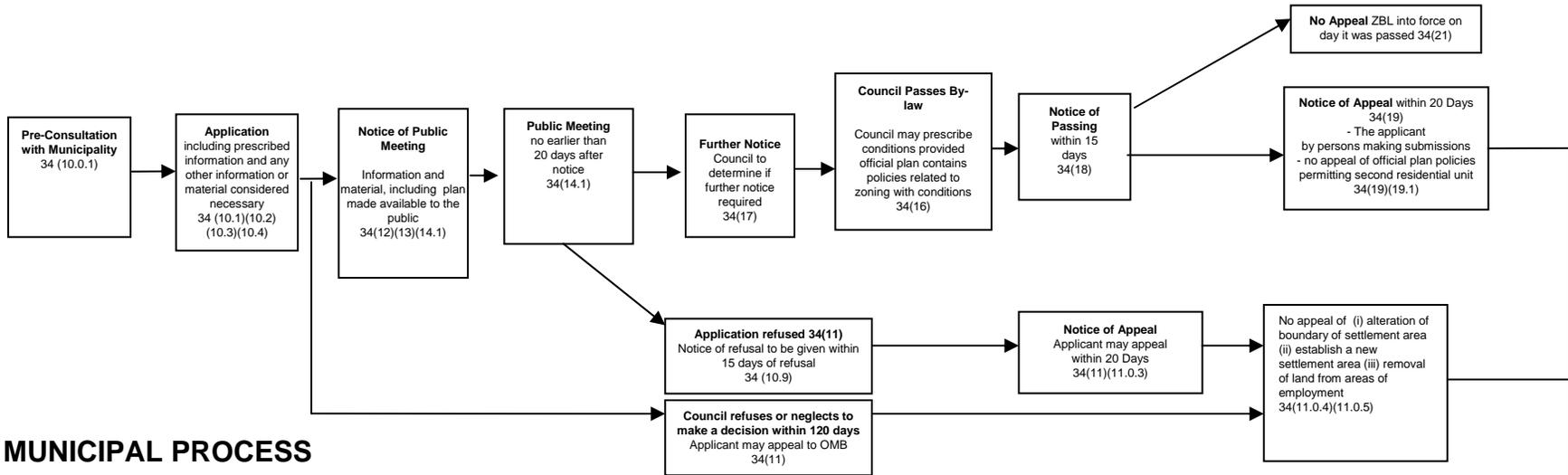
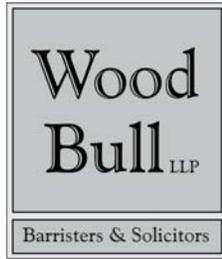


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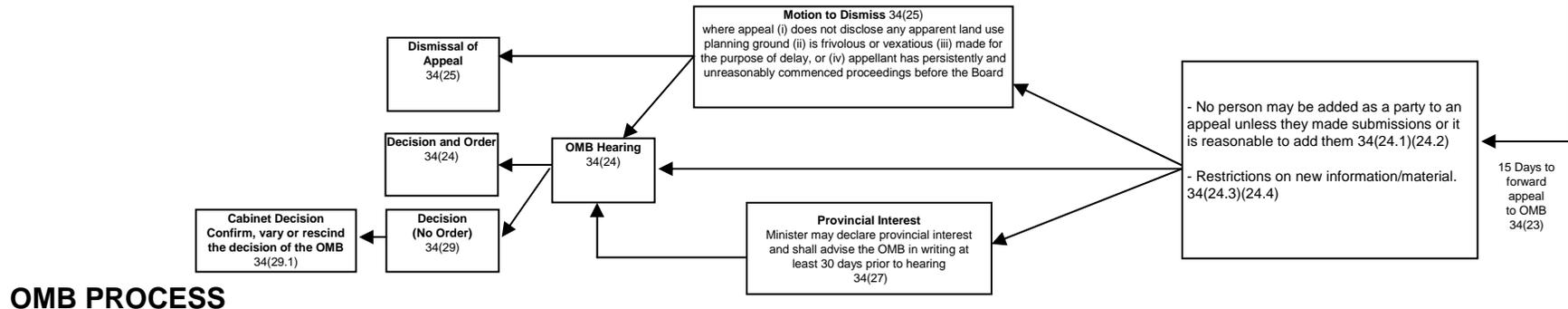
OPA Initiated by Applicant and Not Exempt from Approval



Zoning By-law Amendment

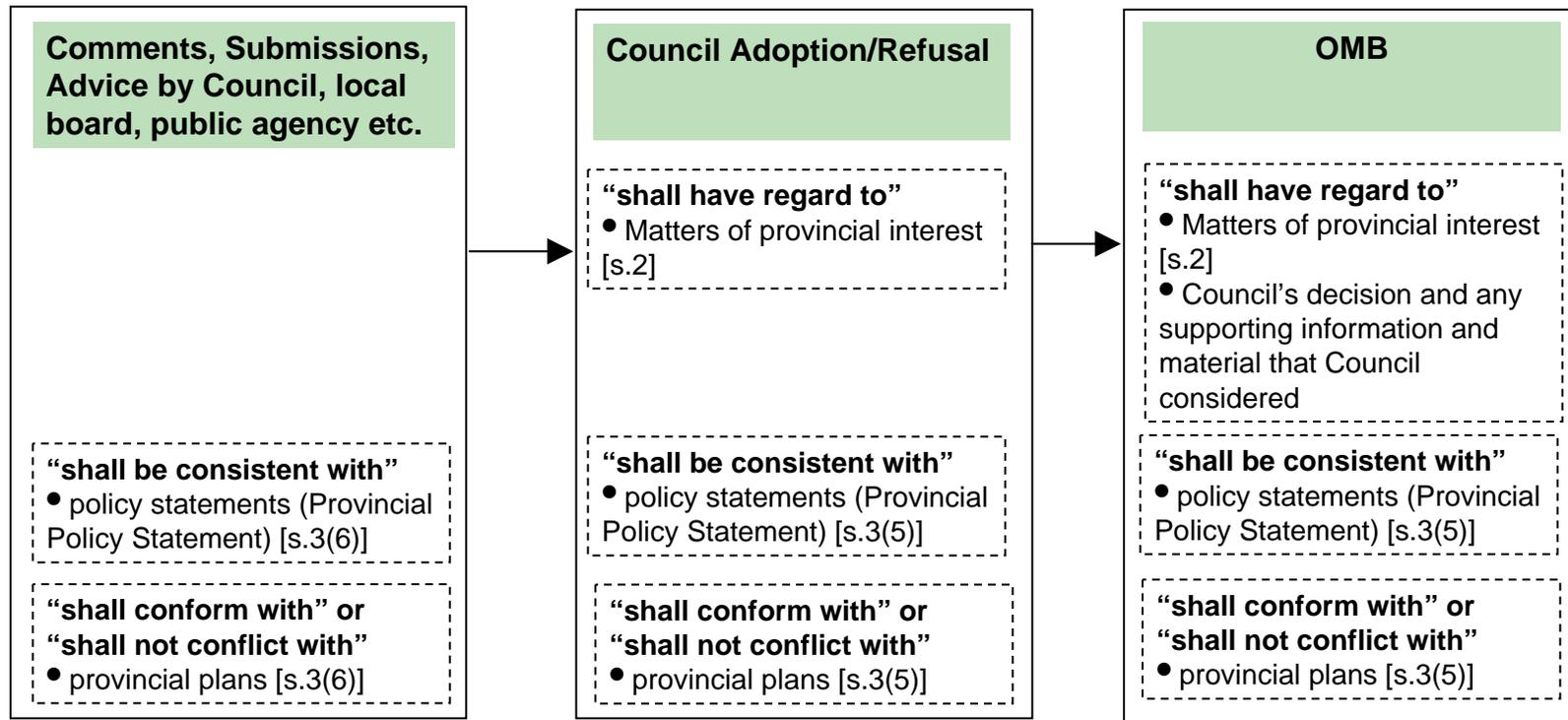


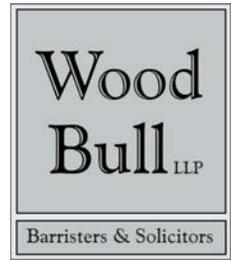
MUNICIPAL PROCESS



OMB PROCESS

Zoning By-law Amendment

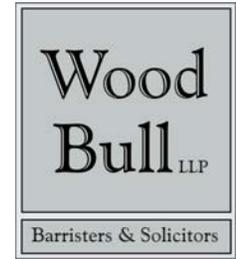




Ontario Municipal Board Jurisdiction

Ontario Municipal Board

Jurisdiction: Official Plans



Powers of O.M.B.

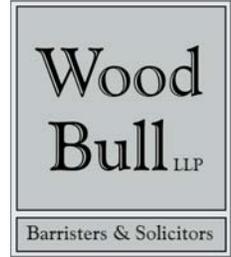
17 (50) On an appeal or a transfer, the Municipal Board may approve all or part of the plan as all or part of an official plan, make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan. 1996, c. 4, s. 9.

Same

17 (50.1) For greater certainty, subsection (50) does not give the Municipal Board power to approve or modify any part of the plan that,

- (a) is in effect; and
- (b) was not dealt with in the decision of council to which the notice of appeal relates. 2006, c. 23, s. 9 (13).

Ontario Municipal Board Jurisdiction: Zoning By-laws

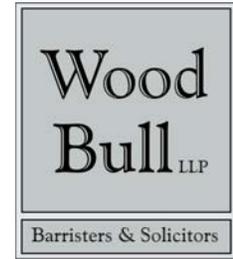


Powers of O.M.B.

34 (26) The Municipal Board may,

- (a) dismiss the appeal; or
- (b) allow the appeal in whole or in part and repeal the by-law in whole or in part or amend the by-law in such manner as the Board may determine or direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order.
R.S.O. 1990, c. P.13, s. 34 (26).

Ontario Municipal Board Jurisdiction: Zoning By-laws

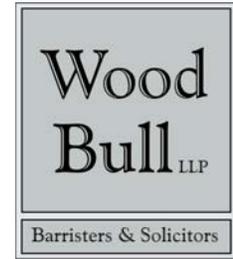


Appeal to O.M.B.

34(11) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council refuses or neglects to make a decision on it within 120 days after the receipt by the clerk of the application, any of the following may appeal to the Municipal Board by filing a notice of appeal with the clerk of the municipality:

1. The applicant.
2. The Minister. 2006, c. 23, s. 15 (5).

Ontario Municipal Board Jurisdiction: Site Plans

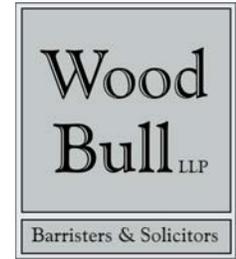


Appeal to O.M.B.

41(12) If the municipality fails to approve the plans or drawings referred to in subsection (4) within 30 days after they are submitted to the municipality or if the owner of the land is not satisfied with any requirement made by the municipality under subsection (7) or by the upper-tier municipality under subsection (8) or with any part thereof, including the terms of any agreement required, the owner may require the plans or drawings or the unsatisfactory requirements, or parts thereof, including the terms of any agreement required, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality or upper-tier municipality, as appropriate. 2002, c. 17, Sched. B, s. 14 (5).

Ontario Municipal Board

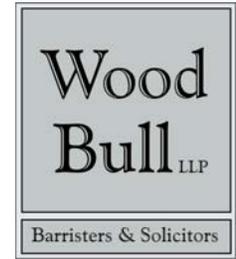
Jurisdiction: Minor Variances



Powers of O.M.B.

45(18) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application.
R.S.O. 1990, c. P.13, s. 45 (18).

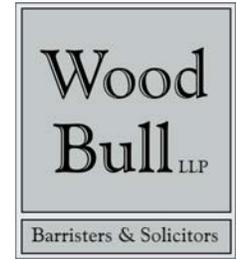
Ontario Municipal Board Jurisdiction: Subdivision



Powers

51(56) On an appeal under subsection (34) or (39), the Municipal Board may make any decision that the approval authority could have made on the application and on an appeal under subsection (43) or (48) shall determine the question as to the conditions appealed to it. 1994, c. 23, s. 30.

Ontario Municipal Board Jurisdiction: Consent



Powers

53(34) On an appeal under subsection (14) or (19), the Municipal Board may make any decision that the council or the Minister, as the case may be, could have made on the original application and on an appeal of the conditions under subsection (27), the Board shall determine the question as to the condition or conditions appealed to it. 1994, c. 23, s. 32.

Wood
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Barristers & Solicitors

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