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ONTARIO PLANNING PRACTICE

WeirFoulds LLP

Release No. 67, December 2018

What's New in this Update:

- This release contains updates affecting the application of s. 24 of the *Planning Act*, a revamp of the cases under s. 34(9)(a), together with various matters under the LPAT Rules and expropriation matters, including the power to grant partial summary judgments.

The Tribunal has now stated a case to the Divisional Court to seek clarification of several issues which have been raised. As significant decisions are published, they will be included in future updates.

This release also features updates to the *Planning Act* Legislative History table and the Legislatively Defined Terms section, as well as

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updates to regulations and a new version of the Government of Ontario's Planning Act Approval Authority Chart.

- New case law includes: *9616837 Canada Ltd. v. Town of Wasaga Beach* (2018), 8 L.C.R. (2d) 85 (Ont. S.C.J.); *Lapolla v. Estate of John Bostock* (2017), 92 R.P.R. (5th) 273 (Ont. S.C.J.); *1353837 Ontario Inc. v. City of Stratford* (2018), 7 L.C.R. (2d) 250 (Ont. Div. Ct.); *John Schuller Enterprises Ltd. v. Waterloo (Regional Municipality)* (2018), 8 L.C.R. (2d) 77 (Ont. L.P.A.T.); *Windsor (City) v. Larson* (1980), 20 L.C.R. 344 (Ont. Div. Ct.); *Beniuk v. Leamington (Municipality)* (2018), 7 L.C.R. (2d) 52 (O.M.B.); *1520658 Ontario Inc. v. Her Majesty the Queen* (2017), 7 L.C.R. (2d) 85 (Ont. S.C.J.); *Naidal Incorporated v. Owen Sound (City)* (2017), 7 L.C.R. (2d) 200 (O.M.B.).

Any suggestions, corrections or concerns from readers are appreciated and can be sent to the editor, Bruce Engell at bengell@weirfoulds.com.

Highlights

- **Planning Act – S. 24 – Public works and by-laws to conform with plan** – Section 24(3) [of the *Planning Act*] allows a municipality to pass by-laws for preliminary matters which do not conform with the Official Plan, including a by-law to apply for approval to expropriate, but not a by-law to expropriate: *9616837 Canada Ltd. v. Town of Wasaga Beach* (2018), 8 L.C.R. (2d) 85 (Ont. S.C.J.).
- **Planning Act – S. 50 – Subdivision of Land** – An option agreement which would otherwise violate s. 50(3) has saving provisions which, under s. 50(21) defer the determination of contravention until the option has been triggered and acted upon: *Lapolla v. Estate of John Bostock* (2017), 92 R.P.R. (5th) 273 (Ont. S.C.J.).
- **LPAT Rules – Rule 28.13 – Applicability of Rules of Civil Procedure** – The Tribunal can grant summary judgment and partial summary judgment in expropriation matters: *1353837 Ontario Inc. v. City of Stratford* (2018), 7 L.C.R. (2d) 250 (Ont. Div. Ct.).