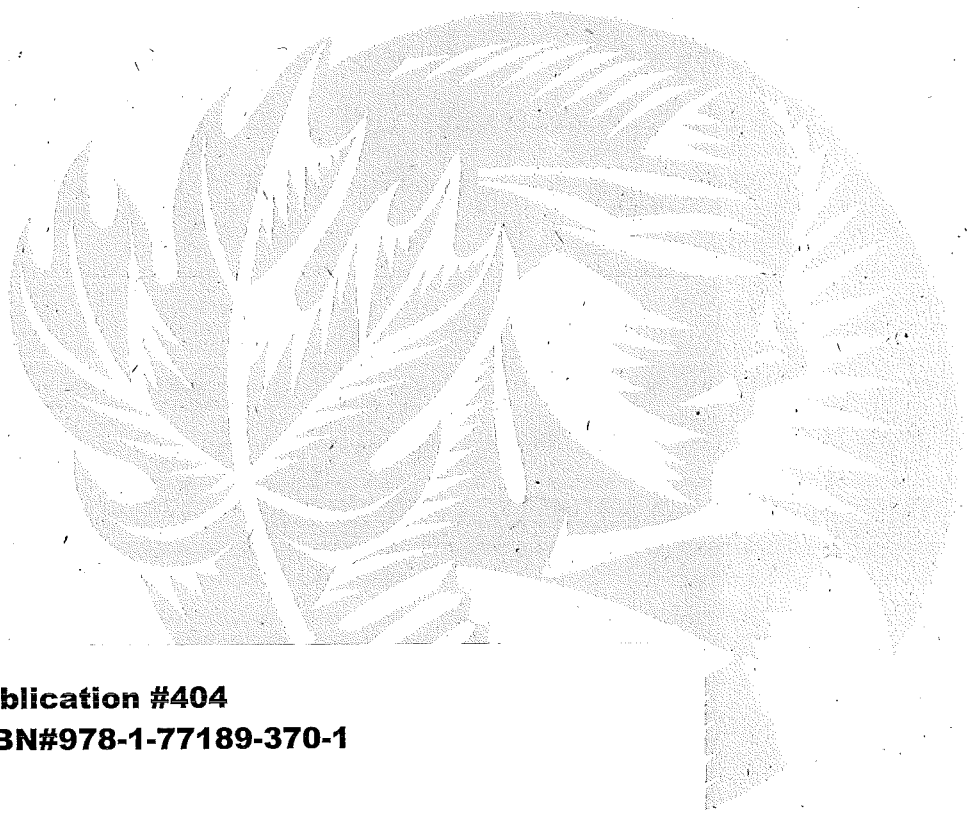


Re: Proposed Regulation to Establish a Development Permit System that Selected Municipalities can Implement in Pilot Project Areas

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Prepared by:
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June 4, 2001

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CANADIAN ENVIRONMENTAL LAW ASSOCIATION
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June 4, 2001

Norma Forrest/Senior Planner
Prov. Planning & Environmental Services Branch
777 Bay Street, 14th Floor
Toronto, Ontario
M5E 2E5

By FAX: 416-585-4006

Re: EBR Registry Number RF01E1001
Type of Posting: Regulation
Ministry: Municipal Affairs and Housing
Status of Posting: Proposal
Date Proposal Loaded: 2001/05/07
Comment Period: 30 Days – between May 7, 2001 and June 6, 2001

Re: Proposed Regulation to Establish a Development Permit System that Selected Municipalities can Implement in Pilot Project Areas

Dear Ms. Forrest / Senior Planner:

We write to provide comments with respect to the above-noted EBR posting.

As you know, when the original discussion paper concerning implementation of a development permits regulation under section 70.2 of the *Planning Act* was posted to the EBR, in 1998, we provided comment, expressing serious concerns and our concerns were endorsed by dozens of other environmental organizations.

Since then, the MMAH has embarked on a pilot project approach to a development permit regulation, and has struck an advisory committee in which CELA has participated. We, along with many other representatives of many different perspectives on that committee have spent a great deal of time, together with you and MMAH staff and advisors, discussing and responding to the various concerns that we and others have had.

As we have mentioned before, we would prefer that EBR postings contain proposed text of the regulatory or legislative initiative. Other Ministries do take this approach with their postings. Any comment we make in response to this posting for a proposed regulation is therefore subject to the caveat that our opinion may differ once we have an opportunity to see actual regulatory

text. As you know, an expression of intention in the EBR posting may or may not be accurately reflected in the language of the proposed regulation itself.

On the basis of the instant posting, and on the basis of the discussions pertaining to same, we support proceeding with the proposed regulation. One essential aspect of this support is that the proposed regulation allow municipalities to include strong environmental protection tools in their development permit by-law, as for example, is described in the paragraph of the posting titled “clarify the powers municipalities could use in implementing the proposed DPS, and the possible scope of conditions” where “it is proposed that municipalities would have the power to regulate site alteration (including but not limited to grading, dumping and filling) and the removal of vegetation in a development permit area. In areas of environmental constraints or hazardous conditions, municipalities would have broader powers to impose conditions related to the constraint, as an alternative to restrictive land use provisions.”

We understand and interpret this provision and we assume the regulation will explicitly provide that any matter included in the Provincial Policy Statement could provide the foundation for a protective provision in a development permit by-law. Thus, for example, as noted in this posting, the Township of Lake of Bays may deal with environmentally sensitive shoreline areas and protection of same in dealing with development applications; the Region of Waterloo may deal with protection of sensitive drinking water wellhead supply areas; and the City of Toronto may deal with environmental and public protection issues arising from contaminated sites in the manner in which their development permit by-law deals with redevelopment of waterfront areas.

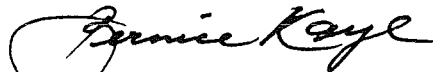
We support the application of this regulation to the named areas as an initial approach. The regulation should provide for a specified minimum review date, with a formal public consultation process, to determine how well the system has worked, and whether and in what manner to extend it beyond the initial pilot project areas.

Among the issues that are presently critical, is the issue of public education and training as to how the new system will work. Because the system relies on “up-front” participation by the public in the enactment of the development permit by-law itself, many members of the public will not realize the importance of this, and the fact that subsequent notice and right to comment and appeal with respect to specific development applications may be reduced compared to the present process. In conjunction with promulgation of this regulation, CELA seeks specific commitments, including appropriate resources, from MMAH, to public education and training in the pilot project communities, as well as appropriate communications and training together with the legal community, both directly in the affected communities, but also, at a provincial level. In addition, CELA seeks specific training commitments, with appropriate resources, for the environmental non-governmental organizations in the province. For example, outreach by MMAH regarding the development permit regulation through the Ontario Environment Network may be an appropriate mechanism for education and training.

Thank you for the opportunity to comment.

Yours very truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



for

Per

Theresa A. McClenaghan
Counsel

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