



REPORT

REPORT TO: Chair and Members of the Planning, Public Works and Transportation Committee

REPORT FROM: Slavica Josipovic, Chief Building Official

DATE: December 19, 2019

REPORT NO.: TPW-2020-0002

RE: Transforming and Modernizing the Delivery of Ontario's Building Code Services Update

RECOMMENDATION:

THAT Report No. TPW-2020-0002, dated December 9, 2019, regarding Transforming and Modernizing the Delivery of Ontario's Building Code Services be received;

AND FURTHER THAT the Town forward their concerns, as listed in this report, respecting the proposed transforming and modernizing the delivery of Ontario's Building Code services to the Minister of Municipal Affairs and Housing;

AND FURTHER THAT this report be circulated to the Town of Oakville, City of Burlington, Town of Milton and the Association of Municipalities of Ontario.

BACKGROUND:

On September 24, 2019 the Minister of Municipal Affairs and Housing (the Ministry) released a discussion paper "Transforming and Modernizing the Delivery of Ontario's Building Code Services". The discussion paper is attached to this report as Appendix A.

The Minister of Municipal Affairs and Housing discussion paper outlines existing code services, identifies concerns that have been raised regarding their delivery, and proposes enhanced and new services to the building sector.

The proposed transformation and modernization of building codes services is expected to:

- streamline customer service and approval processes;
- strengthen public safety;
- deliver sector-driven services;
- provide timely and modern tools and products;
- promote consistency across the province; and
- enhance integrity in the system.

COMMENTS:

As per the discussion paper, the proposed enhanced and new user-driven building code services would:

- modernize the current Building Code examination program to ensure that building code professionals have the required legal and technical knowledge so that public safety is protected;
- support the delivery of pre-qualification training;
- improve the current public registry & registration process by making it more streamlined and user-friendly;
- require Building Code professionals to complete Continuing Professional Development activities regularly to maintain knowledge in their areas of practice;
- improve compliance enforcement & increase transparency of disciplinary actions to ensure that building code professionals are meeting their qualification and registration requirements;
- help support municipalities with recruitment & retention of Building Code professionals
- enhance municipal enforcement to promote public safety by allowing the use of administrative penalties to help municipalities address non-compliance and contraventions of the *Building Code Act, 1992* and the Building Code;
- support building service delivery for smaller, rural & northern municipalities;
- provide more active enforcement in unincorporated areas;
- enable modern, digital services that meets the needs of users and supports municipal efforts to reduce building permit approval timelines;
- promote a consistent understanding and application of building code requirements by looking into additional and more comprehensive tools and services in a timely manner to provide clear, standardized, technical advice and interpretation;
- potentially introduce the use of Coordinated Professionals to coordinate work of professionals involved in a project;
- potentially introduce the use of Certified Professionals to ensure Code compliance and streamline the permit approval process; and
- improve the quality and quantity of building industry data and research.

The Ministry is proposing to establish a new Administrative Authority which is intended to be

- private;
- not-for-profit corporation;
- managed by independent board of directors;
- designated by legislation; and
- operationally independent & self-funded (fees for directly delivered services would be added to municipal building permit fees).

Concerns/Comments on the transformation and modernization proposals:

As identified in the discussion paper the Ministry is responsible for:

- setting policy direction and establishing regulatory building standards;
- overseeing the qualification and registration of building practitioners;
- providing support to consumers (i.e. Code interpretations, Intent statements, Guidelines and Technical bulletins); and
- publishing guides and resources and explaining policy intents of code requirements).

Historically, the Ministry has been providing these services but over time the delivery of these services has not kept pace with the needs of the sector. The majority of the existing and new services listed in the discussion paper will be provided by the new Administrative Authority. Based on the information provided by the new Director of Policy Branch, the Ministry will retain only the services identified in the first bullet above (the development of the Building Code), which represents downsizing of the Ministry and downloading costs on to municipalities/users.

An additional concern is that there was no consultation conducted with the public respecting the model to create the Administrative Authority (in order to maintain the integrity of the Building Code Act and the Ontario Building Code more suitable model would be similar to Ontario Fire Marshall). Also, costs to the municipalities and building permit applicants associated with the proposed changes are unknown at this time; due to the scope of the enhanced & proposed services the cost of services provided by the Administrative Authority may significantly exceed the original estimate.

The Ministry's "Process Mapping for Development in Ontario" conducted in 2019 through consultation with the building industry noted concerns with Site Plan Approvals, Ministry of the Environment, Culture and Parks, Ministry of Transportation, Conservation Authorities, etc which are required to be satisfied prior to issuing the building permit. The Building Code already sets out the timeframes for the issuance of permits for which complete applications have been submitted.

Currently engineers and architects in Ontario are not required to be qualified building code practitioners and code expertise lies with building officials. In order to improve

permit availability the Ministry proposes to create a new category of “Certified Professionals” who would take additional building code training and examinations to perform plans review and potentially site inspections. However, this measure will not bring the expected benefits as the reasons for most permit delays rest with external jurisdictions and other applicable law over which the Certified Professionals have no influence.

Based on past experience with PEO, requiring engineers to be qualified code practitioners would be a significant challenge. This proposal is a copy of the British Columbia model which requires 8 months additional training and 16 hours of examinations. Only 3 of 162 municipalities in BC have used this model/option.

It should be also noticed that this program is similar to the existing voluntary provision of a Registered Code Agency that was introduced in the Ontario Building Code in 2006 and has rarely, if ever, been used.

Should this model be accepted, the municipality’s liability needs to be seriously considered as building and occupancy permits would still be issued by municipalities based on “letters of assurance” issued by the Certified Professionals.

Currently only municipal building officials and some categories of buildings designers are required to be qualified and registered with the Ministry. Architects, professional engineers and builders are exempt from registration as well as from continuous professional development requirements.

RELATIONSHIP TO STRATEGIC PLAN:

This report is for information purposes and is not directly related to the Strategic Plan.

FINANCIAL IMPACT:

The proposed Administrative Authority would be financially self-sustaining and would operate on a full cost recovery basis. A levy calculated on estimated construction value on top of municipal building permit fees would be collected. The impact/cost to the Town and building permit applicants associated with the proposed changes is unknown at this time.

CONSULTATION:

The discussion paper was reviewed at the Large Municipality Chief Building Officials (LMCBO) Workshop in November 2019. In attendance was the Director of the Building Branch who provided the members with greater detail and clarity on the transformation and modernization proposal.

On November 22, 2019 the LMCBO submitted comments in response to the discussion paper.

PUBLIC ENGAGEMENT:

On September 24, 2019 the “Transforming and Modernizing the Delivery of Ontario’s Building Code Services” document was posted on the Ministry’s website and also sent directly to the CAO’s and CBO’s of all municipalities in Ontario. Only four information sessions were held for the entire Province.

Public consultation comments were to be submitted by November 25, 2019. Based on discussions, the Ministry is still accepting comments.

SUSTAINABILITY IMPLICATIONS:

The Town is committed to implementing our Community Sustainability Strategy, Imagine Halton Hills. Doing so will lead to a higher quality of life.

The recommendation outlined in this report is not applicable to the Strategy’s implementation.

COMMUNICATIONS:

Information on the discussion paper was presented to the Town’s Senior Management Team in December.

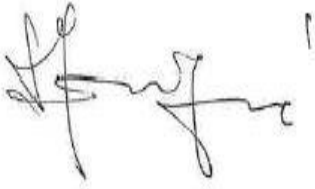
CONCLUSION:

The “Transforming and Modernizing the Delivery of Ontario’s Building Code Services” discussion paper released in September 2019 proposes enhanced and new services to the building sector along the following four themes:

- Getting people working in the building sector
- Promoting sustainability and transparency in the Building Code profession
- Building Code administration and enforcement
- Improving building sector supports

However, the proposed measures raise a number of concerns that should be addressed in greater detail prior to finalizing the changes and which require balanced representation of all stakeholders, regulators and general public.

Reviewed and Approved by,

A handwritten signature in black ink, appearing to read 'Slavica Josipovic'.

Slavica Josipovic, Chief Building Official

A handwritten signature in black ink, appearing to read 'Chris Mills'.

Chris Mills, Commissioner of Transportation and Public Works

A handwritten signature in black ink, appearing to read 'Brent Marshall'.

Brent Marshall, Chief Administrative Officer