



OAKVILLE

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: SEPTEMBER 11, 2017

FROM: Legal Department

DATE: August 15, 2017

SUBJECT: Delegation of Authority to the Director of Planning Services - Validation Certificates under section 57 of the *Planning Act* - By-law 2017-086

LOCATION: Town Wide

WARD: Town wide

Page 1

RECOMMENDATION:

That Council pass By-law 2017-086, a by-law to amend By-law 1998-273, a by-law to delegate to the Director of Planning Services and to a committee of adjustment part of the authority vested in Council with respect to the giving of consents pursuant to sections 50 and 53 of the *Planning Act*.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Council has previously delegated its authority to grant consents under section 53 of the *Planning Act* to the Director of Planning Services (for consents not requiring variances) and to the Committee of Adjustment (for consents requiring variances).
- The authority to issue validation certificates under section 57 of the *Planning Act*, (retroactively approving transactions that had occurred without the proper consent) are not expressly delegated under this by-law.
- Adding validation certificates to the list of matters delegated to the Director of Planning Services would be appropriate and achieve certainty with respect to the authority to issue these certificates.

BACKGROUND:

The subdivision control provisions of the *Planning Act* (sections 50 and 51) prevent the division or subdivision of land through the transfer of ownership or certain rights in property without the appropriate approvals. One of the mechanisms for granting

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approvals is through “consents” authorized under section 53 of the *Planning Act*. The authority to grant consents under section 53 of the *Planning Act* has been delegated from the Region of Halton to the Town of Oakville under Regional By-law 179-98 and delegated by Council to the Director of Planning Services (for matters not requiring a variance) and to the Committee of Adjustment (for matters requiring a variance through By-law 1998-273 as amended by By-law 2003-201).

Section 57 of the *Planning Act* allows councils that are authorized to give a consent under section 53 to issue a certificate of validation, which has the effect of giving retroactive approval to transactions that occurred without the proper consent. By-law 1998-273 as amended does not expressly mention this authority.

COMMENT/OPTIONS:

While other scenarios are possible, requests for certificates of validation typically involve situations where two properties accidentally become one through common ownership. All subsequent sales of one property without the other are invalid without a validation certificate. Applications of this nature are time sensitive since the error is usually discovered when another transaction is pending. The town has recently received an application of this nature which is in circulation.

As noted above, By-law 1998-273 does not expressly delegate the authority to issue validation certificates. Although the authority to issue these certificates is ancillary to the ability to give consents (which has been delegated) an express delegation is recommended for the purpose of achieving certainty.

Applications of this nature do not involve public notice and are not subject to appeal. They are circulated internally and to public agencies in accordance with standard practice to determine if there are any issues or need for conditions. The matters to be considered in issuing validation certificates are prescribed by regulation and are generally the same as those applicable to granting consents. Matters involving more complicated issues would be referred to the standard consent process.

By-law 2017-086 would formally grant authority to the Director of Planning Services to issue these certificates. The proposed delegation of authority would clarify the Director’s authority in these matters and ensure that the town can respond to such requests in a timely manner.

CONSIDERATIONS:

(A) PUBLIC

Public notice is not required for validation certificates.

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(B) FINANCIAL

The town's planning fee schedule already includes fees for validation certificates. A decision made through delegation of authority is consistent with the fees charged for this service.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

There are no impacts on other departments or users.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be accountable in everything we do

(E) COMMUNITY SUSTAINABILITY

An efficient process to address title issues supports economic and social sustainability.

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