



Municipal Heritage Committee Report

Report Number: KLMHC2023-081

Meeting Date: November 9, 2023

Title: **Proposed Amendments to the Ontario Heritage Act through Bill 139**

Description: Review of the proposed amendments to the Ontario Heritage Act through Bill 139 (Less Red Tape More Common Sense Act)

Author and Title: Emily Turner, Economic Development Officer – Heritage Planning

Recommendations:

That Report KLMHC2023-081, **Proposed Amendments to the Ontario Heritage Act through Bill 139**, be received; and

That a subcommittee be formed to provide comments on behalf of the Committee.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

In October 2023, the provincial government introduced Bill 139, the Less Red Tape More Common Sense Bill. The intent of the bill is to improve service delivery across a range of sectors and it includes a variety of amendment to twenty pieces of diverse legislation. This includes the Ontario Heritage Act where the bill proposes to amend Section 33 of the Act. Bill 139 is attached to this report as Appendix A and the proposed amendments the Ontario Heritage Act are included as Schedule 14 of the proposed bill.

Section 33 of the Act regulates the approval of alterations to individually designated properties under Part IV of the Act. This section allows a municipality to approve, approve with conditions, or deny an application to alter a property designated under Part IV of the Act. The proposed amendments provide an alternate process for religious properties where the alteration would impact an aspect of the property that is actively used for religious or spiritual practice. Specifically, the amendments propose to amend the section so that applications to properties used for religious or spiritual practices are approved without conditions if the following conditions are met:

- The building, or part thereof, to be altered is primarily used for religious practices;
- The heritage attributes to be altered are connected to religious practices;
- The alteration of the heritage attributes is required for religious practices;
- Any additional conditions prescribed by regulation (this would be a new regulation making authority); and,
- The applicant provides council with an affidavit or sworn declaration that the application meets the conditions in the Act or prescribed in regulation.

Municipalities would rely on the sworn affidavit to demonstrate that the above conditions are met. Religious practices would include both the practices of religious organizations, such as churches, and the religious and spiritual practices of Indigenous communities or organizations. As with any other application made under Section 33 of the Act, the deeming of a complete application and consent or denial of said application would need to be undertaken within the prescribed timelines under the Act.

The stated intention of the amendment is to ensure that that religious organizations and Indigenous communities have a greater level of certainty when applications are being proposed to a designated property and continue to have limited interruptions in its use.

The amendments proposed will also require a number of regulatory amendments to implement. These amendments will be contained in Ontario Regulation 385/21 which contains a range of regulations related to different processes under the Ontario Heritage Act. The regulatory amendments have not yet been drafted but the Ministry of Citizenship and Multiculturalism (MCM) has provided a summary of the amendments required and their intended approach. These regulatory amendments are outlined below.

Timelines

MCM is proposing that municipalities will have 30 days to issue a notice of approval under for properties to which the new processes apply. Where a notice of approval is not issued within 30 days, there will be deemed consent. Where an application is incomplete, a municipality would have 30 days to issue a notice of incomplete application.

At present, the timeline for approval of alteration application under Section 33 of the Act is 90 days.

Conditions

MCM is proposing that the following additional conditions be prescribed by regulation:

- The alteration is not permitted to be an addition to the building.
- The alteration must be for the benefit of an Indigenous community, an Indigenous organization or a religious organization that is not an Indigenous organization where the religious organization is a registered charity under the laws of Ontario or Canada (applies to owners or tenants)

The intention of these additional conditions is to scope the provisions of the application and for additional information to be available to confirm the status of the applicant as a bona fide religious organization.

Application Requirements

In addition to the affidavit or sworn declaration, MCM is proposing that the following information and materials be required as part of a complete application:

- The name, address, telephone number and, if applicable, the email address of the applicant.
- The name of the municipality from which consent is being requested;
- A description of the property that is the subject of the application, including such information as the concession and lot numbers, reference plan and part numbers, and street names and numbers;
- A description of the proposed alteration, that includes identifying which heritage attributes would be impacted by the alteration;
- An explanation as to whether the proposal is for the benefit of the owner or a tenant; and
- Where the proposal would benefit an owner or tenant that is a religious organization that is not an Indigenous organization, the registered charity number of the religious organization.

Some of this information is already required as part of a complete application under Ontario Regulation 385/21, while those specifically related to the status of the owner or tenant are new.

Proposed Definition

MCM is proposing to define the word “building” to provide additional clarity and scope. For the purposes of the provision, it is proposed that “building” would mean:

- With respect to an application for the benefit of an Indigenous community or organization, a building that the Indigenous community or organization has identified as a place used for Indigenous religious or spiritual practices; or
- With respect to an application for the benefit of a religious organization that is not an Indigenous organization, a building that the religious organization has identified as a church, mosque, synagogue, temple, chapel, or other place of worship.

At present, there is no definition for a building under the Ontario Heritage Act or its regulations.

Rationale:

The proposed amendments are currently listed on the Environmental Registry of Ontario for commenting. They were also circulated by MCM to municipal heritage

planners throughout the province in late October 2023 for commenting. MCM has requested that comments be provided by staff and municipal heritage committees on the proposed amendments to the Act and associated regulations. While also looking for more general comments, MCM has provided some specific questions to gauge the regulatory impact of the proposed amendments. These questions are:

- Is 30 days a sufficient time for municipalities to process applications and determine if they are complete?
- Are there any further conditions that should be applied to these types of applications?
- Is the list of information and materials required as part of complete application sufficient? Are there any materials or information that is missing or should be removed?
- Are the types of buildings listed considered by religious organizations to be reflective of what are commonly thought of, or referred to as a place of worship? Do Indigenous communities and organizations consider the definition as reflective of buildings where their religious and spiritual Indigenous practices might take place? Are there modifications or additions to the definition that religious organizations, Indigenous communities or Indigenous organizations would suggest?
- How many applications do you receive each year from municipally designated heritage properties that are primarily used for religious practices or Indigenous spiritual or religious practices requesting an alteration to identified heritage attributes connected to those practices?
- How long does it typically take to review such an application (in hours)? How long do you believe it would take under the revised process and requirements?
- What level of employee in your organization typically undertakes this work (e.g., administrative staff, management)?

Staff are suggesting that the subcommittee that has been formed from time to time to comment on legislative, policy and regulatory changes be reconvened to provide comment on behalf of the Municipal Heritage Committee. Staff will also be providing comment to the Ministry and, as usual, will append the Committee's comments to the submission.

The comment period for the proposed amendments to the Ontario Heritage Act and O. Reg. 385/21 closes on December 3, 2023.

Impact on City Operations

The City typically receives very few alteration applications related to religious buildings. However, this may change as additional buildings are designated under the Act as a result of Bill 23. At present, the impact on City operations is anticipated to be primarily on a staff level where any applications will require additional review to ensure that the conditions outlined under the regulatory amendments are met prior to processing. It is also anticipated that the Municipal Heritage Committee may need to meet on a more frequent basis if these applications are received to adhere to the 30-day review timelines.

In addition, the City's Heritage Applications Policy will require amendment to reflect the regulatory charges with regard to submission requirements and procedures. Should the Bill be passed, staff will bring forward those amendments to the Committee for review in the new year.

Other Alternatives Considered:

The Committee could choose not to comment on the proposed amendments.

Financial/Operation Impacts:

There are no financial or operational impacts as a result of the recommendations of this report.

Consultations:

N/A

Attachments:

Appendix A – Bill 139



Adobe Acrobat
Document

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services