YOUNG ANDERSON
BARRISTERS & SOLICITORS

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CLIENT BULLETIN

BILL 17 REVISES MINISTERIAL APPROVAL REQUIREMENTS

On March 10, 2014, Bill 17, the *Miscellaneous Statutes Amendment Act, 2014*, was introduced in the Legislature by the Attorney General and Minister of Justice. If passed, the Bill will affect the *Local Government Act, Community Charter* and *Vancouver Charter* and will, among other changes, potentially eliminate many ministerial approvals for regional district land use planning and development bylaws. The land use contract termination provisions in Bill 17 are covered in our separate client bulletin.

Soil Removal & Deposit Bylaws

Section 195(3) of the *Community Charter* and section 723(7) of the *Local Government Act* will be repealed, and as a result, municipal and regional district bylaws imposing fees in relation to soil removal and deposit will no longer require the approval of the Minister of Community, Sport and Cultural Development.

However, ministerial approval will still be required for bylaws that *prohibit* soil removal and deposit under section 9(1)(e) of the *Community Charter*. A bylaw that prohibits the removal of soil will continue to require approval from the Minister of Energy, Mines and Petroleum Resources before adoption. Likewise, a bylaw that prohibits the deposit of soil, making reference to the quality of soil or to contamination, will continue to require approval from the Minister of Environment.

Part 26 Regional District Bylaws

Several sections of the *Local Government Act* will also be amended by Bill 17, mostly under Part 26 – Planning and Land Use Management, to change the regime for approval of regional district bylaws by the Minister of Community, Sport and Cultural Development. New sections are being added to enable the minister to establish "policy guidelines" regarding the process of developing and adopting bylaws that currently require ministerial approval, and regarding the content of such bylaws. These include official community plans, zoning bylaws, subdivision servicing bylaws, temporary use permit bylaws and land use contract amendment bylaws. (Land use contract termination bylaws, also provided for in Bill 17, are not included.) Bill 17 will also enable the minister to make regulations requiring ministerial approval of such bylaws. This reverses the current situation, which requires ministerial approval of all such bylaws unless a regulation exempts them from approval. Sections 882(4), (6)(b) and (7) and 913, which require ministerial approval in relation to adoption or amendment of these types of bylaws, will be

repealed. Finally, section 938(3.1) will be amended to substitute for the present requirement for approval of the Minister of Transportation and Infrastructure, power for that minister to make regulations requiring ministerial approval before the adoption of a regional district bylaw establishing subdivision servicing requirements for rural areas.

It is important to note that under Part 26 and the *Transportation Act*, ministerial approvals will still be required with respect to the following:

- prohibition or restriction of the use of land for a farm business in a farming area and adoption of farm bylaws (ss. 903(5) and 917(3); Minister of Agriculture); and

- development near controlled access highways (s. 924(2) and s. 930(4) and s. 52(3) of the *Transportation Act*; Minister of Transportation and Infrastructure).

Bill 17 does not affect the requirement for the approval of development cost charge bylaws by the Inspector of Municipalities.

DCC Bylaws and In-stream Applications

Bill 17 also adds development permit applications and zoning amendment applications to the category of "in-stream" applications that are exempt (for one year) from amended or replaced development cost charge bylaws. Subdivision applications have for years qualified for such an exemption, and the *Local Government Act* was amended in 2011 to give similar protection to in-stream building permit applications. Under the new s. 937.001, the developer will have to submit a development permit application plus the applicable fee to the "designated local government officer", or a rezoning application and applicable fee in accordance with the procedures set out in the local government's s. 895 (development application procedures) bylaw, to qualify for exemption from a new DCC bylaw or rate. The reference to the "designated local government officer" engages the statutory definition of that term, which refers to an officer designated in the local government's officer bylaw or, in the absence of such a designation, the corporate officer. Like the 2011 amendments dealing with subdivision and building permit applications, this reference may result in developers who are aware of an upcoming DCC increase attempting to file their development permit application with the corporate officer, since officer bylaws rarely bestow an officer designation on the planning officials who typically receive development permit applications.

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