

## ***The Basics of Zoning***

In Ontario, the use of land is controlled ultimately by the *Planning Act* of Ontario that provides for official plans to be passed within municipalities. These plans set out a municipality's general policies for future land use. These official plans are then broken down into zones by municipalities through the passage of zoning by-laws. Zoning by-laws implement the Official Plan and provide for and control the use of land in zones within the Official Plan itself.

An Official Plan may designate an area within a municipality as a residential area. The zoning by-law may then control the use of that residential area zone by zone. For example, a zone within a residential area may permit for the constructions of single detached dwellings, semi-detached dwellings, townhouses, condominiums or apartments. If you intend to buy vacant land, it is essential that you determine what the zoning by-law for the municipality permits. The zoning by-law will contain very specific requirements that the municipality can legally enforce. If what you propose by way of construction or new development does not comply with the municipality zoning by-law, the municipality may refuse to issue you a building permit.

The zoning by-law generally controls the use of land, and as a minimum will establish:

- a) how land and buildings may be used
- b) where buildings and other structures can be located on the land
- c) lot sizes, parking requirements, building height restrictions and so on.

You should also be aware that zoning by-laws can be changed. The Ontario *Planning Act* establishes a process that permits a municipal council or an individual to request an amendment to the zoning by-law affecting land at any time. The process insures fair notice to all who may be affected by the change in use and allows those with an interest to attend before council to express their views, preferences and objections. Should the zoning change be permitted by council and the owner or adjoining land-owners object, all is not lost. Those so affected may apply to the Ontario Municipal Board to challenge council's decision in relation to re-zoning affecting the particular land parcel in question.

Because the cost of rezoning or challenging zoning can be enormous both monetarily and in the time involved it is essential that when purchasing property you check out with the municipality the zoning provisions and how they affect your intended use of land. The only way to know whether an existing use complies with a zoning by-law is to ensure that you obtain an up-to-date building location survey. There is not substitute for a survey. While lenders will try to convince you that the obtaining of title insurance in the place of obtaining a survey, that is not true. Title insurance simply insures against any problems that might arise as a result of zoning infractions being discovered after the fact.

Zoning, like taxes, is a fact of life. So when purchasing land, buyer beware!

*The opinions expressed are for information purposes only and readers should consult with a lawyer in relation to specific cases.*