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- Barrister -

REAL ESTATE DEVELOPMENT | MUNICIPAL LAW | ENVIRONMENTAL LAW

April 23, 2019

VIA EMAIL

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, ON
M5G 2E5

Dear Minister Clark:

Re: PROVINCIAL AMALGAMATION INITIATIVE AND THE TOWN OF OAKVILLE

Introduction

The purpose of my submission is to address the possible amalgamation of the Town of Oakville with the Regional Municipality of Halton.

On December 12, 2018, Premier Ford announced that the province would conduct a review of regional governments to find ways to “cut red tape and inefficiencies”. Minister Steve Clark dismissed the suggestion raised by the electorate that more amalgamations were in the works and advised that the review was:

“about providing the best use of taxpayer dollars from our government. Its about governance, better service delivery and about improving government at that level. That is what it is about.”

What exactly is the government agenda? Is it really to find and fix what is wrong with regional government or is it to expand regional governments with the further amalgamation or reduction of the lower tier municipalities? The terms of reference for the two special advisors contain a mandate that appears problematic. Let’s review some components of the advisor’s mandate:

“The mandate of the advisory body is to provide expert advice to the Minister of Municipal Affairs and Housing and to make recommendations to the government on opportunities to improve regional governance and service delivery.”

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277 Lakeshore Road East, Suite 211
Oakville ON L6J 1H9



Toronto Meeting Rooms
Brookfield Place, 161 Bay Street, Suite 2700
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Recommendations from the advisory body will focus on the following questions: (I refer only to the following)

- b. Does the existing model support the **capacity** of the municipalities to make decisions efficiently? (my highlighting)*
- c. Are two-tier structures appropriate for all of these municipalities?*
- f. Is there opportunity for more efficient allocation of various service responsibilities?*
- g. Is there a duplication of services?*
- h. Are there barriers to making effective and responsive infrastructure and service delivery decisions?"*

The most glaring vagueness is paragraph b. and the meaning of the word “**capacity**” which would invite any interpretation justifying further amalgamation. A larger regional municipality will always have more “**capacity**”. But our 50 years of experience with regional government has proven that such does not mean fewer staff, reduced costs overall, reduced taxes, better service or streamlined results.

Indeed, the term “**capacity**” remains undefined.

The terms of reference state that Ministry Staff will provide the advisors with background research and reports on this issue, of which there is a great deal. Why is this material not identified and released to the public for their easy review? The research I have undertaken and relied on ¹ was time consuming to locate and evaluate and not likely to have uncovered all that is available to the government. More importantly, what was necessary was for this government to undertake its own original economic and fiscal research before even embarking on such an initiative and to make such public. Obviously, such has not occurred, otherwise we would have been directed to such as justification for this initiative. My recollection is that previous governments also never released the factual documentation that supported the need for restructuring the targeted municipalities before announcing the initiative. This new government has taken the same approach. Does such empirical research even exist? Even the most basic question of why were these municipalities selected and not others remains unanswered.

Obviously, a great deal of analysis, economic and financial data and consultation with affected stakeholders should occur in a constructive fashion, over reasonable time periods if acceptable and responsible results are to be reached. However, that has never been the approach by any previous provincial government. It is surprising that such initiatives by new provincial governments have

¹ Models of Government Structure at the Local Level (2004) Enid Slack;
Municipal Amalgamation In Ontario: “Boon or Boondoggle, Who Knows?” (2009) Dr. Barry Wellar;
Wendy Gillis Report, GTA NEWS (January 13, 2014) “Amalgamation brought fewer Ontario Cities but more city workers, report finds.”;
Municipal Amalgamation In Ontario (May 2015), Lydia Miljan and Zachary Spicer, Fraser Institute;
Province of Ontario Press Release (March 3, 2019) “Ontario Announces review of regional governments across province”;
Letter to Steve Clark, Minister of Municipal Affairs (February 13, 2019) executed by Region of Halton and the municipalities of Oakville, Milton, Burlington and Halton Hills.

been rushed, because previous governments have paid a heavy political price for forcing the issue on the electorate who have long memories. Unfortunately, it appears this government is poised to make the same mistake.

In Halton, I understand the advisors previously interviewed each head of council over a restricted period of one hour with a group consultation planned for May. The public consultations will also take place this spring but written submissions are encouraged to be less than 500 words. I now understand that because of the public backlash to the initiative, the advisors felt it necessary to hold a public meeting in the Regional Council Chamber on May 17, 2019, but they will select those individuals they are prepared to hear from and will restrict their number to twelve. Also, there is no indication that the province will share with the heads of council the submissions received from the public. In my opinion, unless the author of the submission has requested privacy, all written submissions should be made public. Otherwise, the benefits arising from the public's input is of little value and restricts the credibility of the advisor's recommendations. Finally, the mandate is for the advisors to complete their work and make their recommendations by September 30, 2019 - for the eight regional municipalities and their lower tier municipalities under review, plus Simcoe County. All to be accomplished in 9 months. This is similar to and in some cases even shorter than previous amalgamations going back to 1974.

Let's look at some history lessons.

History

The creation of the Regional-Municipality of Haldimand-Norfolk resulted from the amalgamation of these two counties in 1974 against the strong objections of its residents and elected officials which lead to its dissolution twenty years later. It was in the same year that the Region of Halton was created. The Haldimand-Norfolk amalgamation was done quickly and without meaningful consultation. Neither the public nor the elected officials ever bought in to it notwithstanding the only obvious negative result was a dramatic increase in realty taxes primarily to pay for regional government which eventually caused its reversal. It was with this political backdrop and the Mike Harris election victory that the new provincial government jumped at the chance to dissolve the region and separate the two municipalities back to its original position, with the total support of the local electorate. However, even that transition was rushed leaving the local elected officials to fend for themselves thereby eroding any potential cost savings.

What current residents remember most was the rushed and unwanted amalgamation of numerous municipalities by the new Harris government. It was this initiative some 25 years later that still angers the affected citizens and negatively colors their dislike for this political period.

The *Common Sense Revolution* Conservative Party platform in 1995 proclaimed that Ontario had too much government and that:

- “*Canadians are probably the most over-governed people in the world...we do not need every layer-federal, provincial, quasi-governmental bodies, regional, municipal and school board – that we have now*” and
- “*we must rationalize the regional and municipal levels to avoid the overlap and duplication that now exists*”. To accomplish this the platform advised

- *“We will sit down with municipalities to discuss ways of reducing government entanglement and bureaucracy with an eye to eliminating waste and duplication as well as unfair downloading by the province.”*

I suggest this “*Common Sense Revolution*” language has the same “ring” to it as the above mandate of Premier Ford’s initiative.

Staying with the Premier Harris era, to implement his grand scheme Bill 26 was approved in 1995, appropriately titled “Savings and Restructuring Act, 1995” describing as its purpose *“to achieve fiscal savings, streamlining and efficiency and to implement other aspects of the government’s economic agenda.”*

Within a year, when voluntary restructuring had not occurred, the government set the stage by compelling the complete amalgamation of Chatham and Kent after only 5 days of meetings with the provincial commissioner. At the same time the province announced in 1996 that it would amalgamate the municipalities within Metropolitan Toronto. Not wanting the same fate, the remaining targeted municipalities rushed to agree to their own amalgamation. The province then targeted the regional municipalities with the *1999 Fewer Municipal Politicians Act*. The object was to reduce the number of elected official and municipal staff, reduce taxes and improve efficiencies. The underlying theory was that the larger the municipality could produce more economies of scale, resulting in tax savings-similar to the “**capacity**” objective in Premier Ford’s mandate highlighted above.

Subsequent studies of these grand efforts (some of which I have noted above) all reached the same conclusions:

- i. There was never any hard economic or other substantive analysis which supported these political promises and initiatives.
- ii. The process was rushed and not collaborative. Rather it was a “top down” mandate to the commissioners who went through the process, refusing to genuinely listen and work with elected officials and senior municipal staff over realistic time periods.
- iii. The amalgamated municipality was left on its own to deal with the financial and structural consequences making the provision of government services to the public highly inadequate.
- iv. There is no evidence that any amalgamation of any sizeable municipality resulted in any cost savings or reduction in taxes; in fact, the opposite was reported as the norm.
- v. While amalgamation may have resulted in fewer elected officials, it also resulted in an increased government bureaucracy with increased wages.
- vi. Most residents continue to feel quite unconnected with regional government and a clear understanding as to what services it provides. There continues to be animosity to regional government or at best a lack of interest. This is to be compared with the close relationship between the local residents and their lower tier municipality and its elected officials and municipal staff. It is this level of government where residents become most engaged.
- vii. The results and acceptance of amalgamation would have been far different had greater efforts at consultation taken place. If municipalities been allowed the necessary time to work among themselves through the logistics of the initiative and receive appropriate provincial financial support, the end result would have been far more positive. To the

extent regional government now succeeds it is because the elected officials and senior staff of both the upper and lower tier municipalities have been able to make the necessary accommodations and structural changes over the many years since amalgamation was imposed.

Regional Municipality of Halton

Currently, the Region has exclusive jurisdiction over the following major services:

- i. Municipal water and sewer services
- ii. Regional Roads
- iii. Waste Management including garbage collection
- iv. Policing and EMS
- v. Public Health
- vi. Implementing provincial social services
- vii. Regional Parks
- viii. Community (assisted) housing
- ix. Regional Planning

Similar to the other lower tier municipalities the Town of Oakville has jurisdiction over the following major services:

- i. Fire Protection
- ii. Public Transportation
- iii. Local Roads
- iv. Local Parks
- v. Hydro
- vi. Local Planning

In announcing this initiative, Premier Ford's government has not advised what the issues are with these services that triggered the need for a further review of this structural arrangement. Obviously, if there was something substantive to be reviewed in a meaningful and positive way, the preferred process would have been to quietly bring the issue to the attention of the local elected heads of council, for meetings to be arranged to discuss same and for the province to determine if there was a need for change. This would have then been brought to the attention of the electorate with supporting empirical research. None of this appears to have occurred.

In response the elected councils for the Region and Oakville, Burlington, Milton and Halton Hills have all passed resolutions authorizing their leaders to sign a letter to Minister Clark dated February 13, 2019 supporting the status quo with reference to supporting financial and economic data. The arguments advanced in this letter is the only informed data that has been produced to the public on this amalgamation issue.

Overlapping Services

The only area where there are overlapping services is in municipal planning which is a constant for all regional governments. As a municipal lawyer practicing throughout most of the province it

is in this area where the regional government's jurisdiction is unnecessary and causes costly and lengthy delays in the planning process without adding value. Since the province has a clear constitutional mandate in this area and would never delegate its authority, in toto, to municipal governments, there is no need for three levels of government to occupy this area. Earlier Premier Ford asked for submissions as to how to reduce housing costs and expedite the land use approval process. In response I previously advised this to be the most obvious area and the easiest to implement. No longer can it be said that the upper tier planning departments are superior to that of the lower tier municipalities. Certainly, there is no basis for the planning department for the Town of Oakville to essentially be overseen by that of the Region.

In Summary

Except for the area of municipal planning, other areas of separated jurisdiction have been fine-tuned by the Halton municipalities over the last 50 years of co-operative government, and operate with well- defined economic and service efficiencies or “**capacity**”.

There may be other areas where the province can identify further improvements that need to be considered. However, in the absence of such, they should not intervene. If they do identify such inefficiencies the heads of the affected municipalities and their senior staff should be given ample opportunity to work together and to report back to the provincial advisors with the objective of resolving the issues themselves. Further amalgamation should be the last resort.

It should be acknowledged that amalgamation is not the only solution to “**capacity**” issues. There are many examples of what is referred to as “Voluntary Co-Operative” agreements between municipalities. The 2004 essay by Enid Slack provides an excellent discussion of this principle, and their use in Greater Vancouver, USA, France, Belgium, Netherlands and London England. The key is that such arrangements are easy to create and amend as necessary while preserving the lower tier municipality's independence and identity. Indeed, notwithstanding the Region has the legislative responsibility for cleaning and snow clearing its own regional roads, the four lower tier municipalities do so and charge the Region for such services pursuant to the equivalent of a Voluntary Co-operative Agreement. This allows each municipality to provide the level of service required by its electorate and to control its own costs for such.

There is no question of the need to preserve the Oakville's historical importance and identity as well as its well-developed corporate attraction to the business sector. There is no need for Oakville to be considered “lower-tier” and subservient in any fashion to the Region. The Region's jurisdiction over regional roads, water and sewage treatment, policing and social services addresses the “spill-over” of these types of services benefitting other municipalities. However, the same result can be attained with a Voluntary Co-Operative agreement with the Region and a single tier Town of Oakville.

In my submission, there is no basis for the Town of Oakville to be amalgamated with the Region of Halton. Indeed, the alternative should be considered, namely making Oakville a single tier municipality with exclusive jurisdiction over municipal planning, reporting only to the province on same and entering into a Voluntary Co-Operative Agreement with the Region for those services identified above.

I hope the foregoing is of assistance.

Sincerely,

A handwritten signature in blue ink, appearing to be 'G. Petch', with a long, sweeping underline that extends to the left.

Gordon E. Petch
GEP/dh