SUBJECT: Letter from West Grey Centre, respecting amendments to Section 36(8) of the Building Code Act (PED08024) (City Wide)

RECOMMENDATION:

a) That the City of Hamilton support the attached resolution marked as Appendix A to Report PED08024, being resolution No. 295-07 of the Municipality of West Grey requesting the Province of Ontario to amend subsection 36(8) of the Ontario Building Code Act, 1992, permitting legal proceedings to commence two years from the date of discovery of a Building Code Act violation.

b) That the City of Hamilton forward a letter to the Minister of Municipal Affairs, Buildings and Development Branch with copies to the Ontario Building Officials Association (OBOA) and to the Association of Municipalities of Ontario (AMO), noting the support of Resolution 295-07 of the Corporation of the Municipality of West Grey.

c) That Item V from the Economic Development and Planning Committee’s Outstanding Business List be removed.

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The attached resolution of the Municipality of West Grey proposes to amend the Ontario Building Code Act, 1992. The resolution proposes to extend the limitation period for the commencement of legal proceedings for a contravention of the Ontario Building Code Act, 1992, from the current one year limit to a proposed two years.
BACKGROUND:

Subsection 36(8) of the Ontario Building Code Act, 1992, states that “No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose.” The limitation period commences from the date of an offence which contravenes the Ontario Building Code Act, 1992, the Ontario Building Code or any by-laws or regulations created through the Building Code Act, 1992. The limitation period is meant to restrict and apply a reasonable time where a municipality may commence an action against an individual or corporation.

ANALYSIS/RATIONALE:

The proposed resolution will further enable the City of Hamilton to take appropriate legal action against an individual who constructs, or causes to construct, a building or structure without the benefit of a building permit. The additional time period will allow Building Inspectors the necessary time to discover the contraventions, collect important evidence or provide the guilty party the opportunity for compliance without having to commence legal action. The two year period follows the same “basic” limitation period under the Ontario Limitations Act, 2002.

ALTERNATIVES FOR CONSIDERATION:

There are no reasonable alternatives to consider.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

There are no legal, financial or staffing implications associated with this recommendation.

POLICIES AFFECTING PROPOSAL:

Approval of this recommendation will not alter or contravene any established City Policy.

RELEVANT CONSULTATION:

Legal Services was consulted in the preparation of this report and By-law.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

The appointment of a Chief Building Official and inspectors to enforce the Ontario Building Code assists in the protection of public safety.

Environmental Well-Being is enhanced. ☐ Yes ☑ No
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Economic Well-Being is enhanced. □ Yes ☑ No

Does the option you are recommending create value across all three bottom lines? □ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? □ Yes ☑ No

:DO
Attach. (1)
August 8, 2007

WHEREAS, section 36(8) of the Ontario Building Code Act, 1992, as amended, states that “No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose”;

AND WHEREAS, the effect of this clause is to restrict the ability of a municipality to take appropriate legal action in circumstances where buildings and structures have been placed on municipal properties without first having obtained building permits for same;

BE IT RESOLVED THAT, the Municipality of West Grey hereby supports amending section 36(8) of the Building Code Act, 1992, as amended, to provide municipalities a time limit of two (2) years from the date of discovery for commencing legal proceedings:

AND FURTHER THAT, a letter be forwarded to the Minister of Municipal Affairs; Ministry of Municipal Affairs, Building & Development Branch; Ontario Building Officials Association (OBOA); and to the Association of Municipalities of Ontario for distribution and support from all municipalities in Ontario.

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