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RESPONSE BOOKLET

Consultation Paper
on
Renovating
the
Public Hearing

Prepared by the
Renovate the Public
Hearing Project
Committee

December 2023

supported by:



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The British Columbia Law Institute was created in 1997 by incorporation under the provincial *Society Act*. Its purposes are to:

- promote the clarification and simplification of the law and its adaptation to modern social needs,
- promote improvement of the administration of justice and respect for the rule of law, and
- promote and carry out scholarly legal research.

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Renovate the Public Hearing Project Committee

The Renovate the Public Hearing Project Committee contains experts in local-government law, planning, and academia. The committee's mandate is to assist BCLI in developing recommendations to reform public engagement on local-land-use bylaws. These recommendations will be set out in the project's final report, which is planned to be published in 2024.

The members of the committee are:

Bruce D. Woolley, KC—chair
(Lawyer)

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Kevin Zakreski (staff lawyer, British Columbia Law Institute) is the project manager.

For more information, visit us on the World Wide Web at:

<https://www.bcli.org/project/renovate-the-public-hearing-project-pre-development-public-engagement-legal-reforms-to-support-housing-supply/>

Call for Responses

We are interested in your response to the *Consultation Paper on Renovating the Public Hearing*. It would be helpful if your response directly addressed the options for reform set out in the consultation paper, but it is not necessary. General comments on public engagement on local-land-use bylaws are also welcome.

A helpful way to submit a response is to use a response booklet. You may obtain a response booklet by contacting the British Columbia Law Institute or by downloading one at <https://www.bcli.org/project/renovate-the-public-hearing-project-pre-development-public-engagement-legal-reforms-to-support-housing-supply/>. You do not have to use a response booklet to provide us with your response.

Responses may be sent to us in any one of three ways—

by fax: (604) 822-0144

by email: consultations@bcli.org

by online survey: link from <https://www.bcli.org/project/renovate-the-public-hearing-project-pre-development-public-engagement-legal-reforms-to-support-housing-supply/>

If you want your response to be considered by us as we prepare our report on public hearings, then we must receive it by **15 March 2024**.

Note re: Housing Statutes (Residential Development) Amendment Act, 2023

A significant change to BC's legislation on public hearings occurred after the committee had completed its work examining the current law and options for reform.

On 1 November 2023, British Columbia's government introduced Bill 44 (*Housing Statutes (Residential Development) Amendment Act, 2023*) into the Legislative Assembly of British Columbia. This bill received royal assent and became law as the committee was completing its final review of this consultation paper for publication.

The new legislation contains extensive changes to land-use regulation at the local level. In particular, it forbids a local government from holding a public hearing on a land-use bylaw if these conditions are met:

- an official community plan is in effect for the area covered by the proposed bylaw;
- the bylaw is consistent with the plan;
- the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development; and
- the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures proposed as part of the development.

This change in the law occurred too late in the committee's process to allow it to take it into account in this consultation paper.

The committee plans to monitor the government's progress in implementing the *Housing Statutes (Residential Development) Amendment Act, 2023*, with a view to addressing it in this project's final report.

RESPONSE

Name: _____

Organization: _____

Position: _____

You may provide us with your name, the name of any organization you represent, and the title of your position within that organization, if you wish. You do not have to give us any of this information. You may still submit your response even if you leave some or all of the above spaces blank. You may respond to all or some of the issues for reform in this response booklet. If you wish to provide a more extensive comment than space permits, then please use the additional pages at the end of this response booklet.

Your response will be used in connection with the Renovate the Public Hearing Project. It may also be used as part of future law-reform work by the British Columbia Law Institute or its internal divisions. All responses will be treated as public documents, unless you expressly state in the body of your response that it is confidential. Respondents may be identified by name in the final report for the project, unless they expressly advise us to keep their name confidential. Any personal information that you send to us as part of your response will be dealt with in accordance with our privacy policy. Copies of our privacy policy may be downloaded from our website at https://www.bcli.org/sites/default/files/2008-11-12_BCLI_Personal_Information_Protection_Policy.pdf.

1. Should BC legislation on public engagement on local-land-use bylaws contain a list of principles? (See the discussion of this issue in the consultation paper at pages 44–47.)

- (a) *BC's legislation on public engagement on land-use bylaws should be based on the following principles: (a) transparency; (b) accountability; (c) inclusivity; (d) equity; (e) reconciliation; and (f) proportionality.*
- (b) *BC's legislation on public engagement on land-use bylaws should be based on the following principles: . . . [readers may fill in their own list of principles in the comments section].*
- (c) *BC's legislation on public engagement on land-use bylaws should continue not to include a list of principles.*

Comments:

2. When should the public hearing not be held? (See the discussion of this issue in the consultation paper at pages 50–52.)

- (a) *An amendment to BC legislation should enable principle-based public disclosure and engagement processes for amendments to local-land-use bylaws, that when used by local governments would not require public hearings.*
- (b) *BC's legislation on public engagement on land-use bylaws should allow local governments not to hold a public hearing when the following conditions are met: . . . [readers may fill in their own list of principles in the comments section].*
- (c) *BC's legislation on public engagement on land-use bylaws should continue to only allow local governments not to hold a public hearing when (a) the proposed bylaw at issue is a zoning bylaw; (b) there is an official community plan in effect for the area that is the subject of the zoning bylaw; and (c) the zoning bylaw is consistent with that official community plan.*

Comments:

3. Should BC legislation be amended to enable other forms of public engagement on local land-use bylaws? (See the discussion of this issue in the consultation paper at pages 60–65.)

- (a) *BC legislation on local-land-use bylaws should be amended to require local governments to have a principles-based public-engagement policy.*

- (b) *BC legislation on local-land-use bylaws should be amended to require local governments to develop a principles-based public-engagement policy in consultation and cooperation with First Nations rights and title holders.*
- (c) *BC legislation on local-land-use bylaws should be amended to require local governments to have a public-engagement policy, the content of which to be determined by the local government.*
- (d) *BC legislation on local-land-use bylaws should be amended to require local governments to use the following forms of public engagement in addition to the public hearing: . . . [readers may fill in their own selections of forms of public engagement in the comments section].*
- (e) *BC legislation on local-land-use bylaws should be amended to provide local governments with a general authorization to use forms of public engagement other than public hearings.*
- (f) *BC legislation on local-land-use bylaws should not be amended to deal with forms of public engagement other than the public hearing.*

Comments:

4. Should legislation determine the timing of public disclosure and engagement processes for land-use bylaws? (See the discussion of this issue in the consultation paper at pages 70–72.)

- (a) *Proposed BC legislation on public disclosure and engagement processes for local-land-use bylaws should provide that these processes may be carried out at any time determined by the local government.*
- (b) *Proposed BC legislation on public disclosure and engagement processes for local-land-use bylaws should be silent on the timing of these processes.*
- (c) *Proposed BC legislation on public disclosure and engagement processes for local-land-use bylaws should require that these processes must be held . . . [readers may set out a specific time frame in the space for comment].*

Comments:

5. Should the public hearing come earlier in the process to adopt a land-use bylaw? (See the discussion of this issue in the consultation paper at pages 72–75.)

- (a) *BC legislation on public hearings for local-land-use bylaws should be amended to provide that the public hearing may be held at any time determined by the local government.*
- (b) *BC legislation on public hearings for local-land-use bylaws should be amended to require that the public hearing must be held . . . [readers may set out a specific time frame in the space for comments].*
- (c) *BC legislation on public hearings for local-land-use bylaws should continue to provide that the public hearing must be held after first reading of the bylaw and before third reading.*

Comments:

6. Should BC legislation on local-land-use bylaws specify procedural requirements for public engagements and hearings? (See the discussion of this issue in the consultation paper at pages 84–86.)

- (a) *BC legislation on local-land-use bylaws should be amended to clarify the obligations of local governments to work collaboratively with First Nations governments in developing procedures for public engagement and public hearings, where required.*

- (b) *BC legislation on local-land-use bylaws should be amended to set out procedural requirements for public hearings.*
- (c) *BC legislation on local-land-use bylaws should be amended to provide local governments with a general authorization to set the procedure for public hearings as they see appropriate.*
- (d) *BC legislation on local-land-use bylaws should not be amended to set out procedural requirements for public hearings.*

Comments:

Notes

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- Real Estate Foundation of British Columbia
- Simon Fraser University
- Vancouver Foundation
- McLachlin Fund

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