

On June 12, 2006, Bill 53, the *Stronger City of Toronto for a Stronger Ontario Act* received royal assent and came into force (excluding the schedules). This Act contains three schedules: a new City of Toronto Act (Schedule A); amendments and repeals of certain public Acts regarding municipal matters (Schedule B); and repeals of certain private Acts relating to the City of Toronto (Schedule C). Schedules A and C and parts of Schedule B came into force on January 1, 2007.

The most substantive and important part of the *Stronger City of Toronto for a Stronger Ontario Act* is the schedule relating to the new *City of Toronto Act, 2006* (Toronto Act). This legislative summary focuses on the Toronto Act.

The Toronto Act replaces the *City of Toronto Act, 1997 (No. 1)* and *City of Toronto Act, 1997 (No. 2)* (collectively, the Prior Acts). The purpose of the Toronto Act is to provide the City with greater powers, accountability and responsibility than previously afforded to the City under the Prior Acts and under the various other public and private Acts relating to the City. According to the Toronto Act's preamble, broadening the City's powers, accountability and responsibility will assist the City in building "a strong, vibrant and sustainable city that is capable of thriving in the global economy."

The Toronto Act includes provisions similar (but not identical) to those contained in the *Municipal Act, 2001*, which, as a result, is no longer applicable (except in certain specified circumstances) to the City or any of its local boards or corporations; members of City council, the City's local boards or its corporations; directors of the City's corporations; officers, and employees and agents of the City, its boards and its corporations.

For the shopping centre industry, the most notable features of the Toronto Act are the City's express authority to

- (a) provide for a system of licences with respect to a business carried on within the City;
- (b) impose direct taxes (subject to specified limitations);
- (c) require retail business establishments (other than prescribed establishments and those selling goods or services in connection with prepared meals or living accommodations) to be closed to the public at any time;
- (d) prohibit the demolition of residential rental properties containing six or more units and to prohibit the conversion of residential rental properties containing six or more units to a use other than a residential rental property; and
- (e) pass a by-law requiring and governing the construction of "green roofs" if the by-law's provisions do not conflict with the provisions of a regulation made under the Building Code Act, 1992 regarding public health and safety, fire protection, structural sufficiency, conservation and environmental protection and the requirements for barrier-free access.

The powers outlined in (a) and (b) above are described in greater detail below.

Under the *Municipal Act, 2001*, a municipality is authorized to provide for a system of licences with respect to a business wholly or partly carried on within the City (even if the business is being carried on from a location outside the City) *specifically* for purposes of health and safety; nuisance control; and

consumer protection. Under the Toronto Act, on the other hand, the City may provide for a system of licences with respect to any business wholly or partly carried on within the City for any purpose whatsoever. However, the Toronto Act provides that the Minister of Municipal Affairs and Housing may make regulations exempting any business from all or part of a by-law that provides for licences; may impose conditions and limitations on the City's powers under the Toronto Act to provide for such licences; and prohibit the City from imposing on any business with a provincial certificate a condition or licence requiring testing regarding the subject matter of the certification.

In addition to the City's right to impose traditional municipal taxes and charges, and fees for services provided and for property use, the Toronto Act permits the City to impose direct taxes, as long as they are not included on the list of taxes that the City is not permitted to impose, for example:

- a tax in respect of a person's income, revenue, profits, receipts, paid-up capital, reserves, earned surplus, capital surplus or wealth;
- a tax in respect of machinery and equipment used in research and development or manufacturing and processing;
- a tax imposed on a person in respect of remuneration for services that is paid or payable by the person or that is conferred or to be conferred by the person;
- subject to certain express exceptions, a sales tax imposed on a person in respect of the acquisition or purchase of any tangible personal property, any service or any intangible property;
- a lodging/hotel-use tax;
- a poll tax;
- a highway-use tax;
- a tax on specific persons; and
- a tax that is subject to a restriction imposed by the Lieutenant Governor in Council **T**