

January 7, 2025

Ministry of the Environment, Conservation and Parks
Environmental Policy Branch
40 St. Clair Avenue West, 10th Floor
Toronto, Ontario M4V 1M2

Subject: Proposed regulatory amendments to O.Reg. 153/04 (ERO number 019-9310)

The City of Toronto (City) has reviewed the proposed amendments to Ontario Regulation (O.Reg.) 153/04 Records of Site Condition (the RSC Regulation) outlined in ERO# 019-9310 and appreciates the opportunity to provide comments to the Ministry of the Environment, Conservation and Parks (MECP) on this proposal.

The City would like to provide the following formal comments and questions for the MECP's consideration:

1) Prohibiting the filing of RSCs in specified circumstances

Currently, the City requires the filing of an RSC for land conveyances under certain circumstances, as specified within the City's "Policy for accepting potentially contaminated lands to be conveyed to the City under the Planning Act" dated January 2015 (Conveyance Policy). The RSC requirements within the Conveyance Policy are intended to protect the City from inheriting lands within unknown/ unidentified contamination as land conveyances during development applications. Under the proposed amendment, the City's Conveyance Policy will be prohibited from requiring an RSC for a property where an RSC is not required under the RSC Regulation, and where there is no known potentially contaminating activity or area of potential environmental concern identified at the property based on a Phase One Environmental Site Assessment (ESA). While the City understands the MECP's intent for this proposed amendment is to reduce regulatory burdens and remove red tape to accelerate development projects within the province, further clarity and details surrounding this amendment are requested to protect the City from the liability and risks associated with inheriting land conveyances that have been improperly characterized or that have unknown/ unidentified contamination, as noted below:

- The City recommends the MECP specify that this exemption from RSC filing would only be applicable if the Phase One ESA completed for the property confirms that there is no known potentially contaminating activity identified at the property either currently or during past uses, as well as at surrounding properties located within 250 m (i.e., phase one study area) of the property, which could result in an area of potential environmental concern at the property.

- Furthermore, the City recommends the MECP specify that this exemption from RSC filing would not be applicable if the property has had historical contamination that has been remediated prior to the preparing of the Phase One ESA. That is, the Phase One ESA should identify all previously contaminating activities known to have occurred at the property, regardless of the property's current environmental condition. This is to ensure that any risks associated with potential residual contamination that may be remaining on the remediated property is clearly identified within the Phase One ESA.
- The City would like to seek clarification that this exemption from RSC filing would only be applicable to a property which has had a O.Reg. 153/04 compliant Phase One ESA completed within the past 18 months, and which has been signed by a qualified person (QP) as defined within O.Reg 153/04.
- The City will continue to require non-mandatory RSCs for properties in specific circumstances, where the RSC is not required under O.Reg. 153/04 and where the Phase One ESA report indicates that potentially contaminating activities or areas of potential environmental concern have been identified for the property. This measure is required to protect the City's interests when receiving land conveyances with potential contamination.

2) Expanded exemption from RSC filing requirements for changes to existing commercial or community use buildings

The City is neutral on this proposed amendment and have no comments at this time.

We appreciate your consideration of our comments, and we would be pleased to further discuss these with you at your convenience. We look forward to continuing to work in collaboration with MECP on the RSC Regulation.

Regards,

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