

# Statutory Planning Act meetings during COVID-19

April 23, 2020

On April 17, the Ontario Ombudsman released a ruling on electronic meetings, which may be instructive for both those holding and participating in electronic council or committee meetings. The Ombudsman's ruling can be found [here](#).

Bill 187, the *Municipal Emergency Act, 2020*, provided authority for municipalities to amend their procedural by-laws to permit members of council or a local board, who are participating in meetings electronically, to count for quorum purposes, and to participate in closed session during times when an emergency has been declared under the *Emergency Management and Civil Protection Act*. Without this authority, municipalities would not be able to make policy, land development or other decisions that required council or board approval during the provincial emergency. The province then issued an Information Sheet to municipalities telling them they can choose the technology best suited to their local circumstances to enable electronic participation in meetings and ensure meetings are open to the public as legislation requires.

A complaint was filed with the Ombudsman under the open meetings requirement in the legislation. The complainant believed that, while the council agenda posted on the municipal website indicated that the meeting would be held electronically, it also included the address of the municipal building, so the complainant thought they could still attend in person. When the complainant arrived at the municipal building to observe council, they were unable to gain entry.

The report notes that:

"The Ombudsman commended the Township of Russell for taking steps to ensure that information about how to observe and participate in electronic meetings was widely available to the public. The Ombudsman urged all municipalities to do as much as possible to facilitate access by the public, **to observe and participate**, in any meetings held electronically during a declared state of emergency.

This was the first time the Ombudsman conducted an investigation into a municipal meeting following the passage of the *Municipal Emergencies Act, 2020*, which allows for additional flexibility in holding electronic meetings during an emergency, such as the COVID-19 pandemic.

As a best practice, the Ombudsman recommends that municipalities should provide clear instructions in the agenda or meeting notice indicating how members of the public can access a meeting that is being conducted electronically.

It is interesting to note that neither the Ministry Information Sheet, nor the Ombudsman's decision, address what the proper procedure is to hold a statutory public meeting, such as those required to be held under the *Planning Act*.

Many municipalities are beginning to hold statutory public meetings electronically, as there is nothing in the *Planning Act* that stipulates a public meeting must provide for physical or in-person attendance. Although statutory public meetings are not specifically addressed, the Ombudsman appears to support allowing them to proceed as long as the public can observe and participate.

Dentons is monitoring the continued developments resulting from COVID-19 and Ontario's state of emergency impacting the *Planning Act*. If you have any questions, please contact Mary Ellen Bench or any other member of Dentons' Municipal, Land Use Planning and Development Law team.

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