

AN UPDATE TO THE HOUSING SUPPLY ACT – DIRECTIVES AND FURTHER CONSEQUENCES

Over the last two years, we have published several articles on British Columbia's *Housing Supply Act*¹ (the "**Act**"), tracking its enactment, the creation of associated regulation, and the imposition of housing target orders on various municipalities in the Province.

Most recently, in response to advisor reports under the *Act*, the Minister of Housing and Municipal Affairs (the "**Minister**") has proposed to issue directives to the District of Oak Bay ("**Oak Bay**") and the District of West Vancouver ("**West Vancouver**") requiring the amendment of various land-use bylaws and plans. This provides an example to other municipalities of the consequences they may face for failing to meet their housing targets—as with the recently enacted *Infrastructure Projects Act*,² the *Act* shows how the Province can take steps to circumvent or override existing local government processes.

This article briefly sets out: (1) the legislative framework permitting the minister charged with administering the *Act*—in this case, the Minister—to issue these directives, (2) the rationale for directives being issued to Oak Bay and West Vancouver, (3) potential further consequences for both districts, and (4) the role developers and contractors may play when municipalities are subject to housing target orders.

Legislative Background

In short, the *Act* allows regulations to be made for the purposes of "prescribing municipalities as

specified municipalities",³ and Section 2(1) of the *Act* permits the Minister to subject a specified municipality to a housing target order containing, among other requirements, a housing target setting out the number of housing units to complete within a certain period of time. Any municipality subject to a housing target order must also prepare a housing target progress report for each reporting period specified in that order.⁴

If a specified municipality has not met its housing target or has not made satisfactory progress towards meeting that target, Section 6(2) permits the Minister to appoint one or more advisors in relation to that municipality, issue a directive to that municipality, or both.

If the Minister wishes to issue a directive to a specified municipality, the Minister may do so in addition to or instead of appointing an advisor, provided that the Minister gives the municipality 30 days to respond to the proposed directive.⁵ A directive can require the municipality to:

- a) enact or amend various land use bylaws; or
- b) issue or refuse to issue a permit that the municipality may issue.⁶

Additionally, directives can only be issued if:

- c) the benefit of issuing the directive is greater than the benefit of not issuing it;

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- d) no less onerous alternative would result in the specified municipality meeting, or making satisfactory progress toward meeting, a housing target that applies to it; and
- e) issuing the directive is in the public interest.⁷

Housing Targets — District of Oak Bay and District of West Vancouver

Pursuant to the *Housing Supply Regulation*⁸ (the “**Regulation**”), there are fifty-nine specified municipalities across the Province, which include Oak Bay on Vancouver Island, West Vancouver within Metro Vancouver, the City of Penticton in the Okanagan and the City of Prince George in northern BC.

On September 23, 2023, the Minister imposed housing target orders on both Oak Bay⁹ and West Vancouver,¹⁰ effective October 1, 2023 (together, the “**Orders**”).¹¹ The Orders required Oak Bay and West Vancouver to complete a minimum of 665 and 1,432 housing units, respectively, within five years, with annual, cumulative unit completions set out below:

	Oak Bay	West Vancouver
Year 1: Oct 1, 2023 – Sept 30, 2024	56	220
Year 2: Oct 1, 2024 – Sept 30, 2025	138	462
Year 3: Oct 1, 2025 – Sept 30, 2026	258	738
Year 4: Oct 1, 2026 – Sept 30, 2027	429	1,057
Year 5: Oct 1, 2027 – Sept 30, 2028	664	1,432

The Orders also required each district to deliver one housing target progress report every six months for Year 1 and one report per year for Years 2 to 5.

At the end of the first year, Oak Bay and West Vancouver’s first annual housing targets progress reports each showed that the respective districts had delivered less than 30% of their target housing units for Year 1. As a result, the Minister informed each district that it was considering appointing an advisor for them,¹² and in accordance with the *Regulation*, the Minister gave each district 30 days to respond.

Despite Oak Bay’s response to the Minister on January 15, 2025 and West Vancouver’s response on January 17, 2025, which detailed how the respective district had taken steps to increase the construction of housing units in the district, the Minister notified each of them by letter on January 30, 2025 that it would be appointing an advisor to “validate the actions taken... thus far and make recommendations to support increased housing supply....” The advisor would be required to review material such as bylaws, decisions, approval processes and to prepare a final report containing recommendations to the district and/or the Province.

In March 2025, following interviews and document and process reviews, the external advisors appointed to Oak Bay and West Vancouver each issued their final report¹³ to the Minister. For both districts, their advisors interviewed council members, municipal staff, and community members (including local developers). For West Vancouver, the advisor also interviewed a planning expert, community members and developers, whereas for Oak Bay, the advisor also interviewed a former council member and mayor. In both reports, the advisors commented on staffing capacity, prior development application approvals, application processing timelines, land use bylaws, fees and charges, and developer and community sentiments, culminating in recommendations to the district and/or the Province.

For Oak Bay, the advisor made recommendations to the district to ensure communication between the district and the development community, explore

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opportunities for housing on municipal property, engage with the Capital Regional District and the University of Victoria, monitor applications and processing timelines, and amend requirements in various bylaws.

For West Vancouver, the advisor's recommendations to the district involved expediting the creation of area plans, increasing density in other area plans, modifying zoning (and its zoning bylaw), consolidating its development policies, and using provincial programs to improve development processes.

Recommendations to the Province were to generally monitor progress by the districts; however, the advisor for West Vancouver recommended that the Province set a deadline for completing a local area plan for the Park Royal-Taylor Way area and designate that area as a Transit-Oriented Area.

In response to the final reports, and pursuant to the *Regulation*,¹⁴ the Minister sent letters in May 2025 informing each district that it proposed to issue directives to that district.¹⁵

For the proposed directive targeting West Vancouver, the Minister is requiring the district to amend its OCP and zoning bylaws to: (1) create a local area plan, by December 31, 2026, for the Park-Royal-Taylor Way area with increased density aligned with best practices for transit-adjacent housing, and (2) modify its local area plans, by September 30, 2026, for Ambleside and Dundarave Village to increase its density. For Oak Bay, the Minister is requiring the District to amend, by January 31, 2026, its: (1) Development Application Procedures Bylaw to delegate minor variances to staff, and (2) Parking Facilities Bylaw to reduce minimum parking requirements.

The requirements in these proposed directives are generally consistent with each advisor's final report;

however, the advisor for West Vancouver had not recommended that the province set a deadline for modifying the local area plans for Ambleside or Dundarave Village, and the advisor for Oak Bay had only recommended the Province to issue a directive for modifying the district's Development Application Procedures Bylaw if the district failed to do so and had only recommended the Province to monitor the district's progress in reducing minimum parking requirements. As such, in this case, the Minister had gone above and beyond the advisors' recommendations in their reports.

The Minister also required "enhanced" reporting within each district's annual progress reports.

Further Consequences — Orders in Council

If the directives are issued, the Minister will have, under the *Act*, one last "tool" in its toolkit—if a municipality fails to comply with its directive, an Order in Council may be made to: (1) enact or amend a bylaw referred to in Section 584 of the *Local Government Act*, RSBC 2015, c 1, or (2) issue or refuse to issue a permit that the municipality may issue.¹⁶ Instead of requiring a municipality to take certain actions, the Order in Council would make decisions on behalf of that municipality.

As with directives, Orders in Council can only be made if:

- a) the benefit of making the order is greater than the benefit of not making it;
- b) no less onerous alternative would result in the specified municipality meeting, or making satisfactory progress toward meeting, a housing target that applies to it; and
- c) making the order is in the public interest.¹⁷

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As no municipalities have, to date, contravened any directives (as none have been issued), it remains unclear the conditions under which the Minister may request to have an Order in Council made under the *Act*.

Developers and Builders

The reports from the advisors make clear that developers and builders are being consulted. In this case, they potentially influenced the recommendations made to a municipality and the Province. For West Vancouver, the advisor noted developers' complaints with Community Amenity Contributions and bonding, as well as their preference to be charged at occupancy.¹⁸ In addition, the advisor discussed the development challenges related to regulatory uncertainty, political support, and labour, material, borrowing and land costs.¹⁹ Similar complaints, preferences and challenges were noted in the final report for Oak Bay as well. The advisor also noted council's unpredictability, outdated zoning, blasting and parking requirements, and the district's reputation for being "passively or actively obstructionist regarding development issues"²⁰ (despite the advisor's finding of no evidence for such a reputation).²¹ One recommendation made by the advisor to Oak Bay was to have district staff meet with industry representatives to "discuss the projects that make up the DCC programme, their estimated costs, and the determination of beneficial or municipal assist".²² Accordingly, developers and contractors may be able to view the appointment of advisors to specified municipalities as an opportunity to alleviate their challenges with the viability of developments, or at a minimum, ensure that their challenges are heard.

Conclusion

As shown over the last two years, the *Act* takes a gradual approach to increasing housing density throughout the Province. With the housing target orders, appointment of advisors, and proposed

directives, members of the public and the development and construction community now have more awareness of how their concerns and considerations may play a role in shaping the consequences that municipalities may face if they fail to comply with their housing target orders.

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- 1 SBC 2022, c 38.
- 2 SBC 2025, c 13.
- 3 See *Act*, *supra* note 1, s 20(2)(a).
- 4 See *ibid*, s 4(1).
- 5 See *Housing Supply Regulation*, BC Reg 133/2023, s 6(1) [*Regulation*].
- 6 See *Act*, *supra* note 1, s 11(1).
- 7 See *ibid*, s 11(2).
- 8 BC Reg 133/2023.
- 9 MO282/2023.
- 10 MO287/2023.
- 11 "Housing target orders – Province of British Columbia" (5 March 2025), online: <<https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/housing-targets/orders>> (as of the date of this article, thirty specified municipalities, including Oak Bay and West Vancouver, are subject to housing target orders).
- 12 Hon Ravi Kahlon, Letter to His Worship Mark Sager and Members of Council of the District of West Vancouver (30 January 2025); Hon Ravi Kahlon, Letter to His Worship Kevin Murdoch and Members of Council of the District of Oak Bay (30 January 2025).
- 13 James Ridge Consulting & RL Mattiussi Advisory Services Inc, *District of Oak Bay Provincial Advisor Report and Recommendations March 2025* (2025) [*Oak Bay Report*]; Ron Mattiussi and Kevin Ramsay, *Advisor Report District of West Vancouver* (2025) [*West Vancouver Report*].
- 14 See *Regulation*, *supra* note 5, s 6(1).
- 15 Hon Ravi Kahlon, Letter to His Worship Mark Sager and Members of Council of the District of West Vancouver (21 May 2025); Hon Ravi Kahlon, Letter to His Worship Kevin Murdoch and Members of Council of the District of Oak Bay (21 May 2025).
- 16 See *Act*, *supra* note 1, s 12(1).
- 17 See *ibid*, s 12(2).
- 18 See *West Vancouver Report*, *supra* note 13 at 12.
- 19 See *ibid* at 18.
- 20 *Oak Bay Report*, *supra* note 13 at 11.
- 21 *Ibid* at 12.
- 22 *Ibid* at 22.



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Kai is an associate lawyer of the firm and maintains a general municipal law practice with a focus on real estate development. In particular, he regularly drafts section 219 covenants, statutory rights of ways and other legal agreements for real estate projects, and he has provided assistance during various stages of the development process, from rezoning and development permit issuance to air space parcel subdivision and occupancy permit issuance. He has also assisted with other local government matters, ranging from procurement to regulatory issues.

Kai obtained his Juris Doctor from the Peter A. Allard School of Law at The University of British Columbia, articulated with a provincial organization, and was called to the Bar of British Columbia in May 2022. Prior to law school, Kai obtained his Bachelor of Applied Science in Mechanical Engineering with Distinction from UBC. Upon graduating, he was employed as a Process Improvement Specialist at an architectural glass fabrication company for several years, where he designed and implemented a new laminated glass line as well as numerous mechanical and organizational process improvements.

Our lawyers combine legal experience in local government, commercial real estate development, and construction law to provide legal services to local governments, owners, builders and developers on a range of projects, from concept to completion, and beyond.

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