



Ministry of Municipal Affairs and Housing
Ministère des Affaires municipales et du Logement

Business Improvement Areas

**Presentation to Ontario East
Municipal Conference**

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Overview

Business Improvement Area Defined

- A Business Improvement Area is a geographically defined area within the municipality that is managed by a Board of Management set up to provide certain business promotion and improvement functions
- BIAs permit local business people and property owners to organize, finance and undertake physical improvements and promote development in their district
- Once a BIA is approved by City Council, every business property within its boundary is required to pay a BIA levy.

Historical Context

- The province passed enabling legislation in 1970 in response to a request by the business community in Toronto to legalize the practice which led to the creation of the Bloor West Village BIA

Facts and Figures

- There are more than 230 Business Improvement Areas (BIAs) in place across the province. They vary in size from less than 60 businesses and property owners to more than 2,000
- The BIA concept has been adopted by more than 1,500 communities across the United States, in most provinces in Canada and has now taken hold in Europe

Key Principles Behind BIAs

- Businesses use consistent source of funding in an ongoing effort to draw more prospective customers to their area by improving the attractiveness of the area and promoting it as a good place to shop, visit and do business
- Revitalize and maintain a vital local neighbourhood while encouraging both local residents and others to spend their shopping dollars within a defined commercial district
- All businesses and residents in the area benefit from the revitalized neighbourhood
- Develop relationships and partnerships with community groups and institutions
- Provide community feedback to council

Municipal Statute Law Amendment Act, 2006 - Revisions to the Municipal Act, 2001 - General Objectives

- Gives municipalities new powers and autonomy
- Flexibility to meet local expectations and fulfill responsibilities
- Builds on the Ministry's relationship with municipalities
- Extensive discussions with AMO and other municipal partners, plus submissions
- Informed by the policy approach taken for the City of Toronto Act, 2006
- General structure of the Municipal Act, 2001 is maintained
- Powers of a municipality under the Municipal Act, 2001 or any other Act to be interpreted broadly
- Natural person powers continue

Consultation Group on Business Improvement Areas

- A stakeholder focus group was formed in Fall 2004 to assist with the identification and resolution of issues raised since the the *Municipal Act 2001* came into being. This group met four times.
- The focus group represented a broad range of stakeholders including:
 - The Association of Municipal Managers, Treasurers and Clerks of Ontario
 - The City of Hamilton
 - The Ontario Business Improvement Areas Association
 - The City of Toronto
 - The Toronto Association of Business Improvement Areas
 - MMAH - Central Municipal Services Office
 - OMAFRA - Rural Programs Branch
- Direction which followed the consultations focused on ensuring that rules and conditions for Business Improvement Areas provided flexibility to meet local expectations and fulfill responsibilities in keeping with the general directions taken with the *Municipal Statute Law Amendment Act, 2006*.

What Resulted - Municipal Statute Law Amendment Act, 2006 (Bill 130)

- The main impact on BIAs was the inclusion of an explicit reference to BIAs as local boards.
- A number of sections within the Act provide BIAs and municipalities with the opportunity to be more effective, responsive and transparent to businesses, themselves and the ratepayers.
- In responding to the legislation, BIAs and municipalities had (have) an opportunity to work together, and review and reflect on what form and function is best for their organization.

Going Forward - Municipal Statute Law Amendment Act, 2006 (Bill 130)

1. Simply Do What Is Needed to comply:

- The *Municipal Act, 2001* (after Bill 130) continues most sections pertaining to BIAs without change. However, there is now a new subsection that states the BIA board of management is a local board.

2. Do What Is Needed to comply, and make some changes:

- The *Municipal Act, 2001* includes provisions for municipalities to make changes to their local boards. Municipalities could consider putting in place new rules and requirements for BIAs to address local concerns.

3. Reinventing the Concept:

- Municipalities could consider creating new local boards with similar functions to BIAs, and the rules for them or considering the use of economic development corporations

Rules and Conditions for Local Boards

- The Municipal Act contains a number of provisions relating to the relationship between municipalities and their local boards. BIAs may wish to review the applicable legislation to find out how it applies, particularly in light of the new provision deeming BIAs to be local boards (see ss. 201(2.1) of the Municipal Act, 2001)

- The Acts provide for the following which may be of interest to local boards (among other items):
 - Ability for the municipality to determine measures for accountability and transparency (MA Sections 10 (2) and 11 (2))
 - Ability for the municipality to determine measures for financial management (MA Sections 10 (2) and 11 (2))
 - Ability for municipalities to delegate authority (MA Sections 23.1-23.5)
 - The role of the Auditor General, Integrity Commissioner and Ombudsman if a municipality chooses to create them (MA Sections 223.3-223.8, 223.13-223.18 and 223.19-223.23)
 - Procedures, public meetings and access to records (MA Sections 238, 239 and 253-255)
 - Rules on insurance (MA Sections 278-280)

Current BIA Issues

- Questions continue about existing rules and how to use the local board authority to potentially make changes by local by-law
 - How to keep the membership involved
 - How to keep the BIA relevant once physical infrastructure is already in place
 - How to maintain a good relationship with local council
 - Eligibility of BIA board members
 - Boundary changes
 - Proxy voting
 - Issues about BIA practices as local boards and access to the public

- New thoughts have been emerging as well:
 - Regional BIAs
 - Interest in replicating the Toronto code
 - How to make BIAs meaningful to professional business persons
 - Regular assessment and evaluation of market and focus
 - Relationship between BIA and other business associations (overlap, lack of clarity in responsibilities)
 - Delegation of authority by council

Toronto Municipal Code on BIAs

Generally speaking the provisions of the Municipal Act are included in the code with clarifications and refinements

Key differences are noted below:

- BIAs can be established by Community Councils
- BIAs to be permitted to undertake some activities on private property (graffitti removal, safety and security) with approval of the BIA membership
- No proxy voting at BIA meetings
- Minor BIA alterations without a vote (properties involved are less than 5% of overall assessment) with support of the Board and the properties involved
- BIAs not to endorse political candidates
- BIA board members who are not members of the BIA are limited to 20%

To Do List

- Revisit goals, performance, and focus of BIA
- Discuss with your Council Liaison, what direction the municipality is taking with regard to the BIA and Bill 130 (Changes?)
- Procedures By-law
- Policies: Hiring, Procurement, Land Sale
- What is your municipality doing with regard to: Code of conduct, Integrity Commissioner, Registrar for Lobbying matters, Ombudsman, Auditor General?
- What is your municipality doing with regard to: Closed meetings?

How Do Municipalities and BIAs Succeed Going Forward?

- Relationship issues are paramount
 - Communication
 - Respect and patience
 - Common strategic priorities
- ‘To Do’ list is a good place to start and continue.
- Important that stakeholders and council members communicate clearly what is important to them and understand.
- Make sure what is important to you is tangible not just a position.
- Small steps and small goals - together
- Compromise and consensus

Appendix: BIA Legislation (Municipal Act, 2001)

Provisions for creating and operating a BIA are contained in Sections 204 to 215 in Part V of the Municipal Act, 2001 which deal with:

- The designation of an improvement area
- Relationship between councils and boards of management
- Composition and operation of its board of management
- Financial reporting to the municipality
- Process for changing the boundaries of BIAs
- Opportunities for BIA members to become involved at critical decision points

Appendix: Legislative Provisions for Business Improvement Areas (Highlights)

Designation of improvement area (s. 204 (1))

- Allows a municipality to designate an area as an improvement area and to establish a board of management
- The BIA is to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond what is provided by the municipality and to promote the area as a business or shopping area

Local Board Status (s. 204 (2.1))

- A BIA is a local board of the municipality

Board of Management (s. 204 (3))

- The BIA board is composed of one or more directors appointed directly by the municipality with other directors selected by the BIA membership and appointed by the municipality.

BIA Membership (s. 204 (4))

- BIA members are defined as being both property owners and tenants.

Appendix: Legislative Provisions for Business Improvement Areas (Highlights)

Voting (s. 204 (6) and (7))

- Members are entitled to one vote. Corporate owners can designate an individual to vote on their behalf.

Budget (s. 205(1))

- A board prepares a proposed budget and is required to discuss the proposed budget with the BIA membership before providing it to the municipality. The BIA is not permitted to borrow money or incur any debt without the approval of the municipality.

Funds to be raised s. 208.

- The authority for the municipality to raise the BIA levy at the rate agreed upon when the BIA budget is approved. Municipalities also have the flexibility to put in place special charges on properties receiving a special benefit and/or minimum and maximum BIA levies.

Changes to boundaries s. 209.

- The municipality can alter the boundaries of the BIA while maintaining the current BIA board.

Notice Provisions S.210

- Before establishing a BIA, changing its boundaries or putting in place special charges and/or minimum and maximum levies, the municipality requires there to be objections from fewer than 1/3 of the BIA membership AND properties representing lower than 1/3 of the area's assessment