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## Region worried developers are doing 'deathbed' deals

By NORMAN NELSON

Honouring a dead person's last wishes is causing headaches for Ontario municipalities who say the custom is being abused.

The concern is over a little known and little used practice allowing a property, through a will, to be subdivided without first having to chance the standard planning approvals.

Ontario's planning act is purposefully silent on the matter, and Halton Region planning commissioner Rash Mohammed said the courts have interpreted this to mean lots may be created which don't conform with municipal plans.

Unless the current legislation is changed, he said, it could result in the "development of lands that the Region is trying to protect, such as prime agricultural soils and environmentally sensitive areas."

"It could also create strip development patterns along rural roads, and cause pressure for increased regional services."

Historically, said Halton solicitor Mark Meneray, the practice "worked well." A typical scenario, he explained, would entail a farmer perhaps dividing his farm for his two children.

### Bequeath to 100

However, he said, a wrinkle that's becoming more common is someone "bequeathing lands to 100 individuals."

In 1983, he said the government originally intended to stop such manipulations in its updated planning act, but changed its mind before giving final approval.

Mr. Meneray said they were sensitive to accusations of "government control even after death — so it got dropped."

Halton Centre MPP Barb Sullivan was supportive of the resolution that was ultimately passed at last week's

Halton council meeting requesting the Province "prohibit the creation of lots through last wills and testaments."

In a letter which she also forwarded to regional council, she urged her government's municipal affairs minister, John Sweeney, to review the issue.

"When there is a clear 'loophole' that clever people can take advantage of, (it) should be fixed," she said. "I think it is important that the integrity of community decision making and local planning strategies is maintained and underlined."

Town planner Ann Bouck said in Milton, despite its abundance of farms and large rural properties, no lots have been created through a last will and testament. But she added, "we are concerned with the situation."

### Not used often

Mr. Mohammed agreed the ploy has not been used very often, but is worried about future implications.

"Given the vast number of properties in Halton and the recent publicity of this issue, it is possible that hundreds of lots could be created."

He did point to a specific case near the Niagara Escarpment in Burlington where four lots were recently formed through a will. The application had been denied in the regular planning process.

The city of Burlington, the Niagara Escarpment Commission, the Region of Halton and the Halton Region Conservation Authority all objected to the separations on the basis that they contravened various provincial and municipal land use planning policies.

A city of Burlington staff report elaborated, saying that when attempts to subdivide the land through the usual process failed, the landowner deeded it to a terminally ill person.

• see DEALS on page 9

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