



Legislative & Planning Services  
Office of the Commissioner  
1151 Bronte Road  
Oakville ON L6M 3L1

July 29, 2019

Laurie Miller, Director  
Planning Act Review  
Provincial Planning Policy Branch  
777 Bay Street  
13<sup>th</sup> floor  
Toronto, ON M5G 2E5

Dear Laurie Miller,

Re: Bill 108, More Homes, More Choice Act, 2019: Proposed New Regulation and Regulation Changes under the *Planning Act*

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Thank you for the opportunity to provide input on the Bill 108 regulations. Halton Region welcomes the opportunity to participate in the Ministry of Municipal Affairs and Housing's request for comments regarding a proposed new regulation and regulation changes under the *Planning Act* as posted on the Environmental Registry of Ontario (ERO 019-0181).

On May 2, 2019, the Province released its Housing Supply Action Plan and introduced Bill 108 (*More Homes, More Choice Act, 2019*). Halton provided a comprehensive submission in January on the Province's Housing Supply Action Plan and, in May, submitted comments on Bill 108 regarding the changes proposed to the *Planning Act*, *Conservation Authorities Act*, *Endangered Species Act*, *Development Charges Act*, *Environmental Assessment Act* and the *Environmental Protection Act*. Further, at its July 10, 2019 meeting, Regional Council passed a Resolution regarding the Local Planning Appeal Tribunal and Bill 108. The resolution requests the Minister of Municipal Affairs and Housing to immediately restore the amendments to the Planning Act that mandated the evaluation of appeals on the basis of consistency and conformity with Provincial policies and plans and that in the long-term the Government of Ontario eliminate the LPAT entirely. The resolution is enclosed as Attachment #3 to this letter.

Through Report No. LPS85-19 (Re: Information and Comments on Bill 108 Regulations), Regional Council has directed Regional staff to prepare a submission to the Province on the proposed regulations related to the planning components of Bill 108. The Report is enclosed as Attachment #2 to this letter. A submission on the proposed regulations under the *Local Planning Appeal Tribunal Act, 2017* has been submitted separately to the Province as per the Ontario's Regulatory Registry posting (19-MAG007).

**Regional Municipality of Halton**

HEAD OFFICE: 1151 Bronte Rd, Oakville, ON L6M 3L1  
905-825-6000 | Toll free: 1-866-442-5866

Please find enclosed:

- Attachment #1: Submission Re: Bill 108, *More Homes, More Choice Act, 2019*: Proposed New Regulation and Regulation Changes under the *Planning Act*
- Attachment #2: Halton Staff Report LPS85-19 Re: Information and Comments on Bill 108 Regulations
- Attachment #3: Council resolution on LPAT and Bill 108, dated July 10, 2019

If you have any questions regarding our submission, I would be pleased to meet with you to review and discuss.

Sincerely,

A handwritten signature in black ink, appearing to read 'Curt Benson', with a stylized flourish at the end.

Curt Benson  
Director, Planning Services and Chief Planning Official  
Halton Region  
905-825-6000 x7181  
[curt.benson@halton.ca](mailto:curt.benson@halton.ca)

Submission Re: Bill 108, *More Homes, More Choice Act, 2019*: Proposed New Regulation and Regulation Changes under the *Planning Act*

Halton Region welcomes the opportunity to participate in the Ministry of Municipal Affairs and Housing's request for comments regarding proposed regulations under the *Planning Act*. Halton's Regional Council received Staff Report LPS85-19 titled "Information and Comments on Bill 108 Regulations" at its meeting on July 10, 2019, and directed staff to prepare a submission to the Ministry of Municipal Affairs and Housing. The comments provided below are in response to the posting on the Environmental Registry of Ontario (ERO 019-0181).

<b>Proposed changes to O.Reg. 174/16 "Transitional Matters – General"</b>	
<b>Proposal</b>	<b>Comments</b>
<p><b>Reduction of <i>Planning Act</i> Application Processing Timelines:</b></p> <ul style="list-style-type: none"> <li>• Reduced decision-making timelines would apply to complete applications submitted after Royal Assent (June 6, 2019)</li> <li>• For non-decisions, reduced decision-making timelines would apply where the approval authority has not issued a notice of decision at the time the proposed changes come into force.</li> </ul>	<ul style="list-style-type: none"> <li>• Municipalities require time to adjust their practices and procedures to ensure effective implementation of the significant planning changes under Bill 108.</li> <li>• Changes to decision-making timelines should apply on a go-forward basis to complete planning applications that are submitted after the Bill 108 <i>Planning Act</i> provisions come into force and effect and should not apply retroactively to June 6, 2019 (date of Royal Assent).</li> </ul>
<p><b>Changes to the Basis for an Appeal:</b></p> <ul style="list-style-type: none"> <li>• The expanded grounds of appeal would apply to appeals (of decisions and non-decisions) that have not yet been scheduled for a hearing by the LPAT.</li> </ul>	<ul style="list-style-type: none"> <li>• Broadening the grounds for appeal is expected to lead to an increase in the number of appeals a municipality receives. Responding to these appeals requires significant municipal resources. Municipalities should be afforded time to transition their practices and procedures to adjust to the changes made by Bill 108.</li> <li>• The expanded grounds for appeal should not apply to appeals that are filed before Bill 108 amendments come into force, regardless of whether or not a hearing has been scheduled by the LPAT.</li> <li>• The expanded grounds should only apply on a go-forward basis after the Bill 108 changes to the <i>Planning Act</i> are in force and effect.</li> </ul>
<p><b>Changes to who can appeal:</b></p> <ul style="list-style-type: none"> <li>• Restrictions on third party appeals for non-decisions would apply where the approval authority has not issued a notice of decision at the time Bill 108 comes into force and effect.</li> <li>• Restrictions on who can appeal draft plan of subdivision approvals, conditions of draft plan of subdivision approvals or changes to those conditions would apply to decisions where either</li> </ul>	<ul style="list-style-type: none"> <li>• There are no immediate concerns with the proposed amendments.</li> </ul>

<p>notice of decision of draft approval is given or where conditions are appealed other than at the time of draft approval, and only for applications with approval or appeal dates on or after the day Bill 108 comes into force.</p>	
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<b>Proposed changes to O.Reg. 173/16 “Community Planning Permits”</b>	
<b>Proposal</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>• Bill 108 removes the ability to appeal the official plan policies required by regulation for the establishment of a community planning permit system (CPPS) when the Minister requires a local municipality to adopt or establish the system.</li> <li>• In support of this change, the regulation is proposed to be amended to remove the ability to appeal the implementing CPPS by-law.</li> </ul>	<ul style="list-style-type: none"> <li>• There are no immediate concerns with the proposed amendments.</li> </ul>

<b>Proposed New Regulation under S.35.1(2)(b) of the <i>Planning Act</i> (Additional Residential Unit Requirements and Standards)</b>	
<b>Proposal</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>• A regulation is proposed to set out requirements and standards for additional residential units.</li> <li>• Requirements will include: <ul style="list-style-type: none"> <li>• Requiring one parking space for each additional unit unless a municipal zoning bylaw requires no parking spaces or sets a parking standard lower than a standard of one parking space per unit</li> <li>• The regulation would permit and define tandem parking</li> <li>• An additional unit may be occupied by any person regardless of whether the primary unit is occupied by the owner of the property</li> <li>• An additional unit is permitted without regard to the date of construction of the primary or ancillary building.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Additional units may have impacts on municipal services and capacity impacts for dwellings on private services in rural areas.</li> <li>• The regulation for additional residential units should differentiate between settlement areas with municipal services and rural areas where development is serviced by private on-site sewage and water systems and where community services may be limited.</li> <li>• The proposed new regulation should indicate that additional residential units in ancillary buildings or structures in rural areas can only be established if it can be demonstrated, in accordance with provincial and municipal standards and guidelines, that the new development will not have adverse impacts on human health and the environment.</li> </ul>



## The Regional Municipality of Halton

Report To:	Regional Chair and Members of Regional Council
From:	Bob Gray, Acting Commissioner, Legislative and Planning Services, and Corporate Counsel
Date:	July 10, 2019
Report No. - Re:	LPS85-19 - Information and Comments on Bill 108 Regulations

### RECOMMENDATION

1. THAT Report No. LPS85-19 Re: “Information and Comments on Bill 108 Regulations” be endorsed.
2. THAT staff be directed to prepare a submission to the Province in response to the proposed new regulation and regulation changes related to the planning components of Provincial Bill 108 (ERO 019-0181) and proposed regulations under the *Local Planning Appeal Tribunal* (19-MAG007) consistent with the direction outlined in Report No. LPS85-19.
3. THAT the Regional Clerk forward a copy of Report No. LPS85-19 and the final submission, to the Ministry of Municipal Affairs and Housing, the Halton Area MPPs, the Halton Area Conservation Authorities, the City of Burlington, the Town of Halton Hills, the Town of Milton, and the Town of Oakville for their information.

### REPORT

#### **Executive Summary**

- On May 2, 2019, the Province released a series of changes associated with its “More Homes, More Choice: Ontario’s Housing Supply Action Plan”, including the release of Bill 108 – More Homes, More Choice Act, 2019.
- Bill 108 passed First Reading on May 2, 2019, and was granted Royal Assent on June 6, 2019.
- On June 21, 2019, the Ministry of Municipal Affairs and Housing posted proposed changes to regulations and a proposed new regulation under the *Planning Act* related to Bill 108 for public consultation on the Environmental Registry of Ontario (ERO 019-0181). The public consultation period on the Environmental Registry for the proposed *Planning Act* regulations ends on August 6, 2019.
- On June 21, 2019, the Ministry of the Attorney General posted proposed regulations under the *Local Planning Appeal Tribunal Act* related to Bill 108 for

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public consultation on Ontario's Regulatory Registry (19-MAG007). The public consultation period on Ontario's Regulatory Registry ends on August 5, 2019.

- This report provides Regional Council with information on the proposed *Planning Act* and *Local Planning Appeal Tribunal Act* regulations related to Bill 108 and recommends that staff be directed to prepare a submission on these proposed regulations, consistent with the direction outlined in this report.

## Background

As outlined in Report No. LPS70-19, re: "Information and Preliminary Comments on A Place to Grow: Growth Plan for the Greater Golden Horseshoe and Planning Components of Provincial Bill 108", the Ministry of Municipal Affairs began consultation to develop the "Provincial Housing Strategy Action Plan" in November 2018. On May 2, 2019, the Province released its Housing Supply Action Plan and introduced Bill 108 (More Homes, More Choices Act). Halton provided a comprehensive submission in January as outlined in Report No. LPS18-19, "Halton Municipalities' Comments on the Province's Housing Supply Action Plan", which responded to key themes of the plan, and a notice of motion was passed in March reiterating the message that growth should pay for growth.

As directed by Regional Council, staff submitted comments on Bill 108 regarding the changes proposed to the *Planning Act*, *Conservation Authorities Act (CA Act)*, and the *Endangered Species Act* consistent with Report No. LPS70-19. On June 6, 2019, Bill 108 passed third reading and received Royal Assent. The Bill was fundamentally the same as the proposed Bill and did not address Halton's concerns or comments.

On June 21, 2019, the Ministry of Municipal Affairs and Housing posted "Proposed new regulation and regulation changes under the *Planning Act*, including transition matters, related to Schedule 12 of Bill 108 – the More Homes, More Choice Act, 2019" on the Environmental Registry of Ontario (ERO 019-0181) for public consultation ending on August 6, 2019. This posting deals with proposed changes to the following regulations:

- Proposed changes to O.Reg. 174/16 "Transitional Matters – General"
- Proposed changes to O.Reg. 173/16 "Community Planning Permits"
- Proposed new regulation under s.35.1(2)(b) of the *Planning Act* (Additional Residential Unit Requirements and Standards)
- Proposed housekeeping changes to O.Reg. 544/06 "Plans of Subdivision", O.Reg. 543/06 "Official Plans and Plan Amendments", and O.Reg. 232/18 "Inclusionary Zoning"

On the same day, the Ministry of the Attorney General posted "Proposed Regulations under the *Local Planning Appeal Tribunal Act*, 2017" on Ontario's Regulatory Registry (19-MAG007) for public consultation. The public consultation period on Ontario's Regulatory Registry for the proposed *Local Planning Appeal Tribunal Act* regulations ends on August 5, 2019.

In addition to the consultation noted above, ERO 019-0183 “Proposed new regulation pertaining to the community benefits authority under the Planning Act” and ERO 019-0184 “Proposed changes to O.Reg. 82/98 under the Development Charges Act related to Schedule 3 of Bill 108 – More Homes, More Choice Act, 2019” were posted for public consultation. These proposals are addressed as part of Report No. FN-32-19 (Re: Bill 108 – Growth Related Financing Update on Proposed Regulations).

## Discussion

### O.Reg. 174/16: “Transitional Matters – General”

- 1. Reduction of *Planning Act* Application Processing Timelines:** Under Bill 108, timeframes for an approval authority’s decision-making related to *Planning Act* applications are changed from 210 to 120 days for Official Plans and Amendments, from 150 to 90 for Zoning By-laws and Amendments, and from 180 to 120 days for Plan of Subdivisions. These timeframes are now set, with no further opportunity for comment.

Proposed changes to O.Reg. 174/16 indicate that reduced decision-making timelines would apply to complete planning applications submitted after Royal Assent (June 6, 2019). The proposal also indicates that for non-decisions, reduced decision-making timelines would apply where the approval authority has not issued a notice of decision at the time the proposed changes come into force.

Initial comment on this change is that municipalities require time to adjust their practices and procedures to ensure effective implementation of the significant planning changes under Bill 108. Accordingly, changes to decision-making timelines should apply on a go-forward basis to complete planning applications that are submitted after the Bill 108 *Planning Act* provisions come into force and effect and should not apply retroactively to June 6, 2019, the date that Bill 108 received Royal Assent.

- 2. Changes to the Basis for an Appeal:** The *Planning Act* was amended in 2017 to limit the grounds for appeal of major planning matters to whether the planning matter is inconsistent with a policy statement, fails to conform with or conflicts with a provincial plan or fails to conform with the upper-tier municipality’s official plan. Bill 108 no longer limits the basis of an appeal to these grounds and introduces much broader, more general, grounds for which an appeal can be made to the LPAT. As noted in Report No. LPS70-19, the expanded grounds for appeal are very broad and will result in less deference being given to planning decisions made by Council.

Through proposed changes to O.Reg.174/16, the expanded grounds of appeal would apply to appeals (of decisions and non-decisions) that have not yet been scheduled for a hearing by the LPAT. Initial comments related to these changes are that:

- The expanded grounds for appeal should not apply to appeals that have already been made, regardless of whether or not a hearing has been scheduled by the LPAT. The expanded grounds should only apply on a go-

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forward basis after the Bill 108 changes to the *Planning Act* are in force and effect.

- Broadening the grounds for appeal is expected to lead to an increase in the number of appeals a municipality receives. Responding to these appeals requires significant municipal resources. Municipalities should be afforded time to transition their practices and procedures to adjust to the changes made by Bill 108.

**3. Changes to who can appeal:** Bill 108 restricts who can appeal the failure of an approval authority to make a decision on an official plan within 120 days to the municipality that adopted the plan, the Minister of Municipal Affairs and Housing, and, in the case of an adopted amendment in response to an application, the applicant. The changes proposed to O.Reg. 174/16 “Transitional Matters – General” would mean this restriction would apply where the approval authority has not issued a notice of decision at the time Bill 108 come into force and effect.

Bill 108 also restricts who can appeal draft plan of subdivision approvals, conditions of draft plan of subdivision approvals or changes to those conditions. This limited list of appellants would apply to decisions where either notice of decision of draft approval is given or where conditions are appealed other than at the time of draft approval, and only for applications with approval or appeal dates on or after the day Bill 108 come into force.

There are no immediate concerns identified with the proposed amendments to O.Reg. 174/16 in relation to restrictions on who may appeal.

### **Proposed Regulations under the *Local Planning Appeal Tribunal Act, 2017***

Bill 108 makes various changes to the *Local Planning Appeal Tribunal Act (LPAT Act)*, many of which relate to the practices and procedures of the Local Planning Appeal Tribunal. Most significantly, the changes repeal the prohibition on parties bringing forward evidence or calling or examining witnesses.

The Ministry of the Attorney General proposes to make a regulation under the *LPAT Act* to establish transition rules. The following appeals are proposed to be subject to the new Bill 108 rules in the proposed regulation:

- Major planning appeals that were commenced and continued under the former *Ontario Municipal Board Act* (with the exception of case management conference requirements).
- Major planning appeals that were commenced under the former *Ontario Municipal Board Act* and continued under the existing *LPAT Act*, unless a hearing on the merits of the appeal has been scheduled before the amendments come into force.
- Major planning appeals that were commenced under the existing *LPAT Act*, unless a hearing on the merits of the appeal has been scheduled before the amendments come into force.



- Major planning appeals that were commenced on or after the day the amendments to the *Act* come into force.

The Ministry of the Attorney General is also proposing to revoke the existing “Planning Act Appeals” regulation under the *LPAT Act*. This regulation establishes timelines for *Planning Act* appeals, prescribes time limits for submissions at oral hearings and limits the examination of parties and witnesses. The Province has stated that this regulation is no longer relevant as a result of Bill 108 legislative changes to the *LPAT Act*.

An initial comment related to the proposed regulations is that the transition regulations should allow appeals filed before the Bill 108 amendments come into force to be completed under the Bill 139 regime, regardless of whether or not a hearing has been scheduled by the LPAT. This would help in solving the backlog of planning hearings currently residing at the LPAT, and leverage the significant municipal resources already invested in preparing for these appeals.

Should this comment not be accepted by the Province, staff will examine existing priority appeals subject to the transition regulations and will identify opportunities for file-specific exemptions for consideration by the Province.

#### **O.Reg. 173/16 “Community Planning Permits”**

Bill 108 removes the ability to appeal the official plan policies required by regulation for the establishment of a community planning permit system (CPPS) when the Minister requires a local municipality to adopt or establish a system. In support of this change, O.Reg. 173/16 is proposed to be amended to remove the ability to appeal the implementing CPPS by-law.

There is no immediate concern identified with this proposed amendment to O.Reg 173/16. As the CPPS is a local planning tool, these proposed changes may have a direct impact on Halton’s local municipal partners.

#### **Proposed new regulation under s.35.1(2)(b) of the *Planning Act* (Additional Residential Unit Requirements and Standards)**

Bill 108 requires municipalities to authorize in their official plans and zoning by-laws the use of an additional residential unit in both a primary dwelling (detached, semi-detached or row house) and in an ancillary building or structure (e.g. coach house).

A regulation is proposed under s. 35.1(2)(b) of the *Planning Act* to set out requirements and standards for additional residential units. This includes requiring one parking space for each additional unit unless a municipal zoning bylaw requires no parking spaces or sets a parking standard lower than a standard of one parking space per unit. Additionally, an additional unit may be occupied by a person regardless of whether the primary unit is occupied by the owner of the property and an additional unit is permitted without regard to the date of construction of the primary dwelling. These elements were part of a 2017 Environmental Registry posting that did not advance past consultation.

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Initial comments related to this proposed regulation include:

- Additional units may have impacts on municipal services and capacity impacts for dwellings on private services in rural areas.
- The regulation for additional residential units should differentiate between settlement areas with municipal services and rural areas where development is serviced by private on-site sewage and water systems and where community services may be limited. The proposed new regulation should indicate that additional residential units in ancillary buildings or structures in rural areas can only be established if it can be demonstrated, in accordance with provincial and municipal standards and guidelines, that the new development will not have adverse impacts on human health and the environment.

### **Housekeeping Changes**

Bill 108 removes the *Planning Act* provisions for second notice of subdivision applications and provisions relating to non-decision appeals for official plans/amendments. As a result, corresponding housekeeping amendments are required to O.Reg. 544/06 “Plans of Subdivision” and O.Reg. 543/06 “Official Plans and Plan Amendments” to remove the redundant notice of a subdivision application and the notice requirements for non-decision appeals.

Currently, O.Reg. 232/18 “Inclusionary Zoning” includes restrictions on the use of the section 37 increased height and density tool under the *Planning Act*. As Bill 108 replaces the section 37 tool with the new community benefits charge, housekeeping amendments are required to O.Reg. 232/18 to implement these changes.

There are no immediate concerns with the housekeeping changes proposed to O.Reg 232/18.

### **Conclusion**

The Province released Bill 108 with the goal of advancing a greater number of housing opportunities to market in a shorter timeframe. It is not clear whether or how Bill 108 *Planning Act* changes and corresponding proposed regulations address this goal. However, it is recommended that the proposed regulations be amended to ensure that Bill 108 changes with respect to decision timelines and to the basis for appeal should only apply on a go-forward basis after the changes to the *Planning Act* under Bill 108 are in force and effect. In addition, the transition regulations should allow appeals that have already been filed to be completed under the Bill 139 regime, regardless of whether or not a hearing has been scheduled by the LPAT. The new regulation proposed under Bill 108 with respect to requirements and standards for additional residential units should include a requirement that additional units in rural areas must meet provincial and municipal servicing standards to ensure that the development will not result in adverse impacts to human health and the environment.

Staff will monitor developments with respect to Bill 108 and will advise Council of the release of final regulations that implement changes to the *Planning Act* and *Local Planning Appeal Tribunal Act*.

FINANCIAL/PROGRAM IMPLICATIONS

There are no financial implications associated with the recommendations of this report.

Respectfully submitted,



Curt Benson  
Director, Planning Services and Chief  
Planning Official



Bob Gray  
Acting Commissioner, Legislative and  
Planning Services, and Corporate Counsel

Approved by



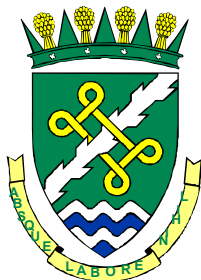
Jane MacCaskill  
Chief Administrative Officer

If you have any questions on the content of this report,  
please contact:

Curt Benson

Tel. # 7181

Attachments: None



## The Regional Municipality of Halton

THE FOLLOWING RESOLUTION WAS APPROVED BY REGIONAL COUNCIL AT ITS MEETING HELD WEDNESDAY, JULY 10, 2019

WHEREAS The Government of Ontario, on June 6, 2019, passed the *More Homes, More Choice Act, 2019*, (Bill 108); and

WHEREAS the changes to the Local Planning Appeal Tribunal (LPAT), contained in Bill 108 will give LPAT the authority to make final planning decisions based on a subjective “best planning outcome” approach rather than compliance with municipal and provincially approved official plans and consistency with provincial plans and policy; and

WHEREAS Bill 108 restricts third party appeals of plans of subdivision only to the applicant, municipality, Minister, public body or prescribed list of persons; and

WHEREAS Bill 108 takes local planning decision-making out of the hands of democratically elected municipal councils and puts it into the hands of a non-elected, unaccountable tribunal; and

WHEREAS the LPAT adds cost and delays delivery of affordable housing by expensive, time consuming hearings, contrary to the intent of the *More Homes, More Choice Act, 2019*; and

WHEREAS Regional and City Councils have spent millions defending provincially approved plans at the OMB/LPAT, including more than \$5 million over the last three years;

WHEREAS the reverting back to *de novo* hearings adds delays and costs to the housing delivery, as planning decisions start from scratch requiring lawyers, experts and witnesses, repeating the planning analysis already done by local councils;

WHEREAS Ontario is the only province in Canada that empowers a separate adjudicative tribunal to review and overrule local decisions applying provincially approved plans;

NOW THEREFORE BE IT RESOLVED:

THAT in the short term, the Minister of Municipal Affairs and Housing immediately restore the amendments to the Planning Act that mandated the evaluation of appeals on a consistency and conformity with Provincial policies and plans basis;

THAT in the long-term the Government of Ontario eliminate the LPAT entirely, as an antiquated body that slows delivery and adds costs to housing supply via expensive and drawn out tribunal hearings;

AND THAT this resolution be forwarded to the Premier, the Minister of Municipal Affairs and Housing, Halton's Members of Provincial Parliament, Leaders of the New Democratic, Liberal and Green parties; the Association of Municipalities of Ontario, the Large Urban Mayors' Caucus of Ontario, Mayors and Regional Chairs of Ontario and Halton's local municipalities.

\* \* \* \* \*