

# **The Corporation of the City of Kawartha Lakes**

## **Planning Advisory Committee Report**

**Report Number PLAN2018-044**

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**Date:** May 9, 2018  
**Time:** 1:00 p.m.  
**Place:** Council Chambers

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**Ward Community Identifier:** All

**Title:** Information Report on the Local Planning Appeal Tribunal

**Description:** Overview of changes to the land use planning appeal system as a result of Bill 139, the Building Better Communities and Conserving Watersheds Act, 2017

**Author and Title:** Anna Kalnina, Planner II

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### **Recommendation:**

**That** Report PLAN2018-044, **Information Report on the Local Planning Appeal Tribunal**, be received.

**Department Head:**

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**Legal/Other:**

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**Chief Administrative Officer:**

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## **Background:**

On April 3, 2018, the Ontario Municipal Board (OMB) was replaced by a new appeal body, the Local Planning Appeal Tribunal (LPAT), with major changes to its jurisdiction and processes.

In 2016, the Province commenced a review of the Ontario Municipal Board (OMB). The purpose of the review was to modernize hearing procedures and practices to ensure faster, fairer and more affordable hearings and to facilitate greater public participation in the process. On December 12, 2017, Bill 139 the Building Better Communities and Conserving Watersheds Act, 2017 received Royal Assent from the Legislature. Bill 139 introduced the Local Planning Appeal Tribunal Act that governs the LPAT, made changes to the *Planning Act*, and created the Local Planning Appeal Support Centre (LPASC). The legislative changes associated with the LPAT were proclaimed into force by the Lieutenant Governor on April 3, 2018.

The Planning Act matters that were in process when the changes came into force are subject to transition rules as per the new provisions in the regulations under the Planning Act and the Local Planning Appeal Tribunal Act. The transition rules are summarized as follows:

1. Appeals made after April 3, 2018 (proclamation date) are generally subject to the new rules and will be subject to the new LPAT rules;
2. Appeals that are already before the OMB as of December 12, 2017 (Royal Assent of Bill 139) will be subject to the OMB rules;
3. Appeals of matters between December 12, 2017 (Royal Assent of Bill 139) and April 3, 2018 (proclamation date):
  - a. Will be subject to the new LPAT rules if the planning matter began (e.g., a complete application received) after the date of Royal Assent; or
  - b. Will be subject to the OMB rules if the planning matter began before the date of Royal Assent.

Similarly to the OMB, the LPAT is an independent tribunal with members appointed by the Province. However, the LPAT's jurisdiction and hearing procedures are very different from the former appeal system. The changes are intended to better support citizens and to reduce adversarial hearings. The following are highlights of key changes to the hearing proceedings as per the Local Planning Appeal Tribunal Act.

## **Case Management Conference**

- A mandatory case management conference will be held for appeals related to Official Plans and amendments, Zoning By-laws and amendments, and Plans of Subdivision. One of the main reasons for the conference is to explore opportunities for mediation and settlement.

## **One Day Hearing**

- Unlike the OMB that held de novo (new) hearings, the LPAT is intended to provide fast and cost-effective one day hearings. For appeals related to Official Plans and amendments, Zoning By-laws and amendments, and Plans of Subdivision, the LPAT will review and consider a written record that is based primarily on the record that was before Council. Oral submissions have been limited to parties (municipality and applicant), limited in time, and there is no longer an option to call new evidence or call or examine witnesses at the LPAT hearings.

## **Local Planning Appeal Support Centre**

- To better support citizens, Bill 139 introduced a new agency, the LPASC. The LPASC is independent from the government and the LPAT. Its role is to provide information on land use planning, guidance on board procedures, and advice and representation to citizens who want to participate in the land use planning appeal process.

Through Bill 139, there were a number of changes to the Planning Act whose purpose was to add more municipal control, strengthen community voice and protect public interests. The following is a summary of the new appeal processes and planning tests under the Planning Act.

## **Consistency/ Conformity Standard**

- One of the more significant changes is LPAT's jurisdiction. There are now restricted appeal grounds for official plans and amendments, and zoning by-laws and amendments to only matters of consistency and/or conformity with provincial and/or municipal policies/plans. More specifically, the LPAT will dismiss an appeal of a Council decision unless the decision is not consistent with the Provincial Policy Statement, does not conform/conflicts with provincial plans, or does not conform to the City's Official Plan. If the LPAT determines that a Council decision did not follow provincial and/or local policies, the matter will be remitted back to the City to be reconsidered. The City will have 90 days to reassess the application by providing notice of a public meeting, holding a public meeting and issuing a new decision.

## **Two-Part Appeal Process**

- Where a matter was remitted back to the municipality for a new decision and a new decision was not made within the prescribed timeframe, the matter can be appealed again to the LPAT. The Tribunal would then make the final decision.

## **Longer Decision Timelines**

- Approval authority's decision timelines have been extended by 30 days for official plans, official plan amendments and zoning by-law amendments, for a total of 210 days for official plan amendments, 150 days for zoning by-law amendments, and 210 days for combined applications (requesting an official plan amendment and a zoning by-law amendment).

## **Restricted Appeal Rights**

- There is no longer an option to appeal a provincial decision to approve, modify or refuse all or part(s) of a new official plan or an official plan update where the Minister is the approval authority. This includes conformity exercises to provincial plans through section 26 of the Planning Act.
- The ability to appeal the passing of an Interim Control By-law has been removed, the Province accepted. However, there is an option to appeal a by-law to extend the period of time during which the Interim Control By-law may be in effect.

## **Two-Year Timeout on New Secondary Plans**

- All new secondary plans are subject to a two-year timeout. The two-year timeout removes the ability to make applications to amend the new secondary plan for two years, unless the proposed change is supported by Council.

## **Official Plan Requirements**

- There is now a legislated requirement for all municipal official plans to include climate change policies and policies dealing with the adequate provision of affordable housing.

## **Rationale:**

Planning staff are updating development review documents and notices to reflect the changes in the land use planning and appeal system.

## **Other Alternatives Considered:**

Not applicable.

## **Financial/Operation Impacts:**

There are no financial implications to the City with respect to these changes. The hope is that these changes may streamline the adjudication process and reduce overall costs.

## **Relationship of Recommendations to the 2016-2019 Strategic Plan:**

The Council Adopted Strategic Plan identifies these Strategic Goals:

- A Vibrant and Growing Economy
- An Exceptional Quality of Life
- A Healthy Environment

This initiative aligns with an exceptional quality of life by allowing improved civic engagement in decision-making land use activities.

## **Consultations:**

Not applicable.

## **Attachments:**

Appendix A – Presentation on Bill 139 and the Local Planning Appeal Tribunal



PLAN2018-044  
Appendix A.pdf

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**Department File:** L01