

Bill 139 and the Local Planning Appeal Tribunal

Overview of changes to the land
use planning and appeal system

May 9, 2018



Background

- In 2016, the Province initiated the Ontario Municipal Board (OMB) review
 - Purpose: create faster, fairer and more affordable hearings
- Bill 139, the Building Better Communities and Conserving Watersheds Act, 2017 has taken effect as of April 3, 2018
- The Local Planning Appeal Tribunal (LPAT) has replaced the OMB
 - Major change in comparison to the former appeal process

Transition Rules

- Appeals before the OMB as of Royal Assent (Dec. 12, 2017) – subject to old rules (OMB)
- Appeals between the Royal Assent and Proclamation (April 3, 2018) – depends when a complete application was received
 - Before Royal Assent – subject to old rules
 - After Royal Assent – subject to new LPAT rules
- Appeals after proclamation – subject to new LPAT rules

Key Changes

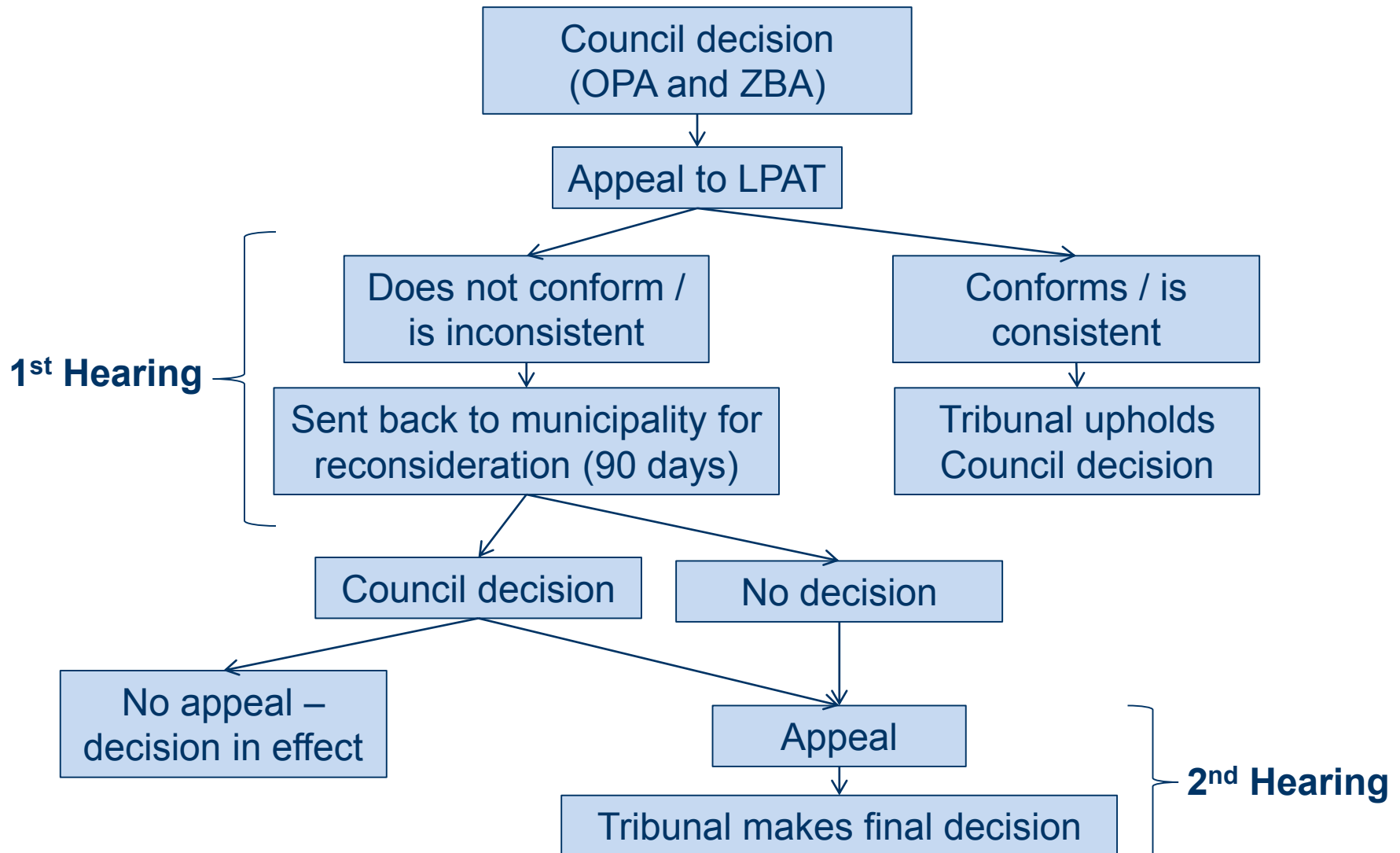
For Official Plan Amendments (OPAs) and Zoning By-law Amendments (ZBAs)

Hearing procedure	De Novo (new) Hearings	LPAT reviews Council decision based on written record (no new evidence)
Number of hearings	OMB's decision is final (unless appealed to the Divisional Court)	Two-part appeal - in some cases, there may be two hearings
Hearing format	A formal and legalistic superior court model	Less adversarial hearings - no cross-examination and only LPAT may call witnesses

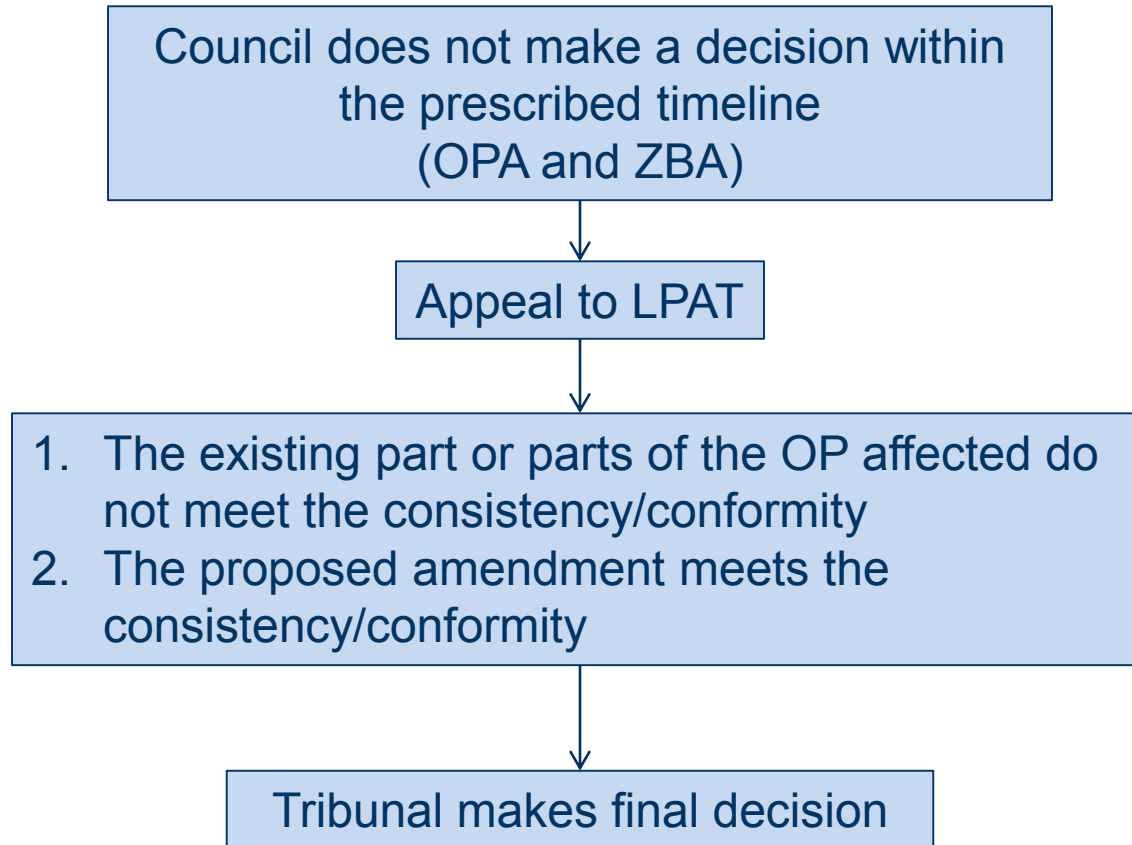
Consistency / Conformity Test

- LPAT may overturn a Council decision only if it is inconsistent with the PPS, does not conform/conflicts with provincial plans, and/or does not conform with the City's Official Plan
- Appeals to municipal refusal or non-decision appeals must meet a two-part test:
 - The existing part or parts of the OP affected do not meet the consistency/conformity
 - The proposed amendment meets the consistency/conformity

Two-Part Appeal



Non-Decision Appeal



Other Changes

- Longer decision timelines (+30 days for OPAs and ZBAs)
- Restricted appeal rights
 - No appeals of provincial decision regarding a new OP or an OP update
 - No ability to appeal an Interim Control By-law
- Moratorium
 - No amendments to new Secondary Plans for 2 years
- Local Planning Appeal Support Centre
 - Provide information, guidance and support for citizens who want to participate in the appeal process

Summary

- A lot of changes for major applications (OPAs and ZBAs)
- A strong emphasis on the written appeal record, which has to be the same as the record before Council
- Consistency/conformity test
 - LPAT must dismiss an appeal of a Council decision that passes the test
 - LPAT must remit a decision back to Council to reconsider it if it does not pass the test
 - LPAT must substitute its decision where a Council decision did not pass the test in the second hearing
 - LPAT must make a decision where there was no decision (first and second hearing)
- The City is better positioned to defend our decisions when the Official Plan is consistent/conforms with the provincial policies and plans
- Staff are working to update notices to reflect the changes