



Council Report

Report Number:	CAO2022-003
Meeting Date:	March 22, 2022
Title:	Ontario Land Tribunal (OLT) Reform
Description:	Advocacy position to the Provincial Government respecting recommended reforms to the Ontario Land Tribunal (OLT) and associated processes.
Author and Title:	Ron Taylor, Chief Administrative Officer

Recommendation(s):

That Report CAO2022-003, **Ontario Land Tribunal (OLT) Reform**, be received;

That the Mayor be authorized to send a letter to the Province of Ontario, on behalf of the City of Kawartha Lakes, advocating for reforms to the Ontario Land Tribunal and associated processes; and

That the recommended reforms and process improvements be provided as generally outlined in Report CAO2022-003.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the Council Meeting of February 22, 2022, Council adopted the following resolution:

Resolution Regarding the Ontario Land Tribunal

Tom Mrakas, Mayor, Town of Aurora

CR2022-027

Moved By Councillor O'Reilly

Seconded By Deputy Mayor Richardson

That the correspondence from Tom Mrakas, Mayor, Town of Aurora, **regarding a Resolution Relating to the Ontario Land Tribunal**, be received.

Carried

CR2022-028

Moved By Councillor Elmslie

Seconded By Councillor Dunn

That Staff prepare correspondence requesting changes to the Ontario Land Tribunal ("OLT") for review at the March 22, 2022 Regular Council Meeting;

That the correspondence include an overview of the following elements (as outlined in email correspondence from CAO Taylor dated February 21, 2022):

- the need to streamline and expedite decisions, in a manner that balances the interests of all stakeholders;
- the ability to review and dismiss “frivolous” appeals and require more “accountability” in appeal submissions;
- the ability to minimize ‘not in my backyard’ (“NIMBY”) and local neighbourhood dispute issues that are costly to defend and often not aligned with greater public objectives;
- the ability for local council decisions to be respected and prioritized provided they meet prescribed OP and other provincial legislative planning requirements and objectives; and

That the correspondence, once approved, be sent to the Honourable Doug Ford, Premier of Ontario, the Minister of Municipal Affairs and Housing, the Leader of the Opposition, the Leaders of the Liberal and Green Party, all MPPs in the Province of Ontario, the Large Urban Mayors’ Caucus of Ontario, the Small Urban GTHA Mayors, Regional Chairs of Ontario, the Association of

Municipalities of Ontario (AMO) and all Ontario municipalities for their consideration.

A recorded vote was requested by Councillor Elmslie.

	For	Against	Absent
Mayor Letham	X		
Deputy Mayor Richardson	X		
Councillor Ashmore	X		
Councillor Dunn	X		
Councillor Elmslie	X		
Councillor O'Reilly	X		
Councillor K. Seymour-Fagan			X
Councillor A. Veale			X
Councillor Yeo	X		
Results	7	0	2
Carried			

This report addresses that direction.

Rationale:

The current OLT is the result of last year's consolidation under Bill 245 of five (5) then-existing tribunals, namely the Local Planning Appeal Tribunal (LPAT), the Environmental Review Tribunal (ERT), the Board of Negotiation, the Conservation Review Board, and the Mining and Lands Tribunal. These dispute resolution functions remain important, but could be better structured, streamlined and resourced to achieve resolutions and decisions in a more-timely manner.

It is recognized that this structural change was implemented during the COVID-19 pandemic, so measuring OLT performance and outcomes/decisions is difficult, and case backlog must be significantly attributed to pandemic resource and process constraints and limitations.

However, the following is suggested recommendations to reform processes managed by the OLT (and its previous iterations):

- the need to streamline and expedite decisions, in a manner that balances the interests of all stakeholders (applicant, appellant, City interests);
- the ability for the OLT to review and dismiss “frivolous” appeals and require more “accountability” in appeal submissions;
- the ability to minimize ‘not in my backyard’ (“NIMBY”) and local neighbourhood dispute issues that are costly to defend and not aligned with greater public objectives and local planning and growth policies; and
- the ability for local council decisions to be respected and prioritized provided they meet prescribed OP and other provincial legislative planning requirements and objectives.

Ontario Housing Affordability Task Force Report

The Ontario Housing Affordability Task Force report was completed and submitted to the Ontario Minister of Municipal Affairs and Housing in February, 2022. The report provided over 50 recommendations and options for the government to consider to increase the supply of affordable and attainable housing in a timely manner.

Some of the Task Force recommendations focused on process improvements and OLT reforms, under the heading of “Prevent Abuse of the Appeal Process”. These recommendations, similar to the themes outlined above, focused on “...fixing the system”,:

- Require appellants to promptly seek permission (“leave of appeal”) of the Tribunal and demonstrate that an appeal has merit, relying on evidence and expert reports, before it is accepted.
- Prevent abuse of process:
 - Remove right of appeal for projects with at least 30% affordable housing in which units are guaranteed affordable for at least 40 years.
 - Require a \$10,000 filing fee for third-party appeals.
 - Provide discretion to adjudicators to award full costs to the successful party in any appeal brought by a third party or by a municipality where its council has overridden a recommended staff approval.

- Encourage greater use of oral decisions issued the day of the hearing, with written reasons to follow, and allow those decisions to become binding the day that they are issued.
- Where it is found that a municipality has refused an application simply to avoid a deemed approval for lack of decision, allow the Tribunal to award punitive damages.
- Provide funding to increase staffing (adjudicators and case managers), provide market-competitive salaries, outsource more matters to mediators, and set shorter time targets.
- In clearing the existing backlog, encourage the Tribunal to prioritize projects close to the finish line that will support housing growth and intensification, as well as regional water or utility infrastructure decisions that will unlock significant housing capacity.

The Report summarizes that the above-noted recommendations seek to weed out or prevent appeals aimed purely at delaying projects, allow adjudicators to award costs to proponents in more cases, including instances where a municipality has refused an approval to avoid missing a legislated deadline, reduce the time to issue decisions, increase funding, and encourage the Tribunal to prioritize cases that would increase housing supply quickly as it tackles the backlog.

It is recommended that the City's advocacy correspondence include stated support for the OLT reform recommendations as generally provided in the Task Force Report, and as generally summarized above.

Other Alternatives Considered:

N/A

Alignment to Strategic Priorities

Advocating for reforms to the OLT and appeal processes is intended to improve and accelerate planning and development approval processes and decisions, while respecting local decision making and public interest. This aligns with the City's strategic priority of Good Government.

Financial/Operation Impacts:

N/A

Servicing Implications:

N/A

Consultations:

Director, Development Services
City Solicitor
Manager, Planning

Attachments:

Appendix A – Town of Aurora Correspondence



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