



## Planning Advisory Committee Staff Report

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**To:** To the Chair and Members of the Planning Advisory Committee  
**From:** Brandon Hassan, Senior Policy Planner  
**Date:** July 4, 2017  
**Report:** PA-17-32  
**Subject:** Bill 139 – Building Better Communities and Conserving Watersheds Act, 2017  
**Purpose:** To provide the Committee with an analysis of how the Ontario Municipal Board (OMB) Reform may affect growth, planning and development matters

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### Recommendation

1. That Council supports the proposed changes to the Ontario Municipal Board as outlined in the Bill 139 EBR 013-0590 Posting by the Ministry of Municipal Affairs and Housing (MMAH).

### Executive Summary

Bill 139 – the proposed Building Better Communities and Conserving Watersheds Act, 2017 proposes to introduce new legislation to replace the Ontario Municipal Board with the Local Planning Appeal Tribunal (LPAT), and make amendments to existing legislation, including the *Planning Act*, to give communities a stronger voice in land use planning. Through the recent OMB Review, the Province collected over 1,100 submissions and more than 700 people attended the regional town halls. The Schedules that comprise this new Bill are:

1. Local Planning Appeal Tribunal Act, 2017
2. Local Planning Appeal Support Centre Act, 2017
3. Amendments to the Planning Act, the City of Toronto Act, 2006 and the Ontario Planning and Development Act, 1994
4. Amendments to the Conservation Authorities Act
5. Amendments to various Acts consequential to the enactment of the Local Planning Appeal Tribunal Act, 2017

Based on applicable law, policies, evidence and provincial interests, the new LPAT would make decisions in a public forum as a part of the land use planning system in a similar fashion to the OMB, which will:

- Give more weight to local and provincial decisions by changing the standard of review – the grounds for appeal on major matters would be limited to their failure to conform or be consistent with provincial and local policies
- Give municipal elected officials greater control over local planning by exempting a broader range of municipal land use decisions from appeal.

- Support clearer and more timely decision making
- Support government priorities on climate change

This report summarizes potential changes in the system as a result of the LPAT and also includes interpretation from Staff on how they may affect Council and Committee of Adjustment decisions (or lack of).

## **Report**

Staff have provided brief explanations for some of the potential changes as a result of Bill 139 and how they could influence (if proclaimed) the decision making and appeal process for Planning Staff, Applicants/Agents, Committees, the Public and Council.

### **Schedule 1 – Local Planning Appeal Tribunal Act, 2017**

#### **Explanation**

This new Act would repeal the *Ontario Municipal Board Act* and replace the OMB with the LPAT. Many of the proposed changes introduced by the LPAT deal with hearing practices, procedures, rules and certain powers. Case management and opportunities for discussing settlements to determine the administrative details for the conduct of hearings is also proposed and would be mandatory for certain applications (i.e. OPAs, ZBAs, PSU/CDM). In terms of process, if it's determined that a hearing is required, the Tribunal will conclude if the Municipal decision is consistent/in conformity with Provincial/Local Plans. If it was, the Municipal decision is upheld, but if it is not, the proposal is sent back to the Municipality for reconsideration.

**Interpretation:** A large part of the OMB Reform consultation dealt with limiting the number of appeals that actually result in a hearing. With the LPAT, mandatory case management and mediation prior to a hearing may result in some if not all of the issues being resolved without a Provincial decision being made. Municipalities will now be able to reevaluate decisions that are sent back by the Tribunal with a clear understanding of where information may have been missing, or where a decision may not have been made in relation to good land use planning.

A reexamination of decisions will add workloads for both Council and Staff, which will require that original decisions and reconsiderations (if needed), are more informed by Provincial and Official Plan policies and less on the impact that decisions may have on the representation of elected officials with their constituents. Under the current OMB process, decisions that are more informed by representation of the public than policies and regulations have an outlet for politically unbiased review at the OMB. Once a decision is made by the OMB, it is final (if no appeals to the Supreme Court). However, under the new process with LPAT, if settlements cannot be achieved via case management and meditation, Council may be directed by the Tribunal to reconsider decisions if they are not consistent/in conformity with Provincial and Local legislation.

### **Schedule 2 – Local Planning Appeal Support Centre Act, 2017**

#### **Explanation**

This new Act introduces the LPASC as a non-share corporation which would give cost-effective support services in matters of LPAT appeal processes, such as:

- information on land use planning
- guidance on tribunal procedures

- advice or representation
- other services prescribed by regulations

**Interpretation:** Similar to the OMB's Citizen Liaison Office (CLO), the Local Planning Appeal Support Centre would be available to the public and able assist applicants and appellants with questions they have such as how to file an appeal, the process, roles in the hearing.

### Schedule 3 – Amendments to the Planning Act, the City of Toronto Act, 2006 and the Ontario Planning and Development Act, 1994

#### **Explanation**

With the repeal of the OMB, the *Planning Act* will need to be amended to reflect that appeals are to be filed with the LPAT and no longer the OMB. Given that there are current appeals pending in the OMB system, regulations will be introduced that allows the transitioning of proceedings. The proposed changes in the *Planning Act* would also require Official Plans to contain climate change and higher order transit policies to be a priority.

**Interpretation:** The LPAT will follow a similar system to the OMB in terms of process as to when appeals can be filed, including restriction of appeals in certain situations (i.e. Minister approvals/orders).

### Schedule 4 – Amendments to the Conservation Authorities Act

#### **Explanation**

This Schedule does not deal with the OMB Reform, but rather addresses amendments to the Conservation Authorities Act, hence the “Conserving Watersheds Act” portion of the Bill 139 title.

**Interpretation:** The proposed amendments give Conservation Authorities power to enlarge areas of jurisdiction, deal with administrative matters, establish by-laws, create programs and services, regulate charges and fees and deal with enforcement for offences such as fines for individuals vs. a corporation of up to \$1,000,000.

### Schedule 5 – Amendments to various Acts consequential to the enactment of the Local Planning Appeal Tribunal Act, 2017

#### **Explanation**

Similar to Schedule 3, striking out Ontario Municipal Board from various Acts will be required in order to substitute the Local Planning Appeal Tribunal.

**Interpretation:** Noting that the OMB was initially established in 1906 as the Ontario Railway and Municipal Board, it is necessary to amend all of the Acts that refer to it.

### **Conclusion and Recommendations**

In summary, the Ontario Municipal Board (OMB) Reform covered a wide-range of topics as a result of public, private and municipal scrutiny regarding how the OMB fits into the land use planning system. The proposed changes which would create the Local Planning Appeal Tribunal (LPAT), would not only assist in streamlining the Provincial decision making process, but also provide more reassurance of its role and how it could affect growth, planning and development matters while considering local context and Municipal decisions.

The proposed changes with the introduction of the LPAT will:

- Give more weight to local and provincial decisions. It is proposed that major land use planning matters could only be appealed on the grounds that they don't conform or aren't consistent with provincial/municipal plans/policies.
- Bring fewer municipal and provincial decisions before the Tribunal, eliminating appeals of provincially approved municipal official plans and major updates. Municipal interim control by-laws, when first put in place would not be appealable, and applications to change new secondary (neighbourhood) plans would only be allowed within the first two years if the municipality supported them.
- Support transit by giving municipalities the ability to remove appeals (except by the province) of official plans and zoning by-laws that support appropriate development around higher-order transit such as trains, subways and buses.
- Make it clear that the Tribunal can only deal with official plan policies that are part of the municipal council's decision.
- Remove the ability for anyone to require the Minister of Municipal Affairs to refer a minister's zoning order to the Tribunal.
- Expand the authority of local appeal bodies to hear matters related to site plan control, which deals with disputes on individual properties such as things like landscaping, driveways or lighting.
- Give planning authorities more time to assess planning applications by extending the decision timelines by 30 days in relation to official plans and zoning by-laws.
- Require the Tribunal to send new material back to the municipality for re-evaluation when adjudicating subdivision appeals if the municipality requests the material be returned.
- Clarify that policy statements, like the Provincial Policy Statement, may identify matters that require specific provincial approvals for any of the matters provided for in the policy statement.
- Require that all municipalities include climate change policies in their official plans.

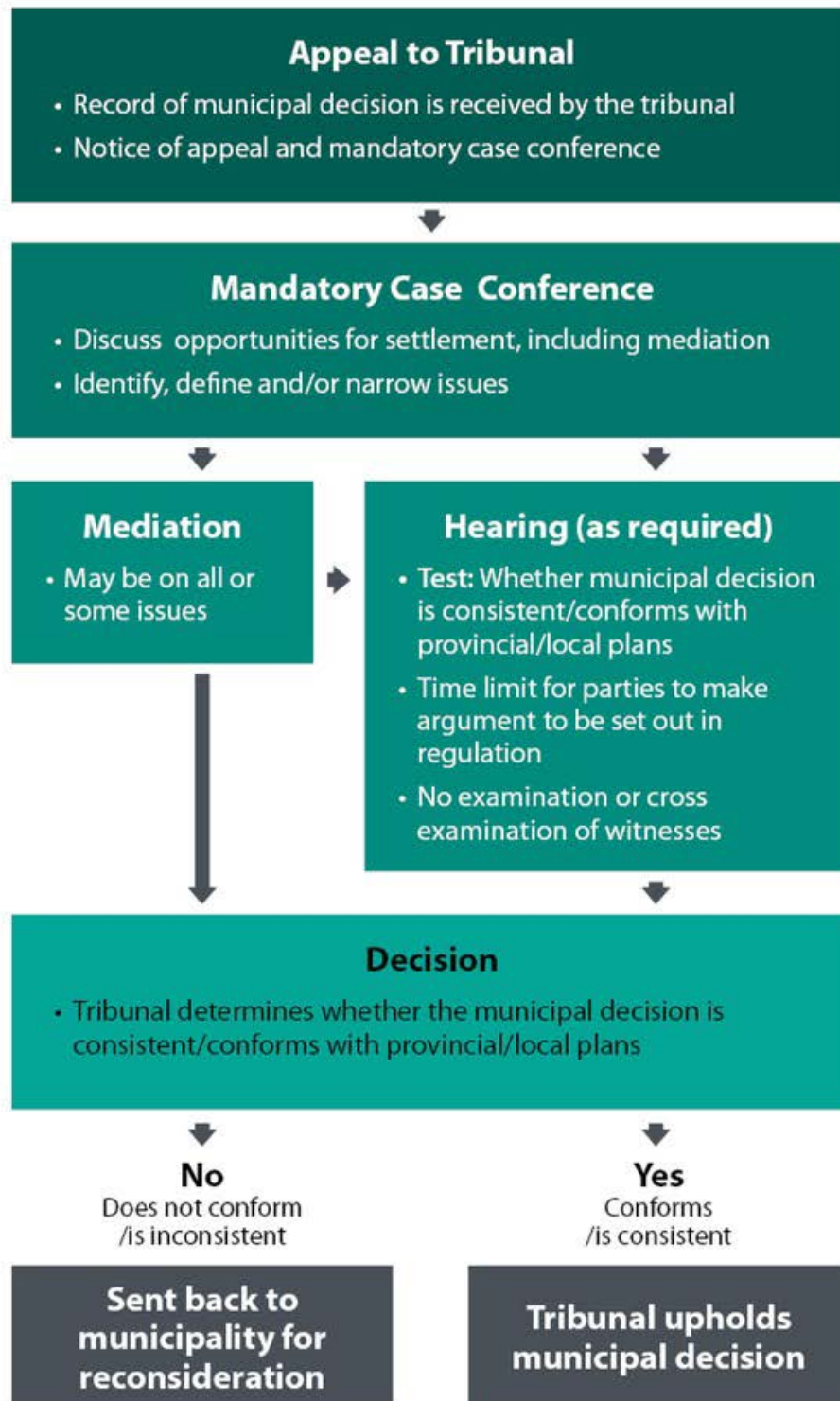
Staff is supportive of Bill 139 put forth by the Province, noting that the intent of the Ontario Municipal Board will remain and be superseded by the Local Planning Appeal Tribunal and that many of the Recommendations from the Council adopted Staff Report PA-16-68 (Ontario Municipal Board Review) have been addressed.

Respectfully submitted,



Brandon Hassan, Senior Policy Planner

## Proposed Hearing Process:



Appeal of Municipal Decision on Official Plan/Zoning  
(i.e. conformity/consistency appeals)

