



Memorandum

TO: Regional Council
FROM: Valerie Shuttleworth, Chief Planner
DATE: 25 May 2017
RE: **Proposed Changes to the Land Use Planning Appeal System**

The Province has announced proposed changes to the Land Use Planning Appeal System

On May 16, 2017, the Province announced a series of changes that can be expected through legislation to create the Local Planning Appeal Tribunal. The legislation will be tabled in the coming weeks.

York Region participated in the Province's review of the Ontario Municipal Board in 2016

The Province initiated a review of the Ontario Municipal Board in October 2016, through a public consultation document and a series of public meetings. Planning staff consulted with interested departments and with all 9 local municipalities, and also attended several of the public meetings.

On [December 15, 2016](#), Council endorsed staff recommended comments to the Province. Council also requested that the Province consider the inclusion of a sunset clause on development approvals related to Ontario Municipal Board rulings. Regional comments were submitted to the Province on December 16, 2016. Many of the Region's comments appear to be addressed by the proposed legislation.

The Province proposes to change the name of the appeal body, make changes to the scope of appeals and give greater weight to municipal decisions

The appeal body is proposed to be renamed from the Ontario Municipal Board to the Local Planning Appeal Tribunal. This name change comes with a decrease in the scope of powers the tribunal would exercise. For example, the current practice of "hearings de

novus”, or conducting hearings “as new” and without regard for the decision of council, will be eliminated for the majority of appeals. Instead, the tribunal would be permitted to overturn a municipal council decision only if it is found not to be consistent or in conformity with provincial and local plans.

Municipal decisions will be further protected by exempting certain matters from appeal, including provincially approved Official Plans, major Official Plan updates, detailed plans to support growth in major transit station areas, and Minister’s zoning orders. In addition, applications to amend Secondary Plans can be restricted for a period up to two years, at the discretion of the approval authority. Appeals of interim control by-laws can be restricted for a period of up to one year.

Under the proposed rules, where the tribunal finds that the municipal decision is consistent or in conformity with provincial and local plans, the municipal decision will be upheld. Where the tribunal finds that the municipal decision is not consistent or in conformity with the provincial and local plans, the tribunal would send a written decision explaining its findings back to the municipality. The municipality would then have 90 days to reconsider the matter.

New practices and procedural rules are proposed, in an effort to reduce the time, cost, and adversarial nature of appeals

If the legislation proceeds, mandatory case management procedures will apply to the majority of appeals, including exploring opportunities for mediation and settlement without a hearing. In the case where a settlement cannot be reached, the case management process will identify, define and narrow issues prior to a hearing. The process is intended to create a less adversarial system.

If a hearing is necessary, new procedural rules will govern hearing conduct. There will be strict presumptive timelines for oral hearings, and in the majority of cases evidence will be limited to written materials, with no examination or cross examination of witnesses. Active adjudication, alternate hearing formats and the assignment of multi-member panels, where appropriate, are all proposed.

Support for citizens who wish to engage in the appeal process will be provided through the Local Planning Appeal Support Centre

The centre will provide free planning and legal information and support for citizens who want to participate in tribunal appeals. The centre will be modeled after the Human Rights Legal Support Centre. Services provided by the centre could range from providing Ontarians with general information on land use planning, and offering guidance on the tribunal appeal and hearing process, to providing legal and planning advice and representation during case conferences and hearings in some cases. The centre is to be funded by the Province.

The proposed changes address many of the recommendations provided by the Region during the consultation process

While the legislation has yet to be tabled, the information in the press releases indicates that many of the Region's comments and recommendations will be addressed in the proposed legislation. The changes appear to also implement many of the recommendations made by the Regional Planning Commissioners of Ontario (RPCO).

After the proposed legislation is tabled, staff will prepare a comprehensive staff report outlining expected impacts on York Region. The report will include a comparison of the proposed legislation to the Region's comments submitted in December 2016. The report will likely be presented to Regional Council in September, 2017.

For questions regarding the proposed changes to the land use planning appeal system, please contact Paul Freeman, Director, Long Range Planning at paul.freeman@york.ca or ext. 71534.

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