



Subject: Ontario Land Tribunal Information Report

To: Council

From: Development and Legislative Services Department

Report Number: 2022-69

Meeting Date: April 12, 2022

Recommendation:

That Development and Legislative Services Report 2022-69 be received for information.

Purpose:

The purpose of this report is to provide Council with information respecting the Ontario Land Tribunal. This report has been prepared in response to a correspondence item requesting the dissolution of the Ontario Land Tribunal which was referred to Planning staff at the March 8, 2022 Council meeting.

Background:

At the March 8, 2022, Council meeting, a correspondence item was circulated respecting support to dissolve the Ontario Land Tribunal (OLT). This item has been attached to this report as Appendix A.

Councillors discussed the current climate of the OLT and the implications of eliminating the Tribunal province-wide, should the Ontario Government decide to do so.

Council resolved to refer the matter to Planning staff and have a report prepared for the April 12, 2022 Council meeting.

Discussion:

History and Mandate

The Ontario Land Tribunal (OLT) was formed on June 1, 2021, as a direct continuation of the former Local Planning Appeal Tribunal (LPAT) and even further, former Ontario

Municipal Board (OMB). The move to the new name has brought together a number of provincial boards/tribunals including: the Board of Negotiation, Conservation Review Board, Environmental Review Tribunal, Local Planning Appeal Tribunal, and the Mining and Lands Tribunal, to be now known as the OLT.

The OLT deals with matters related to land use planning, environmental, natural and heritage feature protection, land valuation, land compensation, municipal finance and similar matters. The goal of the Tribunal is to fairly, effectively and efficiently resolve disputes with respect to the above matters.

Planning staff are most directly involved with the OLT on land use planning matters. There are a number of instances where this can happen in the Planning process, however, typically matters are referred to the OLT when/if an application is appealed. Appeals can be made on most Planning decisions, including Official Plans and amendments, Zoning By-laws and amendments, Committee of Adjustment applications such as minor variances and consents, subdivisions, failure to approve a site plan control application, the imposing of development charges, decisions on matters under the *Heritage Act*, to name a few.

In the context of Port Colborne, a handful of applications have been referred to the OLT in the last five years. The timeline for hearing OLT appeals is extremely variable depending on the application, however staff would estimate the typical appeal adds on average nine months to the planning process.

Cost

With respect to appeal fees, these also vary by the application type. A chart outlining the most common fees for initiating an appeal can be found below:

Item	Corporate Fee	Fee for a private citizen, a registered charity, or a non-profit ratepayers' association*
Development Charges Appeal	\$1,100	\$1,100
Minor Variance and Consent Appeal	\$400	\$400
Official Plans and Amendments Appeal	\$1,100	\$400
Plan of Subdivision/Condominium Appeal	\$1,100	\$400
Zoning By-law and Amendments Appeal	\$1,100	\$400

*Note: the reduced fee of \$400 versus the full \$1,100 fee must be separately requested by filling out an additional form.

The fees above are seen as the absolute base cost of an appeal. For parties to be successful in an appeal, it is highly recommended that legal counsel or planning representation is retained. The legal/planning fees would of course be in addition to the above fees. An estimate of the legal fees rendered for the most straight-forward appeal type would be upwards of \$5,000. Again, appeals vary depending on the application, but more complex/lengthy appeals could cost tens of thousands of dollars.

Other Jurisdictions

A canvas of planning systems across Canada was conducted by Planning staff. Based on the review, it is apparent that the majority of provinces in Canada have an appeal body much like Ontario. An exception to this would be Saskatchewan, which requires municipalities to have a Planning Appeals Committee (PAC) independent and separate from municipal Council. Another interesting model is Newfoundland, which offers a regional approach to the appeal boards.

Moving Forward

While a recommendation or opinion will not be provided in this report, staff would like to pose a few considerations and/or questions to guide Council to consider making a decision on this matter.

- Consider a solution to the current OLT structure. If the Ontario Government eliminated the Tribunal completely, there would need to be a replacement.
- It is understood that Councils/Committees makes decisions based on current Planning legislation and staff recommendations, however there are instances where Councils/Committees make decisions based on other factors, not always related to planning.
- The recourse available to a resident or applicant should Council/Committee choose to make a decision that conflicts with planning policy.
- The OLT is an independent body that views the application from an unbiased position, and applies provincial, regional, and municipal policies to render a decision.
- If the OLT is removed, appeals could be downloaded to the lower or upper-tier municipalities. This would require municipal resources to maintain.

Internal Consultations:

Not applicable as this correspondence item pertains to Planning matters at the OLT.

Financial Implications:

There are no direct financial implications associated with this report. However, as mentioned above, the appeal process does cost the municipality a considerable amount in legal fees. Staff find that completely eliminating the OLT appeal process is unlikely, therefore, should the Ontario Government change the appeal process, the legal fees would be redistributed, rather than eliminated.

Public Engagement:

Not applicable to this report.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Governance: Communications, Engagement, and Decision-Making
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Conclusion:

As mentioned, this report is meant to be an informational report on the Ontario Land Tribunal. Staff will not be providing a recommendation on the proposed motion. Planning staff will be available to answer any specific questions related to the OLT.

Appendices:

- a. Motion and Correspondence Item

Respectfully submitted,

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Report Approval:

All reports reviewed and approved by the Department Director and the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.