From: Erwin Dreessen
To: "ELTO.CLO@ontario.ca"
Cc: "Julien, Kate (MAG)"
Subject: proposed LPAT Rules of Practice and Procedure
Date: March 22, 2018 10:18:00 PM

Dear Madam or Sir,

I did not become aware of proposed Rules of Practice and Procedure for the Local Planning Appeal Tribunal until today. With a deadline for comments tomorrow, there is no time to make members of the Greenspace Alliance of Canada's Capital (GA) and the Ottawa Federation of Citizens' Associations (FCA) aware of them. Both GA and FCA have been very active participants throughout the OMB reform process. Nor is there time to consult with experts. I have no option than to provide personal comments following a cursory review and make no apologies if some of them may be misguided.

Re Rule 7.03: Like filing with the Tribunal itself (Rule 7.01), documents should be provided both on paper and electronically to other Parties.

Re Rule 7.04: In the context of the new appeal process it is not clear what the meaning is of a "hearing" lasting more than 5 days. Looking at what constitutes a "hearing" (defined under "hearing event"), presumably a written hearing will typically stretch over a longer period, an oral hearing is extremely time-limited and an electronic hearing is also unlikely to stretch over more than 5 days. This rule could be more focused.

Re Rule 7.08: Why does making Tribunal documents available by the Clerk of the municipality depend on receiving direction from the Tribunal? In the interest of transparency and openness this should be standard practice.

Re Rules 8.03 and 8.04: These new rules are reasonable.

Re Rule 10: Unless the Support Centre will facilitate the process, the process of serving motions or responses to motions can be very taxing for community groups, both due to the need for a sworn affidavit and because of the short turnaround for a response.

Re Rule 10.11: The new rule that the Tribunal can initiate a motion is constructive.

Re Rule 11.01: It is good to see a provision for constitutional questions. In a recent case, when a constitutional question was raised, the Board dismissed it as being outside its jurisdiction!

Re Rule 18.03: It is an improvement that a Tribunal member who conducted mediation cannot then preside over a hearing, even if all Parties would consent.

Re Rule 20.07: The technology for holding a videoconference from one's computer is now mature (think Skype). It could become the standard for holding electronic hearings, rather than by teleconference.

Re Rule 22.04: The provision for site visits is applauded.

Re Rule 22.09: All hearings should result in a written summary record, produced by

Tribunal staff. If a verbatim record is produced, then the Tribunal as well as non-profit groups should receive a copy. The current process (which is continued here) puts non-profit groups at a great disadvantage.

Re Rule 26.02: It would seem that most proceedings would fall under Part II, where six Rules of Part I are not applicable. This is very concerning, in particular the non-applicability of Rules 8.01(e), 9, and 13.01(a) to (g). A Party that has been accepted in a proceeding should be able to present witnesses and cross-examine. The Tribunal should be able to issue an Order for Discovery. Above all, the ability to summon a witness may be critical for a community group to present its case. Rule 26.02 should be deleted.

Re Rule 26.26: It is not made clear that interrogatories, while they must be approved by the Tribunal, may be initiated by a Party.

These are my comments.

Erwin Dreessen

Ottawa