



## *Local Planning Appeal Tribunal*

**ISSUE DATE:**

**CASE NO(S):**

PL140495  
PL141235  
PL141244  
PL170037  
PL170983

### **Rural Servicing**

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Subject:	Proposed Official Plan Amendment No. 150
Municipality:	City of Ottawa
OMB Case No.:	PL140495
OMB File No.:	PL140495
OMB Case Name:	Dolan v. Ottawa (City)

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Subject:	Proposed Official Plan Amendment No. 140
Municipality:	City of Ottawa
OMB Case No.:	PL141235
OMB File No.:	PL141235
OMB Case Name:	Gibson Patterson v. Ottawa (City)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Subject:	By-law No. 2014-343
Municipality:	City of Ottawa
OMB Case No.:	PL141244
OMB File No.:	PL141244
OMB Case Name:	Urbandale Corporation v. Ottawa (City)

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Subject:	Proposed Official Plan Amendment No. 179
Municipality:	City of Ottawa
OMB Case No.:	PL170037
OMB File No.:	PL170037
OMB Case Name:	Ontario Stone, Sand & Gravel Association v. Ottawa (City)

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Subject:	Proposed Official Plan Amendment No. 180
Municipality:	City of Ottawa
OMB Case No.:	PL170983
OMB File No.:	PL170983
OMB Case Name:	Glendon Moore v. Ontario (Municipal Affairs)

1. The Tribunal may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

**Organization of the Hearing**

2. The hearing will begin on June 24, 2019 at 10 a.m. at the Keefer Room, Heritage Building, 110 Laurier Avenue West in the municipality of Ottawa.

3. The length of the hearing will be about 6 days (June 24 – July 2, 2019).

4. The parties and participants identified at the prehearing conference are identified in Attachment 1 to this Order. The order of evidence shall be in accordance with Attachment 3 to this order. The matters before the Tribunal are set forth in Attachment 4.

5. The Issues are identified in Attachment 2 to this Order.

There will be no changes to this list unless the parties agree or the Tribunal permits the change. A party who asks for changes after expert statements are submitted (in para 10 and 12) may have costs awarded against it.

6. Any person intending to participate in the hearing should provide a telephone number to the Tribunal as soon as possible (*preferably before the prehearing conference.*) Any such person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address and phone number as soon as possible.

**Requirements Before the Hearing**

7. Expert witnesses in the same field shall have a meeting before the hearing to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the parties.

8. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties, a list of the witnesses and the order in which they are intended to be called. This list must be delivered at least 77 calendar days (April 8, 2019) before the hearing.

9. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section [12]. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.

10. A witness or participant must provide to the Tribunal and the parties a witness statement at least 70 calendar days (April 15, 2019) before the hearing, or the witness or participant may not give oral evidence at the hearing.

11. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence, as in section [12].

12. On or before 70 calendar days (April 15, 2019) before the hearing, the parties shall provide copies of their witness and expert witness statements to the other parties. The parties

shall prepare a Joint Document Book to be filed with the Tribunal on the first day of the hearing. A paper copy of any document proposed to be entered into evidence or relied upon shall be provided at the hearing unless ordered otherwise by the presiding Member

**13.** On or before 14 calendar days (June 10, 2019) before the hearing, the parties and participants shall provide copies of their visual evidence to all of the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.

**14.** Parties may provide to all other parties and file with the Clerk a written response to any written evidence within 21 days after the evidence is received.

**15.** A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal.

*(see Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.)*

**16.** A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days (June 17, 2019) before the hearing that the written evidence is not part of their record.

**17.** Documents may be delivered by personal delivery, facsimile or registered or certified mail or by e-mail, or otherwise as the Tribunal may direct. The delivery of documents by fax shall be governed by the Tribunal's Rules (Rule 7) on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

**18.** No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

**19.** Upon receiving the documents in sections 10, 11, 12 and 14 above, the City Clerk and Solicitor shall present this information to the Planning Committee of the City of Ottawa.

**This Member is [not] seized.**

**So orders the Tribunal.**

**BEFORE:**

Name of Member	)	Date:
	)	
	)	

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TRIBUNAL REGISTRAR

## ATTACHMENT TO SAMPLE PROCEDURAL ORDER

### **Purpose of the Procedural Order and Meaning of Terms**

The Tribunal recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Tribunal to order following the conference. The Tribunal will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Local Planning Appeal Tribunal, and the Tribunal's Rules, from the Tribunal Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-327-6800, or from the Tribunal website at \_\_\_\_\_.

### **Meaning of terms used in the Procedural Order:**

**Party** is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.

**NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Tribunal to permit this.

**Participant** is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Tribunal on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Tribunal will set the time for hearing this statement. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Tribunal will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

**Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes

*photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.*

**Witness Statements:** *A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.*

### **Additional Information**

**Summons:** *A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons. This request must be made before the time that the list of witnesses is provided to the Tribunal and the parties. (See Rule 13 on the summons procedure.) If the Tribunal requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.*

**The order of examination of witnesses:** *is usually direct examination, cross-examination and re-examination in the following way:*

*direct examination by the party presenting the witness;  
direct examination by any party of similar interest, in the manner determined by the Tribunal;  
cross-examination by parties of opposite interest;  
re-examination by the party presenting the witness; or  
another order of examination mutually agreed among the parties or directed by the Tribunal.*

ATTACHMENT 1

PARTIES

1. Thomas Cavanagh Construction Limited and 2325482 Ontario Limited Inc.
2. Shirley Dolan
3. City of Ottawa



ATTACHMENT 2

ISSUES LIST

Thomas Cavanagh Construction Limited and 2325482 Ontario Limited Inc.

1. Does provincial policy permit a consideration of alternate rural servicing solutions?
2. Does draft official plan policy 4.4.2.1(1) as worded, requiring 'conformity with MOE and City guidelines', permit sufficient flexibility to allow innovative solutions that are otherwise consistent with and conform to provincial policy, legislation and guidelines?
3. If not what is the appropriate wording for policy 4.4.2.1(1)?

Shirley Dolan

4. Should Official Plan Policy prohibit severances where the issue is one or more aesthetic parameters?
5. Is it appropriate for Official Plan policy to refer to City of Ottawa Guidelines when such guidelines do not exist?
6. Upon which guidelines for private wells-water supply assessment should Official Plan policy be based with respect to rural development on private services?

ATTACHMENT 3

ORDER OF EVIDENCE

1. Thomas Cavanagh Construction Limited and 2325482 Ontario Limited Inc.
2. Shirley Dolan
3. City of Ottawa

ATTACHMENT 4

MATTERS AT HEARING

OPA 150, Items 249, 250, 253, 254.