

Local Planning Appeal Tribunal (LPAT): Appeal Guide A

This guide applies to the following sections of the *Planning Act*:

First appeals filed under:

Section 17 (24) – Appeals of a council decision to adopt or amend an official plan

Section 17 (36) – Appeals of a decision by an approval authority to approve a decision adopting or amending an official plan

Section 22 (7) – Appeals of a council decision to refuse a private amendment to an official plan or non-decision of a private amendment application

Section 34 (11) – Appeals of a council decision to refuse a private amendment to a municipal zoning bylaw or non-decision of a private amendment application

Section 34 (19) – Appeals of a decision by a council to adopt a zoning bylaw or zoning bylaw amendment

Appeals filed under:

Section 17 (40) – Appeals of a non-decision by an approval authority

Section 51 (34) – Appeals of a non-decision on a subdivision

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About LPAT

What is the Local Planning Appeal Tribunal (LPAT)?

The Local Planning Appeal Tribunal (LPAT) is an adjudicative tribunal that hears cases in relation to a range of municipal planning, financial and land matters. These include matters such as official plans, zoning by-laws, subdivision plans, consents and minor variances, land compensations, development charges, electoral ward boundaries, municipal finances, aggregate resources and other issues assigned by numerous Ontario statutes.

LPAT is part of Environment and Land Tribunals Ontario (ELTO), a cluster of tribunals that adjudicate matters related to land use planning, environmental and heritage protection, property assessment, land valuation and other matters.

What is the history of LPAT?

LPAT used to be known as the Ontario Municipal Board (OMB). This change occurred on April 3, 2018, as a result of Bill 139, the *Building Better Communities and Conserving Watersheds Act*, which aimed to make changes to the land-use planning appeal system in Ontario. The former OMB is continued as LPAT. This means that any proceeding that was before the OMB and is ongoing will now be decided by LPAT.

The OMB was an independent adjudicative tribunal that conducted hearings and made decisions on land use planning issues and other matters. The OMB was also Ontario's first independent, quasi-judicial administrative tribunal. Originally named the Ontario Railway and Municipal Board (ORMB), the ORMB oversaw municipalities' accounts and supervised the rapidly growing rail transportation system among municipalities. In 1906, the ORMB assumed new responsibilities, including those previously carried out by the Office of the Provincial Municipal Auditor, and was renamed to the OMB in 1932.

What is a "Member"? How are they appointed to LPAT?

Members are responsible for the adjudication of disputes between parties appearing before LPAT. Members conduct hearings and make rulings and/or write decisions.

Members are selected through a competitive merit-based process, and are appointed by the Lieutenant Governor in Council through the Public Appointments Secretariat (PAS). For more information on the appointment process, please visit the [PAS website](#).

What rules govern LPAT and its proceedings?

[LPAT's Rules of Practice and Procedure](#) provide details about LPAT's processes and procedures.

Filing an Appeal

For more information on filing an appeal, please see Rules 5 and 26 of LPAT's Rules of Practice and Procedure, as well as the section of the Planning Act you would like to file your appeal under.

Who can file an appeal?

You may file an appeal if you submitted oral or written comments to the municipality/approval authority prior to a decision of council or at the statutory public hearing. In the case of a non-decision prior participation is not required in order to be able to appeal.

How can I file an appeal?

The Notice of Decision from the municipality/approval authority will notify you on how you should file your appeal. Appeals are generally filed with the municipality/approval authority, and the Clerk is required to forward the appeal to LPAT.

For sections 17 (24), 17 (36), 22 (7), 34 (11) and 34 (19) of the Planning Act:

If you wish to file an appeal of a Notice of Decision, you must submit your appeal within the legislated timelines with the required filing fee and completed appeal form, including grounds for appeal.

In describing your grounds for appeal, you must include which part of the decision of the municipality/approval authority being appealed:

- Is inconsistent with the Provincial Policy Statement;
- Fails to conform with or conflicts with a provincial plan; or,
- Fails to conform to an applicable Official Plan.

If you are filing an appeal under **section 22 (7)** or **section 34 (11)** of the *Planning Act*, the grounds for appeal must include how your application will bring the Official Plan into conformity or consistency with:

- The Provincial Policy Statement
- A provincial plan; or
- The upper-tier municipality's Official Plan, or the applicable Official Plan.

For sections 17 (40) and 51 (34) of the Planning Act:

Any person or public body may also appeal to the Tribunal, if the municipality/approval authority fails to give notice of its decision within the statutory time period.

If you wish to file an appeal, you must submit your notice of appeal, the accompanying filing fee and appeal form.

What is the deadline for filing an appeal?

Your deadline will depend on the type of appeal you want to file.

To determine where there is a deadline for your appeal and, if so, what it is, please check the section of the *Planning Act* that you are filing your appeal under.

What is the filing fee for an appeal?

In most cases, there is a filing fee of \$300 for each appeal (certified cheque or money order made out to “The Minister of Finance”).

For a list of all LPAT fees, please visit the “Fee Chart” page on the LPAT website.

How is an appeal processed once LPAT receives it?

Once LPAT receives the appeal, the appeal package is date-stamped and the filing fee is processed. The appeal is then given a case number and a case coordinator is assigned to manage the file. The case coordinator will review the file and may contact parties for additional information.

LPAT will send you an acknowledgement letter, which will include the case number, the name of the case coordinator, and general information about the appeals process.

Your Notice of Appeal will be subject to a preliminary screening. If your Notice of Appeal is found to be valid, you will receive a Notice of Commencement from the LPAT Registrar. This indicates the beginning of the time period to process your case. For more information on decision timelines, please see the “Decisions” section of this guide.

After a Notice of Commencement is issued in a case, the LPAT Registrar will schedule a mandatory case management conference (CMC). For more information on CMCs, please see the “CMC” section of this guide.

Participating in an Appeal

For more information on requesting party or participant status, please see Rules 8 and 26 of LPAT's Rules of Practice and Procedure, as well as the section of the Planning Act the appeal has been filed under.

How can neighbours and other concerned people participate?

Those with an interest in the matter may be able to request party or participant status for the appeal. *The Local Planning Appeal Tribunal Act, 2017* sets out certain conditions for a person to meet in order to participate as a party or as a participant.

What is a party?

Parties are fully involved in the proceedings before LPAT, including filing submissions and presenting submissions at the hearing. They may also request costs, adjournments, or a review of the decision.

What is a participant?

Participants have a more limited role in the appeal. They do not fully take part in the proceedings and may only provide submissions.

How can I request to be a party or participant?

For sections 17 (24), 17 (36), 17(40), 22 (7), 34 (11), 34 (19) and 51(34):

To request party or participant status, you must make a written submission to LPAT at least 30 days before the case management conference (CMC) takes place.

This written submission in an appeal under sections 17(24), 17(36), 17(40), 22(7), 34(11), 34(19) or 51(34) of the Planning Act must explain whether the decision or a non-decision:

- Is inconsistent with a policy statement issued under subsection 3 (1) of the Planning Act;
- Fails to conform with or conflicts with a provincial plan; or,
- Fails to conform to an applicable Official Plan.

The written submission containing this information must be emailed to the assigned Tribunal Case Coordinator, 30 days before the case management conference.

A person must provide a copy of their written submission to the municipality and the approval authority whose decision is being appealed, 30 days before the case management conference.

A person must file a certificate of service in the form available on the Tribunal's website, to confirm service of their written submission. The certificate can be emailed to the Tribunal Case Coordinator.

You can also provide a copy of your request to the other parties.

When will my request be approved?

At the CMC, the Member(s) will decide on any requests to become a party or a participant in the appeal. The Tribunal will determine, from among the persons that have provided written submissions, whether that person may participate in the case management conference as a party or as a participant.

For more information on CMCs, please see the [“CMC” section](#) of this guide.

Are hearing events open to the public?

Most hearing events, including CMCs and hearings, are open to the public, and anyone can attend to watch (unless directed otherwise by the Member(s)). However, you may need to request permission in advance to call into hearing events that happen through teleconference call.

Mediation sessions are confidential and not open to the public.

Do I need a lawyer to be a party or participant?

No, a lawyer is not required for hearing events before LPAT. However, if you do not hire one, you should be prepared to:

1. Do your own research on the matter;
2. Find the documents and information you need for your case;
3. Make copies of the documents for LPAT and all parties;
4. Speak on your own behalf at the hearing; and,
5. Present your submission at the hearing.

You may also wish to contact the Local Planning Appeal Support Centre (LPASC). LPASC will provide people with free information on land use planning, offer legal and planning advice, and, in certain cases, provide representation in proceedings before LPAT. For more information, please visit the [LPASC website](#).

If you decide to hire a professional to represent you, you need to ensure that the person is licensed as a representative through the Law Society of Ontario (LSO) or they may not be able to represent you at the hearing. Different rules of representation may apply if you have a friend or relative represent you. For more information about representation, please visit the [LSO website](#) and Rule 4 of [LPAT's Rules of Practice and Procedure](#).

Case Management Conference (CMC)

For more information on CMCs, please see Rule 26 of LPAT's Rules of Practice and Procedure, as well as the Local Planning Appeal Tribunal Act.

What is a CMC?

A case management conference (CMC) is a mandatory hearing event that provides LPAT with the opportunity to identify parties and participant requests, identify or narrow the issues, identify facts that may be agreed upon, and provide directions for disclosure of information.

LPAT will also address parties to discuss opportunities for settlement, including the possible use of mediation or other dispute resolution processes.

Who can take part in a CMC?

The applicant, appellant and the municipality and/or approval authority (whose decision or failure to make a decision is the subject of the appeal) are allowed to participate in the CMC. However, hearings are also open to the public, and anyone can attend and watch.

If you are not the applicant, appellant, municipality or approval authority, you may be able to submit a request for party or participant status. Depending on the section of the Planning Act your appeal is filed under, LPAT may determine from written submissions whether you may participate in the appeal as an additional party or participant. For more information on requesting party or participant status, please see the "Participating in an Appeal" section of this guide.

Are CMCs open to the public?

Yes, CMCs are open to the public, and anyone can attend and watch (unless directed otherwise by the Member(s)).

How do I get notified of a CMC? How much notice will I receive?

You may be notified of a CMC either by LPAT or the municipality/approval authority. LPAT may provide an Appointment for Hearing through email, or it may direct the municipality/approval authority to service the notice (depending on the type of appeal).

You can expect to receive at least 75 days' notice of the CMC.

Do I have to submit anything before the CMC?

Before the CMC, appellants are required to provide an Appeal Record and Case Synopsis within a set period of time. Respondents may file a responding Appeal Record and Case Synopsis.

The Appeal Record is a collection of documents provided to LPAT as part of the appeal. For more information regarding the contents of an Appeal Record, a Responding Record or a Case Synopsis, please see Rule 26 of [LPAT's Rules of Practice and Procedure](#).

Persons who wish to be parties or participants are required to file a written submission 30 days before the CMC indicating whether the decision or failure to make a decision is inconsistent with the Provincial Policy statement, fails to conform with a provincial plan, or fails to conform with the Official Plan. For more information, please see the ["Participating in an Appeal" section](#) of this guide.

Persons must also file a Certificate of Service to confirm their written submission was also filed with the appellant and municipality/approval authority. A Certificate of Service is available on the ["Forms" page](#) of the LPAT website.

How can I prepare for the CMC?

To prepare for your CMC, you should review [LPAT's Rules of Practice and Procedure](#), as well as the section of the [Planning Act](#) the appeal has been filed under. You may also wish to review the Provincial Policy Statement and related provincial plans and municipal documents, such as by-laws or official plans.

What can I expect during the CMC process?

Before the CMC, the Member(s) will review the municipal record, appeal record, and all the requests made for status by potential parties and participants. At the CMC, the presiding member may request further information from the parties, and will decide who should attend the hearing, whether the hearing will be held in person or in writing and the issues which are in dispute in the appeal.

During the CMC, the Member(s) will assess the file and all the reports and submissions that have been submitted. You will not be required to provide any oral evidence at the CMC.

Can a CMC be postponed or adjourned?

CMCs will not be postponed or adjourned except under extraordinary circumstance. LPAT is required to dispose of proceedings within legislative time periods.

If you need to request a postponement or adjournment, you will need the consent of the parties.

For more information or postponements and adjournments, please see the [“Postponing Hearing Events \(Adjournments\)”](#) section of this guide.

Do I need a lawyer/representative for the CMC?

No, a lawyer or representative is not required for the CMC. However, if you do not hire one, you should be prepared to:

1. Do your own research on the matter;
2. Find the documents and information you need for the case;
3. Make copies of the documents for LPAT and all;
4. Speak on your own behalf at the CMC; and,
5. Present your submissions at the CMC.

You may also wish to contact the Local Planning Appeal Support Centre (LPASC). LPASC will provide people with free information on land use planning, offer legal and planning advice, and, in certain cases, provide representation in proceedings before LPAT. For more information, please visit the [LPASC website](#).

If you decide to hire a professional to represent you, you need to ensure that the person is licensed as a representative through the Law Society of Ontario (LSO) or they may not be able to represent you at the hearing. Different rules of representation may apply if you have a friend or relative represent you. For more information about representation, please visit the [LSO website](#) and see Rule 4 of [LPAT’s Rules of Practice and Procedure](#).

Can I speak to or correspond with the Member(s)?

During the CMC, parties and participants may speak to the presiding Member(s) on any matter. However, it is inappropriate to contact them outside of the hearing room as doing so could compromise, or appear to compromise, the neutrality and independence of LPAT and its Members, and their ability to provide natural justice.

If you have any issues or concerns, you may wish to contact your case coordinator, and they may forward your correspondence to the Member(s) as appropriate.

What if I have accessibility requirements?

If you have any accessibility requirements, please contact the Accessibility Coordinator as soon as possible by email at ELTO@ontario.ca or by phone at 416-212-6349 / 1-866-448-2248.

Can I request that the CMC take place in another language?

To request that the CMC take place in French, please [contact LPAT](#) at least 25 days before the CMC. For services in other languages, you must provide your own interpreter.

For more information, please see Rule 14 of LPAT's Rules of Practice and Procedure and ELTO's French Language Services Policy.

Will the CMC be recorded?

No, CMCs are not recorded by LPAT. However, you may request permission to arrange, at your expense, for a court reporter to transcribe the hearing. You can also request to record the audio of the CMC, but you cannot film it.

To request permission, please contact LPAT in advance of the CMC.

Mediation

For more information on mediation, please see Rule 18 of [LPAT's Rules of Practice and Procedure](#).

What is mediation?

During mediation, the Member(s) help parties reach a voluntary and mutually acceptable solution on some or all of the issues in dispute. This process is conducted on a confidential basis. A settlement may be reached that can be presented to LPAT at a settlement conference.

Please note that LPAT-conducted mediation is **separate** from mediation undertaken by the municipality/approval authority and/or between parties.

When is mediation available?

Opportunities for mediation may be explored during the CMC and are also available upon request after the CMC.

How do I request mediation?

To request mediation, you must submit your request in writing to LPAT. LPAT will review your request and conduct a Mediation Assessment to decide if mediation is the best way to deal with the matter.

If a date for mediation is set, LPAT will send notice to all involved parties. If LPAT decides not to mediate, the matter will proceed to a hearing.

Is mediation open to the public?

No, mediations are not open to the public. All documents and anything said in mediation are also confidential.

How can I prepare for mediation?

To prepare for mediation, you should review [LPAT's Rules of Practice and Procedure](#), as well as the section of the *Planning Act* the appeal has been filed under. You may also wish to review the Provincial Policy Statement and related provincial plans and municipal documents, such as by-laws or official plans.

What can I expect during the mediation?

During mediation, all parties try to reach an agreement to avoid or shorten a hearing. At the beginning of the mediation, the Member(s) will advise parties on how the mediation

will proceed and sets out the ground rules. The Member(s) guiding the mediation help make the discussion of the issues easier and may offer new solutions.

What if an agreement is reached at mediation?

If the dispute is resolved, LPAT can schedule a settlement conference after settlement documents have been signed and forwarded to LPAT. LPAT may issue orders at the settlement conference.

What if an agreement is not reached at mediation?

If mediation does not resolve the issues, LPAT will schedule a hearing. Different Members than those who guided the mediation will be assigned to hear the matter.

Nothing relating to the mediation, except those matters that have been agreed to, can be revealed to the Member(s) presiding at the hearing.

Do I need a lawyer/representative for mediation?

No, a lawyer or representative is not required for mediation. However, if you do not hire one, you should be prepared to:

1. Do your own research on the matter;
2. Find the documents and information you need for your case;
3. Make copies of the documents for LPAT and all parties;
4. Speak on your own behalf at the mediation; and,
5. Present your submission at the mediation.

You may also wish to contact the Local Planning Appeal Support Centre (LPASC). LPASC will provide people with free information on land use planning, offer legal and planning advice, and, in certain cases, provide representation in proceedings before LPAT. For more information, please visit the [LPASC website](#).

If you decide to hire a professional to represent you, you need to ensure that the person is licensed as a representative through the Law Society of Ontario (LSO) or they may not be able to represent you at the hearing. Different rules of representation may apply if you have a friend or relative represent you. For more information about representation, please visit the [LSO website](#) and Rule 4 of [LPAT's Rules of Practice and Procedure](#).

Can I speak to or correspond with the Member(s)?

During the mediation, you may speak to the presiding Member(s) on any matter. However, it is inappropriate to contact them outside of the hearing room as doing so could compromise, or appear to compromise, the neutrality and independence of LPAT and its Members, and their ability to provide natural justice.

If you have any issues or concerns, you may wish to contact your case coordinator, and they may forward your correspondence to the Member(s) as appropriate.

What if I have accessibility requirements?

If you have any accessibility requirements, please contact the Accessibility Coordinator as soon as possible by email at ELTO@ontario.ca or by phone at 416-212-6349 / 1-866-448-2248.

Can I request that the mediation take place in another language?

To request mediation in French, please contact LPAT at least 25 days before the mediation. For services in other languages, you must provide your own interpreter.

For more information, please see Rule 14 of LPAT's Rules of Practice and Procedure and ELTO's French Language Services Policy.

Will the mediation be recorded?

It is not permitted to record mediations at LPAT. All documents and anything said in mediation are confidential.

Hearings

For more information on hearings, please see LPAT's [Rules of Practice and Procedure](#), as well as the section of the [Planning Act](#) the appeal has been filed under.

Who can take part in a hearing?

Those persons who LPAT allowed to participate in the CMC as either a party or participant are allowed to participate in the hearing. The format of the hearing may be in writing or in-person. When hearings are open to the public, anyone can attend.

How do I get notified of a hearing?

You may be notified of a hearing either by LPAT, the applicant/appellant or the municipality/approval authority. LPAT may provide an Appointment for Hearing through email, or it may direct the applicant or municipality/approval authority to serve the notice (depending on the type of appeal).

How can I prepare for a hearing?

To prepare for your hearing, you should review [LPAT's Rules of Practice and Procedure](#), as well as the section of the [Planning Act](#) the appeal has been filed under. You may also wish to review the Provincial Policy Statement and related provincial plans and municipal documents, such as by-laws or official plans and the Notice of Decision.

What can I expect during the hearing?

For sections 17 (24), 17 (36), 22 (7), 34 (11) and 34 (19):

During the hearing, only parties may provide submissions of up to 75 minutes.

Submissions are to be based primarily on the record, or the information/documents that was before LPAT or the municipality/approval authority when it made its original decision.

The Member(s) will decide whether further information is needed to understand the matter before it. If so, the Member(s) may request, at the hearing, that the parties bring a witness to respond to questions from the Member(s).

Evidence cannot be presented by the parties at the hearing, and witnesses will not be examined or cross-examined by any party. Only the Tribunal Member may ask questions to a witness at the hearing.

For sections 17 (40) and 51 (34):

During the hearing, parties may make submissions of up to 75 minutes and participants may make submissions of up to 25 minutes.

Submissions are to be based primarily on the record, or the information/documents that was before the municipality/approval authority when it had the opportunity to make a decision.

The Member(s) will decide whether further information is needed to understand the matter before it. If so, the Member(s) may request that the parties bring a witness to the hearing to respond to questions from the Member(s).

Evidence cannot be presented by the parties at the hearing, and witnesses will not be examined or cross-examined by any party. Only the Tribunal Member may ask questions to a witness at the hearing.

Can a hearing be postponed or adjourned?

Hearings will not be postponed or adjourned except under extraordinary circumstance. LPAT is required to dispose of proceedings within legislative time periods.

If you are requesting for a postponement or adjournment, you will also need the consent of the parties.

For more information or postponements and adjournments, please see the [“Postponing Hearing Events \(Adjournments\)”](#) section of this guide.

Do I need a lawyer/representative for the hearing?

No, a lawyer or representative is not required for the hearing. However, if you do not hire one, you should be prepared to:

1. Do your own research on the matter;
2. Find the documents and information you need for your case;
3. Make copies of the documents for LPAT and all parties;
4. Speak on your own behalf at the hearing; and,
5. Present your submissions at the hearing.

You may also wish to contact the Local Planning Appeal Support Centre (LPASC). LPASC will provide people with free information on land use planning, offer legal and planning advice, and, in certain cases, provide representation in proceedings before LPAT. For more information, please visit the [LPASC website](#).

If you decide to hire a professional to represent you, you need to ensure that the person is licensed as a representative through the Law Society of Ontario (LSO) or they may not be able to represent you at the hearing. Different rules of representation may apply if you have a friend or relative represent you. For more information about representation, please visit the [LSO website](#) and Rule 4 of [LPAT’s Rules of Practice and Procedure](#).

Can I speak to or correspond with the Member(s)?

During the hearing, you may speak to the presiding Member(s) on any matter. However, it is inappropriate to contact them outside of the hearing room as doing so could compromise, or appear to compromise, the neutrality and independence of LPAT and its Members, and their ability to provide natural justice.

If you have any issues or concerns, you may wish to contact your case coordinator, and they may forward your correspondence to the Member(s) as appropriate.

What if I have accessibility requirements?

If you have any accessibility requirements, please contact the Accessibility Coordinator as soon as possible by email at ELTO@ontario.ca or by phone at 416-212-6349 / 1-866-448-2248.

Can I request that the hearing take place in another language?

To request that the hearing take place in French, please contact LPAT at least 25 days before the hearing. For services in other languages, you must provide your own interpreter.

For more information, please see Rule 14 of LPAT's Rules of Practice and Procedure and ELTO's French Language Services Policy.

Will the hearing be recorded?

No, hearings are not recorded by LPAT. However, you may request permission to arrange, at your expense, for a court reporter to transcribe the hearing. You can also request to record the audio of the hearing, but you cannot film it.

To request permission, please contact LPAT in advance of the hearing.

Postponing Hearing Events (Adjournments)

For more information on adjournments, please see Rules 17 of [LPAT's Rules of Practice and Procedure](#).

Can I postpone my hearing event?

If you want to change the date of your hearing event, you may ask LPAT to postpone your hearing event. This is known as an “adjournment”.

After the appeal is filed, you should be prepared for your case management conference or hearing event at any time, even on short notice. If your request to delay the hearing event is denied, the hearing event will go ahead as scheduled and you will be expected to attend.

Appeals considered under the Planning Act will now have timelines which are set by a regulation under the Planning Act. These timelines will have to be considered if you want to change the date of your hearing event.

How do I request an adjournment?

If you want to request an adjournment, you must first ask the other parties if they agree to an adjournment.

You must submit a Request for Adjournment form to LPAT, and send a copy to all parties. A copy of the form is available on the [“Forms” page](#) of the LPAT website.

In your request, please ensure you include the reasons you want a delay, a suggested new date, and whether the other parties agree to the delay.

When can I request an adjournment?

You should submit your adjournment request as soon as you know that you need a delay.

If it is less than 10 days before the hearing event begins, you must submit your form as soon as possible. If LPAT Staff do not allow the late request, you can ask an LPAT Member for a motion to postpone at the beginning of the hearing event.

What happens after I send in my request to adjourn?

LPAT may decide to:

1. Deny the request (the hearing event will go ahead as originally scheduled);
2. Delay the hearing event for a shorter time than requested; or,
3. Grant the request and reschedule the hearing event.

If someone objects to postponing the hearing, you may have to request a date to bring a Notice of Motion for an adjournment. For information on motions, please see the [“Motions” section](#) of this guide.

How does LPAT decide adjournment requests?

Hearing events will not be postponed or adjourned except under extraordinary circumstance. LPAT is required to dispose of proceedings within legislative time periods.

In deciding whether to postpone a hearing event, LPAT will consider if a delay is needed to have a fair hearing for all of the persons involved and consider the costs of delaying. LPAT may also postpone a hearing event if it believes that a delay should happen.

For example, if discussions are nearing a settlement, LPAT may agree to postpone the hearing event. However, hiring a lawyer, representative or planner shortly before a hearing is not a good reason for delaying a hearing event.

What if I need to postpone the hearing event because of an emergency?

In an emergency, LPAT may postpone a hearing event even if all parties do not agree. It may grant last minute postponements for emergencies such as sudden illness to a Member, representative or witness so close to the hearing event that a replacement cannot be found.

Motions

For more information on motions, please see Rule 10 of [LPAT's Rules of Practice and Procedure](#).

What is a motion?

Motions are a type of hearing event that allow you to ask LPAT to make an order on a matter before or during the hearing process. At the motion, you will be asked to give reasons for your request.

Some samples of types of motion hearings include requesting:

- An adjournment;
- A dismissal of the matter;
- Someone provide documents; or,
- Directions on a procedure that applies to the case.

How do I request a motion?

To request a motion, you must send LPAT a letter describing your request. LPAT may:

- Deny your request;
- Advise you of appropriate options; or,
- Schedule a date for you to make submissions on the motion;

If your request for a motion date is granted, LPAT will advise you of the date, time and location of the motion hearing.

Once you receive a date from LPAT, you must send the other parties:

- A copy of the Notice of Motion;
- A brief and clear sworn statement (an [affidavit](#)) of the issues and facts that support your request;
- A statement about what you want LPAT to order; and,
- Copies of any documents that will be used at the motion.

A sample of a Notice of Motion is available on the ["Forms" page](#) of the LPAT website.

Where will the motion hearing be held?

Motion hearings are usually held in person, in or near the city or town that the matter takes place.

Sometimes, LPAT hears a motion by telephone or video conference. In deciding what kind of hearing to hold, LPAT may look at:

- How many parties are involved;
- How long the motion is expected to last; or,
- If evidence can be presented over the phone.

When do I deliver a Notice of Motion?

For a motion hearing, in person or by teleconference call, you must deliver the Notice of Motion along with relevant documents to LPAT and all parties at least 15 days before the hearing event.

You will have to file a sworn statement that this was done, before or at the hearing of an oral motion, or within 20 days of the Notice of Motion for a written hearing.

Can a party respond to a Notice of Motion?

Yes, a party can respond to a Notice of Motion, known as a Notice of Response.

The responding party must deliver a Notice of Response to LPAT if it intends to:

1. Use different reasons or documents;
2. Use a sworn statement as evidence; or,
3. Ask permission for a witness to attend an oral hearing.

Parties must deliver a Notice of Response no later than seven days before the hearing of the motion. The party must also file a sworn statement that this was done, before or at the hearing of the motion.

A reply submission is to be served three days before the date of the motion.

Can a motion be made at the beginning of a hearing?

LPAT will only hear new motions during hearing events if the need for the motion arises out of events or new evidence at the hearing with the permission of the Member(s).

Affidavits

What is an affidavit?

An affidavit is a written statement of facts and/or evidence that you affirm or swear by oath, is true. At some point during the LPAT process, you may be asked to produce an affidavit for a hearing event.

Why do I need an affidavit?

An affidavit is necessary because it is a sworn statement that contains facts or opinions that may be in dispute before LPAT. LPAT requires that an affidavit of service be provided upon request. LPAT will usually ask for proof that a notice of motion was served to parties and any other persons directed by LPAT.

Who can sign (notarize) my affidavit?

Only certain people are authorized to sign an affidavit.

Your local municipal office may have a person on staff who can sign your affidavit. Someone who is a commissioner or notary public (a person who is able to affirm and/or swear to a written statement by law) may also be able to sign your affidavit.

What information needs to be included in my affidavit?

For your reference, a sample affidavit of proof of service is available on the [“Forms” page](#) of the LPAT website.

Recovering Hearing Costs

For more information on recovering hearing costs, please see Rules 23 of [LPAT's Rules of Practice and Procedure](#).

Can I recover my hearing costs?

If you believe that another party involved in your matter acted unreasonably, frivolously or in bad faith, you may ask LPAT to order that party to pay some or all of your expenses or costs.

It is unusual for LPAT to order an award of costs against another party. Unlike the Courts, costs awards are not routinely granted.

Before LPAT can consider an award, it must make sure that:

1. You are a party in the matter;
2. You ask for compensation or an award of costs; and,
3. The party being asked to pay appealed incorrectly or acted improperly;

Some examples of improper activities include:

- Missing a hearing event;
- Not co-operating during a hearing event;
- Changing a position without notice;
- Being unprepared for a hearing;
- Not complying with an LPAT directive;
- Causing unnecessary delays;
- Presenting false evidence;
- Continuing to deal with inappropriate issues; or,
- Not making efforts to combine similar submissions.

The party being asked to pay will also be given a chance to respond.

How do I request to recover my hearing costs?

1. Send LPAT a written submission for an award of costs before the hearing ends or within 30 days after the written decision is issued. In your written submission, you must include the name of the party you are seeking costs from, the reasons for your request, and the estimated amount.
2. Prepare your written submission or notice of motion. You must include:
 - The reasons for your request;
 - The amount requested;

- An estimate of the extra preparation or hearing time caused by the misconduct;
- Copies of supporting invoices or a sworn statement (an affidavit) verifying the expenses; and,
- A sworn statement verifying that the expenses were necessary.

LPAT will then inform you of its decision.

What expenses can I include in my request for costs?

LPAT may order that you receive payment for your expenses from preparing for and attending a hearing event. These expenses may include lawyers' preparation and hearing time and consultant and witness fees.

LPAT will generally require documentation to verify these expenses were incurred.

Decisions

For more information on decisions, please see Rules 24 to 26 of [LPAT's Rules of Practice and Procedure](#).

What type of decision can LPAT make?

For sections 17 (24), 17 (36), 22 (7), 34 (11) and 34 (19):

The Member(s)' decision will confirm whether or not the municipality/approval authority met the test of **conformity and consistency**, and if their decision:

- Was consistent with the Provincial Policy Statement;
- Conforms with or conflicts with a provincial plan; or,
- Conforms to an applicable Official Plan.

If LPAT determines the municipality/approval authority failed to meet the test, LPAT will refer the matter to the municipality/approval authority. LPAT may make some recommendations in its decision on how to meet the conformity/consistency test.

Once the municipality/approval authority has made a new decision, an appeal can be filed within 20 days. However, if the municipality/approval authority fails to make a decision, the matter can be appealed once the 90 day decision period has elapsed. This process is referred to as "Second Appeal". For more information on the "Second Appeals" Process, please see Appeal Guide B on the ["LPAT Process" page](#) of the LPAT website.

For sections 17 (40) and 51 (34):

The Member(s)' decision may approve, modify, or deny the application in question based on its consistency and conformity to provincial policies or municipal plans, as well as the public interest mandate.

There is **no** opportunity for a "Second Appeal".

When will LPAT make a decision?

For sections 17 (24), 17 (36), 22 (7), 34 (11) and 34 (19):

LPAT is required to make a decision within 10 months of the Notice of Commencement, unless the Member(s) decided that more time was necessary.

For sections 17 (40) and 51 (34):

LPAT is required to make a decision within 12 months of the Notice of Commencement, unless the Member(s) decided that more time was necessary.

How can I get a copy of a decision?

When a decision is issued, it is sent to parties, participants, and anyone who requested to be notified. Decisions are also posted two business days after they are issued on the [“E-Decisions” page](#) of the LPAT website.

How are decisions enforced?

When issuing decisions, LPAT expects that parties will respect and comply with the decision. If an individual or group feels a decision is not being adhered to, they can request a certified copy of the decision and file it with the courts where it can be enforced as a certified court order.

I don’t agree with LPAT’s decision – can I ask them to review it?

For LPAT to consider a review of a decision, you need to prove that it made an error that, if known, may have changed the decision resulting from the hearing.

You would need to establish that LPAT:

- Acted outside its jurisdiction;
- Violated the rules of natural justice, such as by not giving notice of the hearing;
- Made a material error of fact or of law;
- Heard false or misleading information that could have changed the decision; or,
- Should consider new information not available at the time of the hearing that could have changed the decision.

If you want to request that LPAT reviews its decision, you must:

1. Send the LPAT Chair a sworn statement (an [affidavit](#)) outlining your reasons, and include any documents you want to use as proof;
2. Send the request within 30 days of the issuance of the decision; and,
3. Include the filing fee (\$300) with your submission (fees are payable by certified cheque, money order or solicitors trust account and must be in Canadian funds; the cheque must be made out to the Minister of Finance).

If it appears that there might have been an error that may have changed the decision, LPAT may hear a motion, or may ask the parties to reconvene to re-hear the matter. You will need to provide the notice of motion and the sworn statement to the other parties who attended the hearing at least 30 days before the date of the motion hearing. For more information on motions, please see the [“Motions” section](#) of this guide. A request for review is rarely granted.

After hearing the motion, LPAT may decide to schedule a re-hearing, or it may reject the request. LPAT will turn down your request if:

- The request relies upon the same evidence or re-argues the same issues that were covered at the hearing;
- A non-party makes the request;
- It is filed more than 30 days after the decision was issued;
- The requester does not supply all the information within 21 days of LPAT's request (an exception may be made for extraordinary circumstances); or,
- It is a second request by the same party.

Can I appeal LPAT's decision?

If you think that the LPAT made an error on a question of law in its decision, you may bring a motion to the Divisional Court for an order of the Court to allow the appeal to proceed. This must be done within 15 days of the decision being issued.

Glossary

Please note that many of these terms, as well as additional terms, are defined in LPAT's Rules of Practice and Procedure.

Adjournment – When a hearing event will be postponed for a later date.

Affidavit – A written statement made under oath that can be presented as evidence at a hearing.

Applicant – The person or corporation that made the application in question.

Appellant – The person or corporation that made an appeal to LPAT.

Appeal record – A collection of documents provided to LPAT as part of the appeal, and compiled either by the appellant or the municipality/approval authority (see Rules 26.11 to 26.15 of LPAT's Rules of Practice and Procedure).

Case Management Conference (CMC) – A mandatory hearing event for certain appeals filed under the *Planning Act*, used to organize the hearing.

Decision – A record issued by the Member(s) which may contain order(s) or directions. A decision is final only when it issues a formal order (LPAT usually issues the decision and the order in one document).

Electronic Hearing – A hearing that is held by telephone conference or some other form of technology.

Enhanced Municipal Record – A record of documents and materials provided to LPAT by the municipality (see Rule 26.04 of LPAT's Rules of Practice and Procedure).

First Appeal – An appeal that comes before LPAT that is filed for certain decisions, or lack of decisions, by a municipality/approval authority (i.e. sections 17 (24), 17 (36), 22 (7), 34 (11) and 34 (19) of the *Planning Act*).

Hearing Event – Any form of proceeding that takes place before LPAT (e.g. CMCs, mediation, hearings).

Mediation – A process where Members help parties reach a voluntary and mutually acceptable solution on some or all of the issues in dispute.

Motion – A written or oral request made to LPAT to obtain direction made by a party parties before or during a hearing event (e.g. A person may ask for certain documents to be presented, ask to have clarification on a procedure, or ask to have the proceedings dismissed. If the request to hold a motion hearing is granted, a motion hearing will be held either in person, writing or by telephone conference.).

Notice of Commencement – An order issued by the LPAT Registrar to confirm the beginning of the appeals process for that appeal.

Oral Hearing – A hearing with in-person attendance by the parties or their representatives.

Order – Direction from LPAT to a party or parties, included in the final decision of an appeal.

Participant – An individual, group or corporation that may take part in some parts of an LPAT hearings.

Party – An individual, group or corporation that is fully involved in an LPAT proceeding.

Representative – An agent who has been authorized, in writing, to represent a party or participant at an LPAT proceeding.

Second Appeal – An appeal filed on Council's second decision of an application, after LPAT has returned the First Appeal to the municipality/approval authority for reconsideration.

Settlement Conference – A hearing event held with the intent of resolving some or all of the matters in dispute.

Teleconference Call – A hearing event that is held over the telephone.

Visual Evidence – Type of evidence that can be introduced at a hearing event, including computer-generated images, photographs, maps, videos, plans, surveys, models and overlays.

Written Evidence/Materials – Type of evidence that can be introduced at a hearing event, including reports, letters, charts, graphs, books of account, and information recorded or stored by means of any devices.

Written Hearing – A hearing event that is held by exchanging documents in written form (hard copy) or electronic form.