

**Local Planning  
Appeal Support Centre  
www.lpasc.ca**

## How to appeal a land use planning decision

If you disagree with a land use planning decision in Ontario, you may have grounds to appeal to the Local Planning Appeal Tribunal (LPAT). The appeal process is similar for all types of planning applications, with only minor differences between them.

The main steps are:

1. You verify if you can appeal or participate.
2. You determine if you have a valid reason to appeal.
3. You file an appeal.
4. The municipality forwards the appeal.
5. LPAT processes the appeal.

### We can help

The Local Planning Appeal Support Centre (LPASC) provides the public with support on a wide range of types of applications and appeals under the *Planning Act*. These include official plans and amendments, zoning by-laws and amendments, plans for subdivisions, consents to sever, minor variances and site plan proposals. We can help you:

- Understand the land use planning and appeals process in Ontario
- Participate in early engagement and resolution
- Express your concerns in land use planning terms
- Prepare to present at a public meeting, mediation or hearing
- Complete appeal forms and other documentation required by the LPAT

To ask for our help, call 1-800-993-8410 or use the inquiry form (<https://www.lpasc.ca/contact-us-en/>) on our website. We will respond within two business days. We also have a series of guides like this one posted on our website.

### LPAT guides

The LPAT website provides detailed instructions on how to appeal. There are two main guides.

The **LPAT Appeal Guide A** ([http://elto.gov.on.ca/wp-content/uploads/2018/08/2018\\_05\\_10-LPAT-Guide-A.pdf](http://elto.gov.on.ca/wp-content/uploads/2018/08/2018_05_10-LPAT-Guide-A.pdf)) provides information about appealing:

- a decision about an official plan;
- a decision about a zoning by-law;
- a non-decision by an approval authority; or
- a non-decision on a subdivision.

The **LPAT Appeal Guide B** ([http://elto.gov.on.ca/wp-content/uploads/2018/05/2018\\_05\\_10-LPAT-Guide-B.pdf](http://elto.gov.on.ca/wp-content/uploads/2018/05/2018_05_10-LPAT-Guide-B.pdf)) provides information about appealing:

- a decision about consents;
- a committee of adjustment decision about minor variances;
- a non-decision of a site plan application; or
- a second appeal (of one of the appeal types covered by Appeal Guide A).

## The Planning Act

You will also want to refer to the *Planning Act*. Use the following table to determine which sections of the *Planning Act* refer to your appeal.

| <b>Planning Application Type</b> | <b>Planning Act Section</b> | <b>Appeal Sections</b>      |
|----------------------------------|-----------------------------|-----------------------------|
| Official Plan and Amendments     | Section 17 and Section 22   | 17(24), 17(36), 17(40)22(7) |
| Zoning By-law and Amendments     | Section 34                  | 34(11), 34(19)              |
| Plan of Subdivision              | Section 51                  | 51(34)                      |
| Site Plan                        | Section 41                  | 41(12)                      |
| Consent                          | Section 53                  | 53(14)                      |
| Variance                         | Section 45                  | 45(12)                      |

## Step 1: Verify if you can appeal or participate

You can appeal if:

- You're the planning applicant, or
- You submitted written comments to the municipality or spoke at the statutory public meeting about the application before the decision was made

Even if you're not the applicant and did not submit comments, you may be allowed to be involved in the hearing if you ask for "party" or "participant" status. You can ask for this status at the case conference event. LPAT will determine if you have something of value to add to the issues at hand. If you do, you may be given party or participant status, but there are limitations to this status.

If you have questions about these limitations, call us at 1-800-993-8410 or use the inquiry form on our website.

## Step 2: Determine if you have a valid reason to appeal

What can or cannot be done in land use planning is governed by legislation, regulations and policy set at the provincial, regional and local levels. Assessing whether a development is appropriate comes down to determining whether the development is consistent with, or conforms to, these land use planning policies and regulations. If you believe a decision concerning land use planning contravenes any of these land use planning frameworks, you may appeal such a decision.

The case that you need to make for your appeal depends on what type of application you are appealing. There is a specific test set out in legislation that must be met for appealing decisions of official plans and amendments, zoning by-laws and amendments, and plans of subdivision. To appeal these types of decisions, the appeal form must describe how the decision:

- Is inconsistent with the Provincial Policy Statement;
- Fails to conform with or conflicts with provincial plans, like the Growth Plan or the Greenbelt Plan; or
- Conflicts with an official plan of the municipal or regional government.

LPAT will determine if the appeal is valid by assessing the merits of your appeal against the thresholds above. Although the tests of consistency and conformity are set out in legislation specifically for official plans, zoning by laws, and subdivisions, they are vitally important in appeals of other types of planning applications.

The Provincial Policy Statement, provincial plans, and official plans provide a range of rules and regulations related to land use planning. Figuring out how to articulate your appeal in terms of the parameters set out in these documents can be complex. If you need help, call us at 1-800-993-8410 or use the inquiry form on our website.

### Resources

*The Planning Act*

The Provincial Policy Statement

Applicable provincial plans or official plan

## Step 3: File an appeal

### Receiving a Notice of Decision

After the approval authority makes a decision on a planning application, they send a Notice of Decision to everyone who requested it. The Notice of Decision provides instructions on:

- Where to submit an appeal
- The deadline to file an appeal
- Fees

## Filing an appeal

If you decide to appeal, you are considered an appellant (<https://www.lpasc.ca/resources/glossary/>).

To file an appeal:

1. You need to complete and submit your appeal before the deadline. To confirm the exact date of the deadline, refer to the Notice of Decision. Refer to the next section of this guide for a list of the types of appeals and the timeframe in which they must be completed.
2. Complete the LPAT appeal form for your type of appeal. The Appellant/ Applicant Forms (<http://elto.gov.on.ca/tribunals/lpat/forms/appellant-applicant-forms/>) page on the LPAT website tells you which form to use. On the form, give reasons for your appeal. Be sure to mention the part of the decision you're appealing and the policies you believe the decision conflicts with. If you have any questions about the form, call us at 1-800-993-8410 or use the inquiry form (<https://www.lpasc.ca/consultation/>) on our website.
3. Send your appeal form to the appropriate body. You may be required to send the form to the approval authority or directly to LPAT.
4. Include the correct LPAT filing fees (<http://elto.gov.on.ca/tribunals/arb/fee-chart/>). Some municipalities, regions and planning boards also require filing fees. Contact the clerk's office or clerk's department at your municipality to find out if there is a fee and how much it is.

## Where and when to appeal

| <b>Type of Application</b>                               | <b>Form</b> | <b>Appeal filed with:</b>          | <b>Appeal within:</b>   |
|--|-------------|------------------------------------|---|
| Official Plan or Amendment : Decision to adopt or refuse | A1          | Municipality or approval authority | 20 days after the date of the notice of decision  |
| Official Plan or Amendment: Non-decision                 | A1          | Municipality or approval authority | 210 days after the day a complete application is received   |
| Zoning By-law or Amendment: Passed or Refused            | A1          | Municipality or approval authority | 20 days after the municipality or approval authority gives notice of decision or notice of passing the by-law |
| Zoning By-Law or Amendment: Non-decision                 | A1          | Municipality or approval authority | 150 days after the day a complete application is received   |
| Plan of Subdivision: Decision                            | A1          | Municipality or approval authority | 20 days after the date of the notice of decision  |
| Plan of Subdivision: Non-decision                        | A1          | Municipality or approval authority | 180 days after the day a complete application is received   |
| Plan of Subdivision: Condition imposed                   | A1          | Municipality or approval authority | Any time before the approval of a final plan of subdivision   |

|  |    |                                    |   |
|--|----|------------------------------------|---|
| Consent to Sever: Decision, conditions imposed or change of conditions | A1 | Municipality or approval authority | 20 days after the notice of decision                      |
| Consent to Sever: Non-decision   | A1 | Municipality or approval authority | 90 days after the day a complete application is received  |
| Interim Control By-law: Passed   | A1 | Municipality or approval authority | 60 days after the by-law is passed                        |
| Minor Variance   | A1 | Municipality or approval authority | 20 days after the decision was made                       |
| Removal of Holding Symbol: Non-decision or refused                     | A2 | LPAT directly                      | 120 days after the day a complete application is received |
| Site Plan: Non-decision  | A1 | Municipality or approval authority | 30 days after the complete plans/drawings are submitted   |
| Site Plan: Requirements imposed  | A1 | Municipality or approval authority | No deadline   |

## Resources

- LPAT Appellant/ Applicant Forms (<http://elto.gov.on.ca/tribunals/lpat/forms/appellant-applicant-forms/>)
- LPAT filing fees
- Municipal filing fees

## Step 4: Municipality forwards your appeal

The municipality or approval authority will forward your appeal and filing fee to LPAT. They have to do this within 15 days after the appeal deadline. The materials they submit are called the “record”, and the clerk of the municipality is required to provide prescribed information and material, including all comments and submissions made regarding the planning application. [Note, if your appeal falls under an A2 appeal form (see above table on Where and when to appeal), you are responsible for forwarding the appeal form directly to LPAT and you have 120 days in which to do so.]

For appeals related to official plans, zoning by-laws, subdivisions and consents, some municipalities may offer to try to resolve your appeal before it goes to LPAT. They will do this through mediation or another dispute resolution process. In these cases, the 15-day deadline is extended to 75 days.

## Step 5: LPAT processes your appeal

When LPAT receives your appeal, they will send you an acknowledgement letter.

LPAT will determine if your appeal is valid using a pre-screening exercise. They will let you know what they decide by sending you a letter either deeming your appeal is valid or not valid (this is the Notice of Commencement.)

## **If your appeal is determined to be invalid**

If LPAT informs you that your appeal is not valid, and you disagree with the decision, you may challenge the decision by making a motion to LPAT within 15 days of receiving the letter.

See Rule 10 and 26.08 of the LPAT Rules of Practice and Procedure (<http://elto.gov.on.ca/wp-content/uploads/2018/04/LPAT-Rules-of-Practice-and-Procedure.pdf>) for more information on how to challenge LPAT's determination that an appeal is not valid.

## **If your appeal is determined to be valid**

If LPAT informs you that your appeal is valid, then you will have to file the appeal record and case synopsis with LPAT and follow rules 26.11-26.13 of the LPAT Rules and Practice and Procedure. If you have any questions about these documents, call us at 1-800-993-8410 or use the inquiry form (<https://www.lpasc.ca/consultation/>) on our website.

For appeals of official plans, official plan amendments, zoning by-laws, zoning by-law amendments, LPAT is required to hold a case management conference.

For appeals of other types, a prehearing conference may be scheduled.

If LPAT determines that an oral hearing is required, it will schedule a location either at the LPAT's office in Toronto or an office in the municipality.

After the hearing, LPAT will issue a decision which would approve or dismiss the appeal. For appeals of official plans, official plan amendments, zoning by-laws, zoning by-law amendments, the municipality or approval authority may make another decision. These decisions could be subjected to a second appeal at LPAT.

## **Resources**

LPAT Rules of Practice and Procedure (<http://elto.gov.on.ca/wp-content/uploads/2018/04/LPAT-Rules-of-Practice-and-Procedure.pdf>)

*This guide offers general information on issues of legal and planning matters and is not to be relied upon as a substitute for professional legal or planning advice. This guide, last updated August 2018, reflects legislation, policies and practices that are subject to change. Readers should seek professional legal and/or professional planning advice for their specific appeal and the particular issues that concern them. If you have any questions or concerns regarding this guide or how it may apply to your circumstance, please contact LPASC directly at 1-800-993-8410 or through our inquiry form (<https://www.lpasc.ca/consultation/>) on this website.*

