

Overview of Bill 139

Building Better Communities and Conserving Watersheds Act, 2017

December, 2018



Highlights

- Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139) received Royal Assent December 12, 2017. Proclamation date was April 3, 2018.
- Makes transformative changes to the land use planning and appeal system
- Repeals Ontario Municipal Board Act and replaces it with Local Planning Appeal Tribunal Act, 2017
- Enacts the Local Planning Appeal Support Centre Act, 2017 which establishes a new independent agency
- Makes changes to the Planning Act and various other Acts

Tribunal Role and Mandate

Purpose:

To carry out a “check-and-balance function” with respect to municipal planning decision-making

Mandate:

Changed for specific classes of appeal under the *Planning Act*.
Unchanged for appeals of other matters under the *Planning Act* and other legislation from which LPAT receives jurisdiction.

New Standard of Review for Appeals

For adopted or approved Official Plans and Official Plan Amendments (OP/OPA) and Zoning Bylaws/Zoning Bylaw Amendments (ZBL/ZBA):

- Every appellant must explain and demonstrate how the adopted or approved OP/OPA or ZBL/ZBA (or some part of it) is inconsistent with a provincial policy statement, fails to conform with or conflicts with a provincial plan, or fails to conform with an applicable upper-tier official plan.
- LPAT is under a statutory obligation to dismiss any appeal that fails to do so.

For appeals from a refusal of or failure to adopt a privately-initiated OPA or ZBA:

- Every appellant must explain, first, how the existing policies or provisions of an OP or ZBA are inconsistent with a provincial policy statement, fails to conform with or conflicts with a provincial plan, or fails to conform with an applicable upper-tier official plan; and, second, how the requested amendment to the official plan or zoning bylaw conform and/or are consistent with higher-order planning instruments.
- LPAT is under a statutory obligation to dismiss any appeal that fails to do so.



BRUCE
county

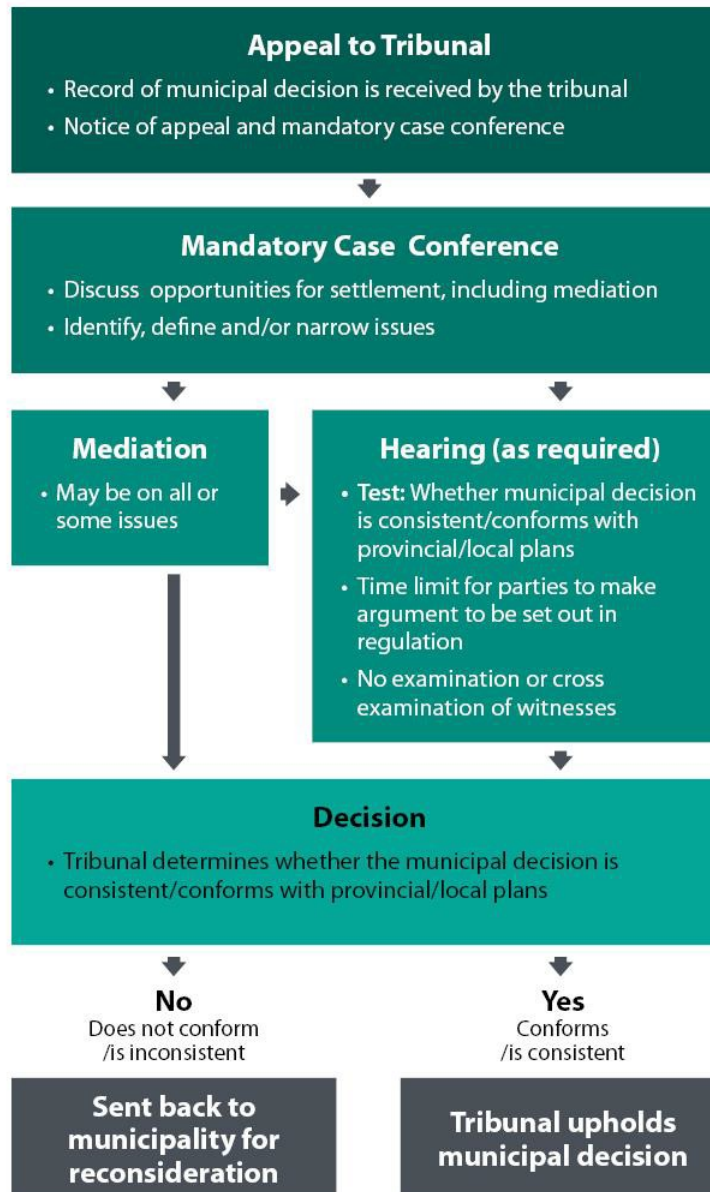
For appeals from a refusal of or failure to adopt a privately-initiated OPA or ZBA:

- If an appellant satisfies the new test(s) with respect to these appeals, LPAT will remit the appealed matter back to the municipal council for further consideration.
- Any subsequent municipal decision or non-decision may be appealed.
- LPAT will convene a new hearing to consider the newly appealed matter.

Two Phase Appeals Process

New Hearing Process

Appeal of municipal decision on c plan/zoning (i.e., conformity / con appeals)



Municipal Planning Review

- 90 days for applications (hold public meeting, issue new decision)
- If no appeal, decision in effect
- If appealed proceed to Tribunal for final resolution



BRUCE
county

Appeal Time Frames

- The First Appeal period on a private OPA = 210 days
- The First Appeal period on a private ZBA = 150 days
 - Increases to 210 days if ZBA is paired with an OPA
- On reconsideration matters (i.e. Second Appeals) = 90 days
- Province is proposing appeal resolution timelines:
 - 10-12 months for resolving First Appeals of OP/OPA and ZB/ZBA
 - 6 months for resolving Second Appeals
 - 6 months is target for all other appeals
- Time limits do not begin until an appeal's validity has been determined by LPAT

Mandatory Case Management Conferences

- LPAT is required to hold a case management conference (CMC) for certain *Planning Act* appeals, involving the appellant(s) and municipality/approval authority
- There is an opportunity for participation in a CMC by persons other than the appellant(s) (subject to legislated obligations)

New Hearing Process and Procedures

- Hearings may be oral or written, or potentially by electronic means
- Requirement for audio and video recording of oral comments made at public sessions to be submitted to LPAT as hearing evidence
- Each party may make an oral submissions up to 75 minutes

Other Bill 139 Highlights

- Official Plan policies required for Climate Change and Affordable Housing (Province to release guidance material in the future)
- Amendments to the Conservation Authorities Act