

Proposed Rules and Effective Date for the Local Planning Appeal Tribunal

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On March 2, 2018, the proposed Local Planning Appeal Tribunal (LPAT) Rules of Practice and Procedure (the Draft Rules) were released for comment (available online [here](#)). Bill 139, the Building *Better Communities and Conserving Watersheds Act*, overhauling the land-use planning system in Ontario and introducing the LPAT, will come into effect on April 3, 2018, alongside the Draft Rules.

The Draft Rules reflect the major policy changes introduced in Bill 139. In particular, the prior Ontario Municipal Board rules for witness statements, examining witnesses, discovery, and obtaining a summons will not apply to a first appeal of an official plan/amendment or zoning by-law/amendment before the LPAT. As anticipated, making your case before the LPAT will be much more focused on written advocacy. Appeal Records, which will contain affidavit evidence to be relied upon in the hearing, will set out a synopsis of the case in a maximum of twenty pages, and be filed by the appellant within twenty days of receipt of notice that the appeal is valid. A municipality then has ten days to indicate whether it will file responding material, and a further ten days to deliver the response. Similar to the case synopsis filed by the appellant, the responding case synopsis must not exceed twenty pages in length. Parties will be required to move quickly upon the filing of an appeal to meet these new requirements.

Other highlights of the Draft Rules include:

- Notice of Commencement provisions, causing any time period established by ministerial regulation in relation to an appeal under the *Planning Act* to commence only at such time as the LPAT issues a Notice of Commencement, or for those proceedings initiated under Bill 139 provisions, at such time as the registrar advises the appeal is valid
- Required content of municipal records to be filed with the LPAT
- Creation of a common interest class where the LPAT is of the opinion that more than one party is of common interest with another party
- Increased notice for motions and responses to motions
- Provision for the LPAT to examine persons as part of a pre-hearing conference
- An explicit recognition of the breach of confidentiality requirements of a mediation, settlement conference, or of a decision of the LPAT as a circumstance in which a cost order may be made
- Provision for initiating certain proceedings governed Bill 139, including a requirement for an enhanced municipal record and preliminary screening of a notice of appeal (and ability to challenge the screening result by motion)

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- Rules regarding Case Management Conferences
- Rules regarding the remission of a decision to municipal council or an approval authority, including the option for the LPAT to identify options for the council or authority to achieve compliance

Comments on the Draft Rules can be made until March 23, 2018.

Please contact Christie E. Gibson, Signe Leisk or any other member of the Cassels Municipal, Planning & Environmental Group for further information and guidance on how the proposed rules and approval of Bill 139 may apply in your circumstance.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.