APPENDIX A

LOCAL PLANNING APPEAL TRIBUNAL

RULES OF PRACTICE AND PROCEDURE

(Made under section 32 of the *Local Planning Appeal Tribunal Act* and section 25.1 of the *Statutory Powers Procedure Act.*)

Proposed: February 23, 2018

LOCAL PLANNING APPEAL TRIBUNAL

RULES OF PRACTICE AND PROCEDURE

(made under section 32 of the *Local Planning Appeal Tribunal Act, 2017* and section 25.1 of the *Statutory Powers Procedure Act*)

INDEX

PART I

RULE 1 - GENERAL MATTERS 4

RULE 2 - GENERAL POWERS OF THE EXECUTIVE CHAIR 7

RULE 3 -TIME 8

RULE 4 - REPRESENTATIVES....9

RULE 5 - INITIATING PROCEEDINGS – GENERAL....9

RULE 6 - NOTICES 10

RULE 7 - DOCUMENTS, EXHIBITS, FILING, SERVICE 11

RULE 8 - ROLE AND OBLIGATIONS OF A PARTY 14

RULE 9 - DISCOVERY 14

RULE 10 - MOTIONS 15

RULE 11 - CONSTITUTIONAL QUESTIONS 16

RULE 12 - SETTLEMENT BEFORE TRIBUNAL PROCEEDINGS....16

RULE 13 - COMPELLING ATTENDANCE OF WITNESSES BY SUMMONS 17

RULE 14 - LANGUAGE OF PROCEEDINGS 18

RULE 15 - SCREENING....18

RULE 16 - CONSOLIDATION....19

RULE 17 - ADJOURNMENTS 19

RULE 18 - MEDIATION 20

RULE 19 - PREHEARING CONFERENCES 21

RULE 20 - ELECTRONIC HEARINGS....22

RULE 21 - WRITTEN HEARINGS 23

RULE 22 - CONDUCT OF PROCEEDINGS 24

RULE 23 - COSTS.....26

RULE 24 - TRIBUNAL DECISIONS AND ORDERS.....28

RULE 25 - REVIEW OF A TRIBUNAL DECISION OR ORDER 28

PART II

RULE 26 - INITIATING PROCEEEDINGS UNDER SUBSECTIONS 17(25), (36) AND (40), 22(7), 34(11) AND (19) AND 51(34) OF THE *PLANNING ACT*.....30

RULE 27 - TRIBUNAL DETERMINATION AND REMISSION OF DECISION TO MUNICIPAL COUNCIL/APPROVAL AUTHORITY IN THE EVENT OF A PROCEEDING INITIATED UNDER SUBSECTION 17 (24), (36), 22 (7), 34 (11) AND (19) OF *THE PLANNING ACT* 37

PART III

RULE 28 - EXPROPRIATION PROCEEDINGS.....37

PREFACE

The Ontario Municipal Board is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

RULE 1

GENERAL MATTERS

1.01 Authority and Application

Authority: These Rules are made under the authority of section 32 of the *Local Planning Appeal Tribunal Act, 2017* ("LPATA") and section 25.1 of the *Statutory Powers Procedure Act* ("SPPA") and come into force on the date that LPATA is proclaimed.

Application: These Rules apply to all matters and proceedings before the Tribunal.

These Rules are divided into three Parts:

Part I applies to all proceedings before the Tribunal, save and except where:

(i) it is stated in Part II that a certain Rule in Part I is not applicable to a proceeding identified in Part II, or
(ii) it is stated in Part III, that a Rule in Part I is not applicable to a proceeding identified in Part III.

Part II of these Rules applies to and is specific to those appeal proceedings under subsections 17 (24),(36),(40) and 22 (7) and 34 (11),(19) and 51 (34) of the *Planning Act R.S.O 1990 P.13 as amended* ("*Planning Act*") which are identified in section 38 (1) and (2) of LPATA. The Rules in Part II do not apply to any other proceedings before the Tribunal.

Part III of these Rules applies to and is specific to those proceedings commenced under the *Expropriations Act*. The Rules in Part III do not apply to any other proceedings before the Tribunal.

In the Event of a Conflict: Section 32 of LPATA provides that these Rules prevail in the event of a conflict between any provision(s) in the SPPA and these Rules.

PART I

1.02 Definitions of terms in these Rules:

"affidavit" means a written statement made under oath or affirmation that is confined to facts or other evidence the deponent could give if testifying as a witness before the Tribunal that is substantially in the form set out in Rule 4D of the *Rules of Civil Procedure*;

"appellant" means a person who initiates and brings an appeal to the Tribunal;

"applicant" means a person who makes an application to the Tribunal and includes a person requesting a matter be referred to the Tribunal. The term "appellant" may also be used to describe an applicant when that person brings an appeal to the Tribunal;

"*Associate Chair"* means the person appointed by the Lieutenant Governor in Council as Associate Chair of the Tribunal under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* ("ATAGAA");

"document" means written and visual material and includes written and visual evidence;

"electronic hearing" means a hearing event held by teleconference, videoconference or some other form of electronic technology allowing the parties, participants, and the Tribunal to hear or hear and see one another or their representatives, or any witnesses throughout the hearing event;

"Executive Chair" means the person appointed by the Lieutenant Governor in Council as Chair of the Tribunal under LPATA who may, pursuant to subsection 17 (2) of ATAGAA, delegate their powers to the Associate Chair, with the exception of oversight over the ethical obligations of a Member of the Tribunal;

"file" means to send, deliver or transmit to the Registrar of the Tribunal or to send, deliver or transmit to the proper authority for receiving appeals and requires that the appeal material is either deemed to be or has actually been received by the Tribunal or authority;

"*forms*" include those forms published by the Tribunal, or, if not published, those forms in the *Rules of Civil Procedure*, with necessary modifications;

"hearing event" means a procedure held by the Tribunal at any stage of a proceeding and includes a motion, prehearing or case management conference, and hearing, whether these are held in the form of an oral hearing, electronic hearing or written hearing, and does not include a cross-examination on an affidavit not held before the Tribunal;

"holiday" means a Saturday or Sunday or other days that the Tribunal offices are closed, such as the statutory holidays of New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, and any special holiday proclaimed by the Governor General or the Lieutenant Governor in Council. Where New Year's Day, Canada Day or Remembrance Day fall on a Saturday or Sunday, the following Monday is a holiday. Where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are holidays, and where Christmas Day falls on a Friday, the following Monday is a holiday;

"mediation" means the intervention into a disputed matter or matters before the Tribunal by a Tribunal Member to facilitate discussion and negotiations among the parties and assist them in developing a mutually acceptable settlement of the dispute, all of which is conducted on a confidential basis;

"*Member"* means a person appointed by the Lieutenant Governor in Council as a Member of the Tribunal;

"motion" means the formal method for a party to request that the Tribunal make a decision or issue an order at any stage in a proceeding or an intended proceeding;

"moving party" means the person who brings or makes the motion;

"municipal record" means the material required to be filed by the Municipal Clerk with the Tribunal as prescribed and directed by statute or by these Rules, or both;

"oral hearing" means a hearing event at which the parties or their counsel or representatives attend before the Tribunal Member(s) in person;

"participant" is an individual, or corporation who is permitted by the Tribunal to make a written or oral statement to the Tribunal, upon such terms as the Tribunal may determine, and may not wish to participate fully throughout a hearing or attend all of a hearing;

"party" includes a person entitled by the statute under which the proceeding arises to be a party to the proceeding and includes those persons whom the Tribunal accepts or adds as parties on such terms as the Tribunal may determine;

"person" includes a corporation, and the entities included within the meaning of a person in the SPPA;

"proceeding" means any matter, procedure, appeal, referral or application before the Tribunal and this includes matters which may be initiated by the Tribunal;

"Registrar" or "Board Secretary" means the individual appointed by the Tribunal to issue Orders of the Tribunal and to receive service of material filed with the Tribunal;

"representative" means a person authorized under the *Law Society Act,* R.S.O. 1990, c. L.8 (as amended) or its By-Laws to represent a person in the proceeding before the Tribunal , and this includes legal counsel or the individuals that are authorized to provide legal services;

"responding party" means a person other than the Registrar, who is served with a notice of motion by the moving party;

"Rules of Civil Procedure" means the Rules in effect for the Superior Court of Justice and the Court of Appeal made under the *Courts of Justice Act,* R.R.O 1990, Reg. 194, as amended;

"settlement conference" means a discussion held in a proceeding amongst the parties or their representatives and the Tribunal to attempt to resolve all or part of a matter by discussion or mediation and includes a mediation session;

"submission form" means a form provided by the Tribunal for the filing of appeals, referrals or applications;

"Tribunal" means the Ontario Municipal Board, as continued under the name Local Planning Appeal Tribunal pursuant to LPATA;

"*Vice Chair"* means a person appointed by the Lieutenant Governor in Council as a Vice Chair of the Tribunal;

"visual evidence" means images or images with sound intended to be introduced into evidence at a hearing event and includes computer-generated images, photographs, maps, videos, plans, drawings, surveys, models and overlays;

"written evidence" means material intended to be introduced into evidence at a hearing event and includes reports, letters, correspondence, notices, memoranda, forms, agreements, emails, charts, graphs, books of account, and any other written communication recorded or stored by means of any device; and

"written hearing" means a hearing event held by means of the exchange of documents whether in written form (hard copy) or by electronic means.

1.03 Interpretation of the Rules These Rules shall be liberally interpreted to secure a fair, just and expeditious determination of every proceeding on its merits.

1.04 Matters Not Dealt With in the Rules The Tribunal may at any time in a proceeding make orders and direct practices and procedures that offer the best opportunity for a fair, just and expeditious resolution of the merits of the proceeding and may exercise any of its powers under the SPPA, the LPATA, or other applicable legislation. If these Rules do not provide for a matter of procedure, the Tribunal may adopt or follow the procedures set out in the Rules of Civil Procedure where appropriate and do whatever is necessary to adjudicate effectively and completely to resolve the merits of any dispute on any matter. If the Tribunal does not provide for a particular form, then the Tribunal may adopt, or modify the applicable form in the *Rules of Civil Procedure* to apply to any proceeding before the Tribunal.

1.05 Technical Objections Substantial compliance with the requirements of these Rules is sufficient and technical non-compliance shall be deemed to be an irregularity and does not render a proceeding or a step, decision or order in that proceeding a nullity.

1.06 Tribunal May Exempt From Rules The Tribunal may grant all necessary exceptions from these Rules or from any procedural order, or grant other relief as it considers necessary and appropriate, to ensure that the real questions in issue are determined in a just, expeditious and cost-effective manner.

1.07 Failure to Comply With Rules The Tribunal expects compliance with these Rules and adherence to Tribunal orders arising from the application of these Rules, by all parties and participants to its proceedings. If a party or participant to any of its proceedings has not complied with a requirement of these Rules or a Tribunal order, such as a procedural order and any requirement included therein, then the Tribunal has the discretion to determine the consequences of non-compliance and may grant necessary relief or exercise any of its powers authorized by legislation or regulation.

1.08 Extended Meaning of Member Any reference to a Member in these Rules, and the authority granted to a Member, shall include the Executive Chair, the Associate Chair, and a Vice Chair.

RULE 2

GENERAL POWERS OF THE EXECUTIVE CHAIR

2.01 Executive Chair may designate The Executive Chair may designate the Associate Chair to perform any of the duties of the Executive Chair provided for in these Rules or by legislation, for such time and under such conditions as the Executive Chair may stipulate.

2.02 Directions over the sittings of the Tribunal Subject to delegation from the Executive Chair, the Associate Chair has general supervision and direction over the scheduling of hearing events and the assignment of Members to hearing events conducted by the Tribunal.

RULE 3

TIME

3.01 Computation of Time Time is computed under these Rules or in a Tribunal Order in accordance with the *Rules of Civil Procedure* unless otherwise provided. For greater clarity, a day shall mean a calendar day and when the time for doing anything under these Rules falls on a holiday, the time is extended to include the next day that the Tribunal is open for business. When there is reference to two events, the time between the two events is computed by excluding the day on which the first event occurs and including the day on which the second event occurs.

3.02 Notice of Commencement, Notice of Postponement, Notice of Resumption to Calculate Timelines set by Ministerial Regulation Any time period that may be established by a Ministerial Regulation and is applicable to a proceeding before the Tribunal in relation to an appeal under the *Planning Act* shall not commence until such time as the Tribunal issues a **Notice of Commencement**, duly executed by the Registrar, to confirm that the applicable commencement of time for the disposition of the proceeding has started.

The Tribunal may also postpone any time period applicable to a proceeding before the Tribunal in relation to an appeal under the Planning Act by issuance of a **Notice of Postponement**, duly executed by the Registrar. The Notice of Postponement shall suspend the calculation of any time applicable to a proceeding in accordance with the direction of the Tribunal and any applicable conditions imposed in the direction.

The Tribunal may resume any time suspended by issuance of a Notice of Postponement by issuance of a **Notice of Resumption**, duly executed by the Registrar with proper authorization.

3.03 Authorization of Notices A Notice of Commencement, Postponement or Resumption shall only be executed by the Registrar with proper direction and authorization by a Member. Any Notice under this Rule that is issued in relation to a proceeding before the Tribunal shall be delivered to the municipal clerk, or Approval Authority, and any known parties to the proceeding, and shall be used in the computation of time in relation to that appeal.

3.04 Extension or Reduction of Time The Tribunal may extend or reduce any time required in these Rules or in an Order, with any terms or conditions, unless a statute or regulation provides otherwise. The Tribunal cannot extend a time period to file an appeal prescribed in a statute, but may be authorized to extend a time period prescribed by regulation, upon terms or conditions provided for that purpose in the regulation. A request for a change in time requirements established in the proceeding may be made by bringing a motion, or the Tribunal may change a time requirement on its own initiative, with or without a hearing event, either before or after the time period expires.

3.05 Conducting a Proceeding if Party is Absent The Tribunal will not proceed for at least 30 minutes after the commencement time given in the Notice of Appointment for an oral hearing event if a party of record or that party's representative has not yet appeared, unless prior notice has been given to the Tribunal that person will not attend at the scheduled time. The Tribunal will not commence an electronic hearing event for a period of 15 minutes after it is scheduled to begin should a party of record not be linked to the proceeding. The Tribunal may start the hearing event after waiting for 15 minutes, in the event that the party of record is not linked to the electronic hearing event.

RULE 4

REPRESENTATIVES

4.01 Appearance in Person or by an Authorized Representative A party or participant may attend a proceeding in person or with their representative. Representatives who are not legal counsel must file a written confirmation of authorization to act for the party or participant. If authorization of the representative changes, the person or the representative shall immediately notify the Tribunal and the other parties and provide particulars of any new representative.

4.02 Notices of Proceedings Provided to Representatives Any notice given in the manner set out in these Rules to a representative is deemed to be effective notice to the party or participant for whom the representative acts.

RULE 5

INITIATING PROCEEDINGS - GENERAL

5.01 Form of Application, Appeal or Referral Unless a statute or these Rules provide for other methods, or the Tribunal directs otherwise, when proceedings are initiated by filing an application, appeal or referral directly with the Tribunal, the application, appeal or referral must be provided in both written and electronic form and must:

(a) be addressed to the Tribunal Registrar;
(b) provide the applicant's name, telephone number(s), e-mail address, postal address and postal code;
(c) state the statutory origin or authority and nature of the matter, adequately detailed reasons upon which the matter is being brought before the Tribunal, and the order requested;
(d) state how and when the applicant/appellant/referror participated in the process of the application while it was before the Council of the Municipality or approval authority (where appropriate);
(e) include the fee charged under LPATA;
(f) inform the Tribunal of a request to assign a bilingual Member if the applicant wishes the proceeding to be conducted wholly or partly in French; and
(g) be signed by the applicant or their representative.

5.02 Submission Forms Where a matter is to be appealed or referred or an application is made under the *Planning Act* or another statute and the Tribunal has prescribed a submission form, that submission form should be obtained, completed and filed as directed on the form.

5.03 **Where No Fee Paid** Unless the Tribunal directs otherwise, the Tribunal will not consider a matter or schedule a hearing event unless the fee charged under LPATA has been paid.

5.04 **Content of the Municipal Record** When an appeal is filed with the municipality or an approval authority and the municipality or approval authority is required to forward the record of the appeal to the Registrar, the content of that record shall include, and not be limited to, all prescribed information and material and a paper copy of all written submissions either received or considered, or documents and reports prepared or filed, in relation to the decision, refusal or non-decision that has been appealed. In addition, the municipality shall provide a summary of the oral submissions as certified by the clerk which were received from the public at the statutory public meeting, if applicable, relating to the planning matter that is the subject of the appeal and any other document referenced in the submission form set out in Rule 5.02. The municipal record shall include, where available, a device upon which is stored the video and audio record of each public session at which oral submissions were made to the council/approval authority regarding the application, together with a list of the names of the persons who made the submissions, a summary of the nature of each submission and the time on the recording where the submission begins.

5.05 **Dispute Over Validity of Appeal** Regardless of whether there is a dispute as to the validity of an appeal, or purported appeal, the municipal clerk shall forward the municipal record to the Registrar in order for the Tribunal, to determine whether the appeal satisfies any applicable legislative requirement. for a person to qualify as an appellant. The Tribunal may direct the municipal clerk to supplement the information provided should the Tribunal determine certain information is necessary for the Tribunal to determine the extent of its jurisdiction over the matter in dispute.

5.06 **Hearing Event Format** The Tribunal may hold an oral, electronic or written hearing event, unless the format for the event is otherwise prescribed by legislation or regulation.

RULE 6

NOTICES

6.01 **Notices** Any notice required by these Rules or a Tribunal order shall be given in writing in the form and manner directed by the Tribunal.

6.02 **Notice of Hearing Event** The Tribunal may direct a party to give notice of a hearing event to any person or persons and may direct the method of providing the notice. The party that gave notice shall file an affidavit of service with the Tribunal within 14 days after providing notice to confirm that the Tribunal's direction was properly carried out.

6.03 **Hearing Event Venue** The Tribunal shall set the time, date, format and will direct that the sitting of the hearing event be convened at a suitable meeting facility belonging to the municipality and the municipality shall make all necessary arrangements.

6.04 **Notice Periods** Notice periods are established by the Tribunal as set out in Tribunal issued Appointments for Hearing Events and set out below.

PROVISION UNDER THE PLANNING ACT	PART I – NOTICE PERIOD REQUIRED BY THE Tribunal	PART II – BY WHOM THE NOTICE IS SERVED
Official Plans – Subsection 17(24), (36) and (40)	60 days	Municipality
Amendments to Official Plans - Subsections 22(7)	60 days	Applicant
Amendment to Zoning Bylaw -Refusal or neglect - Subsection 34(11)	60 days	Applicant
Zoning By-law – Subsection 34(19)	60 days	Municipality
Holding By-law passed by Municipality and appealed	30 days	Municipality
Holding By-law where municipality refuses or neglects to remove the "H" - Subsection 36 (3)	30 days	Applicant
Interim Control By-law – Subsection 38(4)	30 days	Municipality
Plan of Subdivision – Failure to decide – Subsection 51(34)	60 days	Applicant
Conditions for Approval of Draft Plan of Subdivision – Subsection 51(43)	30 days	Applicant
Plan of Subdivision - Approval or refusal & changed conditions – Subsections 51(39) and (48)	30 days	Municipality
First Prehearing Conference in respect of any matter	30 days	As above

RULE 7

DOCUMENTS, EXHIBITS, FILING, SERVICE

7.01 Form of Documents Unless otherwise directed by the Tribunal, every document filed or introduced by a party or participant in a proceeding shall be legible and prepared on letter size paper (8 ½" x 11"), except for large documents such as plans or surveys, and, where bound together with other documents, shall have each page numbered consecutively, throughout the entire text and graphic content. Wherever possible, an electronic copy of the document must also be filed with the Tribunal, identically numbered as the paper document.

7.02 Other Exhibits Large graphic or other such types of visual evidence should not be glued to foam or other boards. They shall be on paper and be removed from the boards following the hearing event, and folded to 8 ½" x 11". Three-dimensional models must be photographed and the photographs must be introduced with the model. Visual evidence must be reviewed by the other parties before the hearing event or by an earlier date if set out in a procedural order.

7.03 Copies of Documents for Parties and the Municipal Clerk A party who intends to introduce a document as evidence at a hearing event shall provide a copy of the document to all the parties at the beginning of the proceeding or by an earlier date if that is required by the terms of a procedural order or otherwise directed by the Tribunal. If the document is an official plan, those parts of the plan to be referred to at the hearing event should be distributed to the parties, and a copy of the entire plan must be made available to the Tribunal Member(s). If the Tribunal orders that the clerk of the municipality keep copies of documents for public inspection, they do not need to be certified copies, unless a party objects that they are not authentic copies.

7.04 Prefiling of Witness Statements and Reports If a hearing is expected to last more than 5 days, the Tribunal may require that parties calling expert or professional witnesses serve on the other parties and file with the clerk of the municipality any expert witness statements and reports prepared for the hearing, at least 30 days in advance of the commencement of the hearing, unless otherwise directed by the Tribunal. The Tribunal may in its discretion, or at the request of a party, also make this prefiling order for hearings expected to last fewer than 5 days. The expert witness statement must contain:

(a) an executed acknowledgment of expert's duty form (attached to these Rules) and expert's qualifications;
(b) the issues the expert will address, their opinions on these issues, the reasons that support their opinions and their conclusions; and
(c) a list of the reports or documents, whether prepared by the expert or by someone else, that the expert will refer to at the hearing.

The expert's complete report may be filed instead of this statement if it contains the required information.

An expert may not be permitted to testify if this statement or report is not served on all parties and filed with the clerk of the municipality when so directed by the Tribunal.

7.05 Duty of the Expert Witness It is the duty of every expert engaged by or on behalf of a party who is to provide opinion evidence at a proceeding under these Rules to acknowledge, either prior to (by executing the acknowledgment form attached to the Rules) or at the proceeding, that they are to,

(a) provide opinion evidence that is fair, objective and non-partisan;
(b) provide opinion evidence that is related only to the matters that are within the expert's area of expertise;
(c) provide such additional assistance as the Tribunal may reasonably require to determine a matter in issue; and

(d) acknowledge that these duties prevail over any obligation owed by the expert to the party by whom or on whose behalf he or she is engaged.

7.06 Other Witnesses The Tribunal may also require that a witness or a participant who is not presenting expert evidence provide a witness or participant statement. A witness or participant statement should contain (a) a short written outline of the person's background experience, and interest in the matter, (b) a list of the issues that they will discuss, and (c) a list of reports that they will rely on at the hearing. A participant statement should also briefly outline the evidence to be presented. The Tribunal may decline to allow the witness or participant to testify if this statement is required by the Tribunal and has not been provided to the other parties.

7.07 Amendment of Documents Documents filed with the Tribunal can only be amended with the consent of the parties or by a Tribunal Order. The Tribunal may require that the person requesting an amendment do so by way of a motion under Rule 10.

7.08 Copies of Tribunal Documents A person may examine any document filed with the Tribunal and copy it after paying the Tribunal's fee, unless a statute, a Court Order, a Tribunal Order or these Rules provide otherwise. Persons, including participants in the proceeding wishing to review expert witness statements and reports, may also do so at the Clerk's office when the Tribunal directs that witness statements or reports are to be filed at the municipality.

7.09 Return of Exhibits Exhibits of all types introduced at a hearing will be kept for 180 days after the Tribunal decision issues. The person introducing an exhibit may ask for its return after this time, and it may be given back if the Tribunal agrees. If no such request is made, the exhibit becomes the property of the Tribunal and may be archived.

7.10 Service by Personal Service or Electronic Service Where any document is required to be served or filed, including the one commencing a proceeding or a motion or providing notice, it shall be served by personal service or electronically (unless a statute or the Tribunal requires another method of service) and shall be sent to:

(a) the party's representative, if any;
(b) where the party is an individual and is not represented, to that party directly, where that party has provided an address for service and/or an e-mail address;
(c) where that party is a corporation and is not represented, to the corporation directly, to the attention of an individual with apparent authority to receive the document;
(d) where served on or filed with a local board or commission, or any department, ministry or agency of the federal, provincial or municipal government, to an individual with apparent authority to receive the document; or
(e) where served on or filed with the Tribunal, to the Registrar.

Subject to Rule 7.11, if a document is served by e-mail, then service is effective on the date of service.

7.11 If Served Electronically After 4:30 p.m. Any document served electronically after 4:30 p.m. is deemed to have been served on the next business day.

7.12 Proof of Electronic Service A confirmation printout received by the sender is proof of the full transmission and receipt of the electronic service.

7.13 No Hard Copy Needed A hard copy of an electronic document need not be sent by another means of transmission unless requested, and may then be sent by regular mail.

RULE 8

ROLE AND OBLIGATIONS OF A PARTY

8.01 **Role and Obligations of a Party** Subject to Rule 8.02 below**,** a person conferred party status to a proceeding before the Tribunal may participate fully in the proceeding, and by way of example may:

(a) Identify issues raised in a notice of appeal for the approval of the Tribunal;
(b) Bring or respond to any motion in the proceeding;
(c) Receive copies of all documents and supporting information exchanged, relied upon or filed in connection with any hearing event conducted in the proceeding;
(d) Present opening and closing submissions at the hearing;
(e) Present and examine witnesses and cross-examine witnesses not of like interest;
(f) Claim costs or be subject to a costs award when ordered by the Tribunal; and
(g) Request a review of a Tribunal decision or order as set out in Rule 25.

8.02 **Power of the Tribunal** to Add or Substitute parties The Tribunal may add or substitute a party to a proceeding when that person satisfies any applicable legislative tests necessary to be a party and their presence is necessary to enable the Tribunal to adjudicate effectively and completely on the issues in the proceeding.

8.03 **Non-Appellant Party** A party, who is not an appellant in a proceeding, but is conferred party status by the Tribunal, may not raise or introduce new issues in the proceeding. A non-appellant party may only participate in the proceeding by sheltering under an issue raised in an appeal by an appellant party and may participate fully in the proceeding to the extent that issue remains in dispute. A non-appellant party has no independent status to continue an appeal that is withdrawn by an appellant party, or is otherwise resolved or determined by the Tribunal.

8.04 **Common Interest Class** Where the Tribunal is of the opinion that more than one party is of common interest with another party or other parties, the Tribunal may, on its own initiative or on the request of any party, appoint a person of that class of parties to represent the class in the proceeding.

RULE 9

DISCOVERY

9.01 **Order for Discovery** The Tribunal may make an order for discovery for a party to obtain necessary information from another party. Such an order will be made only on motion and only if the party has requested information and it has been refused or no answer has been received. The notice of motion shall be accompanied by an affidavit, which sets out the efforts made to obtain the desired information and the reasons that demonstrate that the information sought is both necessary and relevant to the disposition of the issues in the proceeding. The Tribunal may order:

(a) any person to provide an affidavit containing a list of relevant documents in the possession of the person;
(b) the delivery of relevant documents;
(c) an oral examination or cross-examination of any person or party;
(d) an examination for discovery by written questions;

(e) the inspection and testing of property;
(f) the examination of a witness before the commencement of a proceeding (under the *Rules of Civil Procedure*); or
(g) any other form of discovery; and
(h) that conditions be imposed concerning the timing and scope of discovery.

9.02 *Rules of Civil Procedure* Apply to Proceedings Following Order for Discovery If an order for discovery is obtained then any production obligations continue to apply in the course of the proceeding with respect to the production of materials and documents subsequently obtained.

RULE 10

MOTIONS

10.01 Notice of Motion A motion brought before the commencement of a hearing event shall be made by notice of motion.

10.02 Date for Motion A moving party shall obtain from Tribunal staff a motion date if the motion is to be heard in person or by electronic hearing. A person may request, or the Tribunal may order, that the motion be heard in person or by electronic hearing.

10.03 Motion in Writing A party bringing a motion before the commencement of a hearing event may request a motion be held in writing, or the Tribunal may make its own determination that the motion be held in writing, in which case the Tribunal will notify the moving party and all other parties. The moving party shall serve a notice of written motion within 15 days of receipt of this notice. Parties wishing to respond to a written motion shall serve a response within 7 days of the date of the moving party's notice of written motion. A moving party may reply to a response within 3 days of the date of the written response.

10.04 Content of Motion Material The notice of motion to be heard orally, by electronic hearing, or in writing shall:
(a) state the day, time and location of the hearing of the motion;
(b) state the precise relief sought;
(c) state the grounds to be argued, including a reference to any statutory provision or rule to be relied on;
(d) list the documentary evidence to be used at the hearing of the motion;
(e) be accompanied by an affidavit setting out a brief and clear statement of the facts upon which the moving party will rely; and
(f) state the names and addresses of the responding parties or their representatives and all persons to whom the notice of motion is to be given.

10.05 Service of the Notice of Motion A notice of motion and all supporting material, as set out in Rule 10.04, shall be served at least 15 days before the date of the motion to be held in person or by electronic hearing unless the Tribunal orders otherwise. A notice of motion shall be served on all parties, on any other person as directed by the Tribunal, and on the Registrar. An affidavit of service shall be filed with the Tribunal prior to or at the hearing of the motion.

10.06 The Notice of Response to Motion A responding party shall serve a notice of response that:

(a) states the response to be made, including a reference to any statutory provision or rule to be relied on;
(b) lists the documentary evidence to be used at the hearing of the motion; and
(c) includes an affidavit setting out a brief and clear statement of the facts upon which the responding party will rely.

10.07 Service of the Notice of Response to Motion The notice of response to motion and all supporting material as set out in Rule 10.06 shall be served no later than 7 days before the date of the motion to be held in person or by electronic hearing unless the Tribunal orders otherwise. The notice of response shall be served on all parties, on any other person as directed by the Tribunal, and on the Registrar. An affidavit of service shall be filed with the Tribunal prior to or at the hearing of the motion.

10.08 Reply Submission A moving party may serve a reply submission, 3 days prior to the commencement of the hearing of the motion.

10.09 Oral Submissions All the parties to a motion which is heard in person or by electronic hearing may make oral submissions.

10.10 Motions Made at Oral Hearing Events A motion may be made at an oral hearing event with leave of and in accordance with any procedures ordered by the presiding Member.

10.11 Tribunal May Initiate a Motion The Tribunal may, at any time in a proceeding, initiate a motion to inquire into any matter or question of law that is within its jurisdiction, and may determine the parties to that motion and issue directions necessary to inquire into the matter.

RULE 11

CONSTITUTIONAL QUESTIONS

11.01 Constitutional Questions Where a party intends to raise a question about the constitutional validity or applicability of a matter before the Tribunal, or where the party claims a remedy under subsection 25 (1) of the *Canadian Charter of Rights and Freedoms*, notice of a constitutional question shall be served and filed on the other parties to the proceeding and the Attorney General of Canada and the Attorney General of Ontario, as soon as the issues requiring notice are known and, in any event, at least 15 calendar days before the question is argued. The notice referred to shall be in substantially the same form as required under the *Rules of Civil Procedure* for a notice of constitutional question.

RULE 12

SETTLEMENT BEFORE TRIBUNAL PROCEEDINGS

12.01 Procedure if Settlement Before Hearing Event The Tribunal may hold a hearing on the terms of a settlement if the parties in the proceeding agree to a settlement prior to a hearing event. If all statutory requirements and the public interest are satisfied, the Tribunal may issue an order approving the settlement, with any necessary amendments.

RULE 13

COMPELLING ATTENDANCE OF WITNESSES BY SUMMONS

13.01 Summons

a) Who May Summons a Witness A party who wishes to compel the appearance before the Tribunal of a person in Ontario who has not agreed to appear as a witness for that party may serve a summons on that person for that person to attend any hearing event before the Tribunal to:

(i) give relevant and admissible evidence under oath or affirmation; or
(ii) produce any relevant and admissible documents or things.

b) How to Obtain a Summons A party who wishes to summons a witness shall make a request in writing to the Registrar.

c) When a Summons Will Issue A party requesting a summons must set out in its request to the Tribunal the issues and the evidence that a witness is to address and explain the relevance of that evidence. If that information is not contained in the request for summons, the summons shall not be issued. If the requisite information is contained in the request for summons and the Tribunal is satisfied that the evidence to be given by the witness named in the request for summons is relevant to the issue(s) before the Tribunal and is admissible, the summons shall be signed and issued by the Registrar.

d) When a Summons Requires a Motion If the Tribunal is not satisfied from the information in the request for summons that the evidence to be given by the named witness is relevant to the issues before the Tribunal or admissible, the summons shall not issue. The party requesting the summons may then:

(i) submit a further request for summons, with more details in respect of the nature of the evidence to be given by the proposed witness and the relevance and admissibility of that evidence, or
(ii) bring a motion in accordance with these Rules seeking an order of the Tribunal for the issuance of the summons.

The Tribunal Member hearing the motion shall determine whether the summons shall issue, based on a determination of the nature of the evidence to be given by the proposed witness, the relevance of the evidence to the matter before the Tribunal, and the admissibility of the evidence.

e) Application to Quash a Summons Despite the issuance of a summons any person who has been served with a summons issued by the Tribunal may apply to quash the summons by notice of motion in accordance with these Rules.

f) Summons Without a Named Witness A summons may be issued by the Tribunal without the witness' name identified thereon if a sufficient case has been made to the Tribunal as to the need for the summons or the urgency of the matter. A party seeking such a summons shall do so by notice of motion in accordance with these Rules.

g) Serving the Summons Except in the event that it is impossible or impractical to do so, a summons must be served on the witness by personal service, no later than 5 days before the time for attendance. At the same time, the attendance money to be paid for attendance before the Superior Court of Justice shall be paid or offered to the witness.

13.02 Attendance of the Witness Once the summons is served on a witness, the witness shall attend the hearing of the Tribunal at a time and place stated in the summons (or as

otherwise arranged with the person serving the summons), and shall bring with them all documents and things within their possession as required by the terms of the summons.

RULE 14

LANGUAGE OF PROCEEDINGS

14.01 Use of English and French The Tribunal may conduct a hearing event in English or French or partly in English and partly in French.

14.02 Where French is Used A person who wishes a hearing event to be conducted wholly or partly in French or who wishes to give evidence or make submissions in French must notify the Tribunal no later than 25 days before the hearing.

14.03 Documents in English or French Where written evidence or a submission is provided in either English or French, the Tribunal may order that the person presenting such evidence or submissions also provide it in the other language if the Tribunal considers it necessary for the fair determination of the matter.

14.04 Where an Interpreter is Required If an interpreter is required for a witness whose language is not English or French, the party calling the witness must provide the interpreter and demonstrate the qualification of the interpreter to faithfully conduct the translation.

RULE 15

SCREENING

15.01 Administrative Screening The Tribunal shall conduct administrative screening of matters initiated with the Tribunal to determine whether:
(a) the matter has been submitted to the Tribunal within the statutory filing period;
(b) the matter has been submitted to the Tribunal in accordance with any statutory requirements; and,
(c) the matter has been initiated in accordance with the provisions of any applicable Rule.

15.02 Notice Before Dismissal The Tribunal may dismiss a matter administratively, on its own initiative and without a hearing event, if the matter was not submitted to the Tribunal within the statutory filing period, or in accordance with statutory requirements or was not commenced in accordance with these Rules. However, before dismissing a matter administratively, Tribunal staff will notify the applicant of the deficiencies in the application and will provide the applicant with a specific date to respond. The Tribunal will review the applicant's response and make a determination whether the matter is to be dismissed administratively.

15.03 Applicant to Serve Additional Materials Requested If the Tribunal notifies the applicant, pursuant to Rule 15.02, that the information submitted is incomplete, then the applicant shall provide a copy of the supplementary information to all other parties and to the Tribunal.

15.04 Completed Matter Deemed Filed on Original Date If the defect set out in a notice sent out under Rule15.02 is resolved to the satisfaction of the Tribunal, then the matter is

deemed to have been properly filed on the day it was first received rather than the day the further required information was received.

RULE 16

CONSOLIDATION

16.01 Combining Proceedings or Hearing Matters Together The Tribunal may order that two or more proceedings be consolidated, heard at the same time, or heard one after the other, or stay or adjourn any matter until the determination of any other matter.

16.02 Effect of Consolidating Proceedings When two or more proceedings are consolidated,

(a) statutory procedural requirements for any of the original separate proceedings apply, where appropriate, to the consolidated proceeding;
(b) parties to each of the original separate proceedings are parties to the consolidated proceeding; and,
(c) evidence to be presented in each of the separate proceedings is evidence in the consolidated proceeding.

16.03 Effect of Hearing Matters Together When two or more proceedings are heard together but not consolidated,

(a) statutory requirements for each proceeding apply only to that particular proceeding and not to the others;
(b) parties to the hearing are parties to their individual proceedings only and not parties to the other proceedings; and,
(c) unless otherwise ordered by the Tribunal, evidence in the hearing is evidence in each proceeding to which it could apply.

16.04 Tribunal May Reverse Decision for Consolidated Proceedings The Tribunal may separate consolidated proceedings or matters heard together at any time if it finds that the proceedings have become unduly complicated, delayed or repetitive or a party is unduly prejudiced.

RULE 17

ADJOURNMENTS

17.01 Hearing Dates Fixed Hearing events will take place on the date set unless the Tribunal agrees to an adjournment. Adjournments will not be allowed that may prevent the Tribunal from completing and disposing of its proceedings within any applicable prescribed time period.

17.02 Requests for Adjournment if All Parties Consent If all of the parties agree, they may make a written request to adjourn a hearing event. The request must include the reasons, a suggested new date, and the signed consents of all parties. However, the Tribunal may require that the parties attend in person or convene an electronic hearing to request an adjournment, even if all of the parties consent. The consenting parties are expected to present submissions to the Tribunal on the application of any prescribed time period to dispose of the proceeding.

17.03 Requests for Adjournment without Consent If a party objects to an adjournment request, the party requesting the adjournment must bring a motion at least 15 days before the date set for the hearing event. If the reason for an adjournment arises less than 15 days before the date set for the hearing event, the party must give notice of the request to the Tribunal and to the other parties and serve their motion materials as soon as possible. If the Tribunal refuses to consider a late request, any motion for adjournment must be made in person, at the beginning of the hearing event.

17.04 Emergencies Only The Tribunal will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witness cannot be obtained. The Tribunal must be informed of these emergencies as soon as possible.

17.05 Powers of the Tribunal upon Adjournment Request The Tribunal may,

(a) grant the request;
(b) grant the request and fix a new date or, where appropriate, the Tribunal will schedule a prehearing or case management conference on the status of the matter;
(c) grant a shorter adjournment than requested;
(d) deny the request, even if all parties have consented;
(e) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
(f) grant an indefinite adjournment, if the request is made by a party and is accepted by the Tribunal as reasonable and the Tribunal finds no substantial prejudice to the other parties or to the Tribunal's schedule. In this case a party must make a request, or the Tribunal on its own initiative may direct, that the hearing be rescheduled or resumed as the case may be;
(g) convert the scheduled date to a mediation or prehearing or case management conference;
(h) issue a Notice of Postponement or a Notice or Resumption; or
(i) make any other appropriate order.

RULE 18

MEDIATION

18.01 Mediation A party or parties may request that the Tribunal conduct a mediation of any issue raised in a proceeding. Prior to the Tribunal granting this request, the Associate Chair or a Vice-Chair or Member designated by the Associate Chair will conduct a mediation assessment of the proceeding to determine whether the issue or proceeding is suitable for mediation. If the Associate Chair or designated Vice-Chair or Member determines that mediation should proceed, then the Tribunal will convene a mediation, with the participation of all or two or more of the parties, should they provide their consent to each other and to the Tribunal. The Tribunal shall set the date of the mediation and direct how notice of the mediation will be given.

18.02 Procedure at a Mediation If a mediation request is granted, the Tribunal will appoint a mediator who is a Member of the Tribunal, and the mediator may make use of any appropriate dispute resolution techniques to help the parties involved in the mediation enter into a voluntary resolution of the issues in dispute.

18.03 Member May Not Preside A Tribunal Member who conducts a mediation in which one or more of the issues have not been resolved may not preside at any hearing event of those unresolved issues.

18.04 Mediation or Settlement Discussions Confidential The details of proceedings during a mediation are confidential. Any information or documents provided or exchanged during the mediation and any suggestion for resolution of the issues or offer to settle made during a mediation shall remain confidential and cannot be disclosed in evidence in the same or other proceeding(s), nor be placed in the Tribunal file. A Tribunal Member's notes of a mediation shall remain confidential and shall not be released to any person or admitted into evidence in any proceeding. A Tribunal Member who participates in mediation is not competent or compellable in any proceeding to give evidence or produce documents regarding the mediation discussions.

RULE 19

PREHEARING CONFERENCES

19.01 Prehearing Conference At the request of a party, on its own initiative or as may be required by law, the Tribunal may direct parties to participate in a prehearing conference conducted by a Member, which can include settlement conferences, motions or preliminary hearing matters, in order to:

(a) identify the parties and participants and determine the issues raised by the appeal;
(b) identify facts or evidence the parties may agree upon or on which the Tribunal may make a binding decision;
(c) obtain admissions that may simplify the hearing, which may include the examination of persons by the Tribunal as part of the conference;
(d) provide directions for exchange of witness lists, witness statements, expert witness statements and reports, for meetings of experts to address the disclosure of information, including the disclosure of the information that was not provided to the Municipality before Council made its decision that is the subject of the appeal, and for further disclosure where necessary;
(e) discuss opportunities for settlement, including possible use of mediation or other dispute resolution processes;
(f) fix a date and place for the hearing and estimate its length, and encourage the parties to agree upon the dates for any procedural steps;
(g) discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public or to seal documents;
(h) address the production and cost sharing of joint document books; and
(i) deal with any other matter that may assist in a fair, cost-effective, and expeditious resolution of the issues.

19.02 Sample Procedural Order and Meeting Before Prehearing Conference The Tribunal may provide a sample procedural order to the parties before the prehearing conference. The parties are expected to meet before the prehearing conference to consider the matters set out in Rule 19.01 and present recommendations to the Tribunal for the conduct of the hearing. A sample procedural order is listed in the index of forms on the final page of these Rules.

19.03 Serving Notice of a Conference The Tribunal will give the applicant a Notice of Conference that provides the time and place of the prehearing conference. The applicant must serve this on those persons entitled to notice of the conference and provide an affidavit to the Tribunal, at or prior to the conference, to prove service of the notice.

19.04 Tribunal Member Presides The Associate Chair will assign at least one Tribunal Member to conduct the conference.

19.05 Public Attendance at a Prehearing Conference A prehearing conference held in person will be open to the public. A prehearing conference held by electronic hearing will be open to the public where practical. Despite the general principle of public open sessions, where circumstances prevail that may require confidentiality, in the discretion of the presiding Member, part or all of the conference may be conducted *in camera.*

19.06 Conversion From One Procedure to Another The Tribunal Member may, at any time, conduct a procedural discussion or a preliminary hearing and may convert from one to another. The Tribunal will state in the notice of a prehearing conference that the parties are expected to arrive prepared for a procedural and settlement conference as well as a preliminary hearing, where evidence or formal statements or submissions may be heard. Even if no settlement is reached, the Tribunal may proceed to make a final decision on any evidence received during the conference.

19.07 Results of Failure to Attend a Conference If a party fails to attend the conference in person or by authorized representative, the Tribunal may proceed without that party. The non-attending party is not entitled to notice of subsequent hearing events in the proceedings.

19.08 Tribunal Order Following The Member conducting the prehearing conference will issue an order that may decide any of the matters considered at the conference and provide procedural directions for any subsequent hearing event.

19.09 Hearing Member Bound The Member conducting the hearing or any subsequent hearing event is bound by the order resulting from the prehearing conference unless the Member is satisfied that there is good reason to vary the order.

19.10 Methods of Holding Hearing Events The Tribunal may direct in an order following a conference that hearing events in a proceeding be held by a combination of written, electronic or oral hearing events.

RULE 20

ELECTRONIC HEARINGS

20.01 Hearing Events by Teleconference or Videoconference The Tribunal may hold a hearing event by electronic hearing for the determination of any issue in the proceeding. Where the Tribunal directs that a hearing event be held by electronic hearing, the Tribunal may direct a party to make the necessary arrangements and to give notice of those arrangements to the Tribunal and other parties.

20.02 Objection to the Electronic Format A party who objects to a hearing event being held as an electronic hearing shall notify the Tribunal and all other parties of its objection within the time period specified in the notice of the electronic hearing. The objecting party shall set out the reasons why the electronic hearing is likely to cause the objecting party significant prejudice and may refer to the matters set out in Rule 20.05.

20.03 Response to Notice of Objection The Tribunal may request a written response from other parties to the objection of an electronic hearing within a time period set out by the Tribunal.

20.04 Procedure When Objection is Received If the Tribunal receives an objection to hold a hearing event by electronic hearing, it may:
(a) accept the objection, cancel the electronic hearing, and schedule an oral or written hearing; or,
(b) if the Tribunal is satisfied, after considering any responding submissions and the factors included in Rule 20.05, that no significant prejudice will result to a party, then the Tribunal will reject the objection and proceed with the electronic hearing.

20.05 Factors the Tribunal May Consider The Tribunal may consider any relevant factors in deciding to hold a hearing event by electronic hearing, such as,
(a) the convenience to the parties and the Tribunal;
(b) the likelihood of the process being less costly, faster, and more efficient;
(c) whether it is a fair and accessible process for the parties;
(d) the desirability or necessity of public participation in or public access to the Tribunal's process;
(e) whether the evidence or legal issues are suitable for an electronic hearing;
(f) whether credibility may be an issue and the extent to which facts are in dispute; or
(g) whether an electronic hearing is likely to cause significant prejudice to any party or participant.

20.06 Directions for the Electronic Hearing The Tribunal may direct the arrangements for the electronic hearing or designate an approved location for videoconference to protect the integrity of the hearing process, including the security and confidentiality of evidence.

20.07 Videoconferences The Tribunal shall pre-approve all arrangements for conducting a hearing event by videoconference, including the pre-filing and exchange of motion materials, documents, written submissions or any visual and written evidence, and the locations for the conference. If a party or participant intends to request that the Tribunal accept any information or material as an exhibit at a videoconference, such information or material shall be prefiled with the Tribunal and provided to all parties or participants in accordance with the Tribunal's directions for conducting a hearing event by videoconference.

20.08 The View of the Camera A party's representative or a witness in a videoconference shall be in view of the camera, with minimal visual obstructions, in the course of their presentations or submissions to the Tribunal. Where a witness is being examined or cross-examined, there shall be a split screen view of both the witness and the person conducting the examination/cross-examination. Any document that may be referred to by parties or their witnesses shall be visible and legible to the Tribunal and all other parties to the conference, either by the camera or by referring to a copy of the document exchanged in accordance with the Tribunal's directions.

RULE 21

WRITTEN HEARINGS

21.01 Power to Hold Hearing Events by Written Submissions The Tribunal may conduct the whole or any part of a hearing event in writing, unless a party satisfies the Tribunal that

there is good reason for not doing so. Any objection must be filed within 10 days of the date of the Tribunal's notice of a written hearing. Notice of a written hearing will be sent only to the known parties.

21.02 Factors Tribunal May Consider In deciding whether to hold a written hearing event, the Tribunal may consider any relevant factors, such as:
(a) the fairness and convenience to the parties;
(b) the likelihood of the process being less costly, faster, and more efficient;
(c) the effect on public access to the Tribunal's process;
(d) whether facts and evidence may be agreed upon;
(e) whether most of the issues are legal issues; and
(f) whether oral testimony is likely to be necessary.

21.03 How to Object A party who objects to a written hearing shall file and provide a copy of a written objection to the other parties, setting out details of its claim that there is a good reason for not holding the hearing event in written form, within 10 days of the date of the notice of written hearing.

21.04 Procedure for Exchange of Documents in Written Hearings If no notice of objection is received,

a) the moving party shall provide to the Tribunal and the other parties copies of its affidavit(s) and submissions within 30 days after the date of the Tribunal's notice of the written hearing. The submissions shall include the reasons for the proceeding and the order requested, and any law relied on. The affidavit shall include the facts relied on and the evidence supporting the facts;
b) the other parties wishing to respond to the submissions shall do so by copy to all parties and the Tribunal within 20 days of the date that the applicant's affidavit and submissions were served. The responding submissions shall include an affidavit of the facts and the evidence relied upon and state if that party has any submissions or evidence on any of the issues raised, if this is the case; and
c) the applicant may reply to the other parties' responses, with a copy to the Tribunal, within 10 days after the date for service of the responses, and the reply shall be limited to any new evidence in the responses.

21.05 Requirement that Evidence be Sworn or Affirmed Evidence in a written hearing must be by affidavit, and any documents filed shall be attached to an affidavit of a person having personal knowledge of the document. The Tribunal may permit evidence to be filed in a different form or in electronic form as approved by the Tribunal upon request of a party.

RULE 22

CONDUCT OF PROCEEDINGS

22.01 Hearings to be Public All Tribunal hearing events will be open to the public except where the Tribunal Member determines that the hearing event is to be heard in private, such as a mediation or the exceptions to a public hearing, set out in subsection 9(1) of the SPPA.

22.02 Confidentiality Orders Under the authority of subsection 33(3) of LPATA, the Tribunal may order that any document filed in a proceeding be treated as confidential and not be disclosed to the public where the Tribunal is of the opinion that: a) matters involving public

security may be disclosed; or b) the document contains information regarding intimate financial or personal matters or other matters that are of such a nature that the public interest or the interest of the person affected would be better served by avoiding disclosure, despite the desirability of adhering to the principle that documents filed in a proceeding be available to the public.

22.03 Procedure at a Hearing The Tribunal may, by order, establish the procedure at a hearing event unless an Act provides differently.

22.04 Site Visit If the Tribunal determines that a site visit would be of benefit in obtaining a fair understanding of any property which is the subject of the proceeding, the Tribunal may conduct a site visit on such terms that the Tribunal establishes to facilitate and to govern the participation of the parties to the proceeding in the visit.

22.05 Photographic, Audio or Video Recording
No person shall take or attempt to take a photograph, motion picture, video recording, or other recording capable of producing audio or visual representations by electronic means, or otherwise, at any proceedings of the Tribunal otherwise open to the public, unless the presiding Tribunal Member authorizes the recording and the following conditions have to be satisfied by the person making the request:
(a) the Tribunal Member determines that the proceedings will not be disrupted or delayed if approval is given;
(b) the Tribunal Member determines that the approval will not result in any prejudice to any party to the proceedings;
(c) the equipment must be of a type approved by the Tribunal and be placed in locations approved by the presiding Tribunal Member so as to be unobtrusive; and
(d) a photograph or visual recording may only take place with the permission of the Member and in such a manner that will not disrupt or interrupt the proceedings.

22.06 Submissions to a Request The Tribunal Member shall afford the parties to the proceeding an opportunity to make submissions to the Tribunal of any of the items set out in Rule 22.05 and respond to those submissions. The Tribunal may impose conditions to any approval necessary to ensure the items in Rule 22.05 are satisfactorily addressed.

22.07 Withdrawal of Approval The Tribunal may withdraw permission to record temporarily or permanently if the conditions are not met, if any of the factors in Rule 22.05 become relevant, or if the Tribunal in the circumstances cannot conduct a full and fair hearing.

22.08 Verbatim Reporters Any party may arrange at his or her own expense, for the attendance of a qualified verbatim reporter, for the purpose of recording all testimony and submissions during a hearing event. Before a qualified verbatim reporter is permitted to record only part of a proceeding, the party retaining the qualified verbatim reporter must obtain the consent of the Tribunal. In considering whether to provide its consent, the presiding Member of the Tribunal will consider, among other matters, whether permitting a record of only part of the proceedings would result in prejudice to a party.

22.09 Transcripts If a party orders a transcript or partial transcript of the hearing event, the party must notify the Tribunal, and the other parties to the proceedings that it has done so, and the Tribunal shall receive a copy free of charge, if the Tribunal requests a copy. The party must furnish the copy of the transcript to the Tribunal within three days of the date of the party's receipt of the transcript. The Tribunal may also at its own initiative and on notice to the parties, order a transcript or partial transcript from the qualified verbatim reporter without furnishing a

copy of the transcript to the parties and direct a party or all parties to pay the cost of the transcript. The Tribunal will advise the parties that it has ordered the transcript and where the Tribunal orders a partial transcript, the Tribunal shall notify the parties as to the part of the transcript the Tribunal has ordered.

RULE 23

COSTS

23.01 Who May Request an Order for Costs Only a party may ask for an award of costs at the end of a hearing event. If the request for costs is not made before the Tribunal renders its decision at the end of the hearing event, the party must notify the Tribunal within 30 days after the written decision is issued that the party will be seeking costs, against whom the costs are sought, and an indication of the approximate amount of costs being sought.

23.02 Costs Requests will be considered by written motion All cost requests shall be considered and disposed of by the Tribunal in writing unless a party satisfies the Tribunal that consideration of the request in writing is likely to cause the party significant prejudice.

23.03 Disposition of Request Where Request Made Before Issuance of Written Decision If the request for costs is made before the end of the hearing event and prior to a decision, the Tribunal may direct that the request be considered at a later date in the manner determined by the Tribunal.

23.04 Disposition of Request Where Request Made After Issuance of Decision Subject to the party satisfying the requirements in Rule 23.01 for submission of a request, and Rule 23.02 for an oral motion, Tribunal may direct the party or parties requesting costs to:

(i) attend before the Tribunal, on notice to the party or parties against whom costs are sought, on a date fixed by the Tribunal, and make oral submissions with respect to the application for costs provided that the party or parties against whom costs are sought shall also be permitted to make oral submissions with respect to the application for costs; or

(ii) within 35 days of the Tribunal's direction, file written submissions on the application for costs and serve each party against whom costs are sought, in addition to any other document the Tribunal directs be provided, the documentation shall include:

(a) the reasons for the request and the amount requested;
(b) an estimate of any extra preparation or hearing time caused by the conduct alleged to attract costs;
(c) copies of supporting invoices for expenses claimed or an affidavit of a person responsible for payment of those expenses verifying that the expenses were properly incurred; and
(d) an affidavit verifying that the costs claimed were incurred directly and necessarily for the time period in question; or

(iii) within 35 days of the Tribunal's direction, file and serve a notice of motion for costs in accordance with the Tribunal's Rules on Motions. A motion for costs shall only proceed as an oral hearing, if a party satisfies the requirements in Rules 23.02, and the notice of motion must contain the following information:

(a) the reasons for the request and the amount requested;

(b) an estimate of any extra preparation or hearing time caused by the conduct alleged to attract costs;
(c) copies of supporting invoices for expenses claimed or an affidavit of a person responsible for payment of those expenses verifying that the expenses were properly incurred; and
(d) an affidavit verifying that the costs claimed were incurred directly and necessarily for the time period in question.

23.05 Response by Other Party Where the Tribunal directs a proceeding in writing in accordance with Rule 23.02, the party or parties against whom the request for costs is made shall, within fifteen days of service of the documentation from the party requesting costs, provide a written response to the Tribunal and the other parties to whom the request for costs is made.

23.06 Reply by Party Seeking Costs Where the Tribunal directs a proceeding in writing in accordance with Rule 23.03, the party requesting costs may provide to the Tribunal and other parties to whom the request for costs relates a reply to a written response, within 10 days of the service of the response.

23.07 Member Seized to Consider Costs Order The Member who conducted the hearing event on the merits shall make the decision on the request for costs. If that Member is, for any reason, unable to hear or deal with the request, the Associate Chair will direct another Member to hear the motion.

23.08 Period Eligible for Costs Order The Tribunal may make a costs award for conduct at any time during a proceeding.

23.09. Circumstances in Which Costs Order May be Made The Tribunal may only order costs against a party if the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or if the party has acted in bad faith. Clearly unreasonable, frivolous, vexatious or bad faith conduct can include, but is not limited, to:
(a) failing to attend a hearing event or failing to send a representative when properly given notice, without contacting the Tribunal;
(b) failing to give notice without adequate explanation, lack of co-operation with other parties during prehearing proceedings, changing a position without notice to the parties, or introducing an issue or evidence not previously mentioned or included in a procedural order;
(c) failing to act in a timely manner or failing to comply with a procedural order or direction of the Tribunal where the result is undue prejudice or delay;
(d) a course of conduct necessitating unnecessary adjournments or delays or failing to prepare adequately for hearing events;
(e) failing to present evidence, continuing to deal with issues, asking questions or taking steps that the Tribunal has determined to be improper;
(f) failing to make reasonable efforts to combine submissions with parties of similar interest;
(g) acting disrespectfully or maligning the character of another party;
(h) knowingly presenting false or misleading evidence; or
(i) breaching a confidentiality requirement of a mediation, settlement conference or of a decision of the Tribunal in the hearing of the merits.

The Tribunal is not bound to order costs when any of these examples occur as the Tribunal will consider the seriousness of the misconduct.

23.10 Powers of Tribunal The Tribunal may deny or grant the application for costs or award a different amount and fix the costs of and incidental to the proceeding and direct payment be made by a certain date by order.

23.11 Interest on Award Awards of costs may bear interest in the same manner as those made under section 129 of the *Courts of Justice Act*.

RULE 24

TRIBUNAL DECISIONS AND ORDERS

24.01 Issuing a Tribunal Decision or Order A Tribunal order may be contained in the decision and issued as a decision and order of the Tribunal. Where the order issues separately from the written decision, the Registrar is authorized to and will issue the appropriate order as directed by the Tribunal.

24.02 A Condition Imposed in a Tribunal Decision If a temporal condition is imposed in a Tribunal decision it shall be satisfied by the date set by the Tribunal. If a date is not set by the Tribunal, the condition shall be satisfied within a reasonable time. If the condition is not so satisfied, the Tribunal has the discretion to reopen the hearing event from which the decision issued upon notice to the parties to that proceeding.

24.03 Effective Date of Tribunal Decision A Tribunal decision or order is effective on the date that the decision or order is issued by electronic means, or in hard copy, unless the decision or order states otherwise.

CORRECTING MINOR ERRORS IN DECISIONS AND ORDERS

24.04 Correcting Minor Errors The Tribunal may at any time and without prior notice to the parties correct a technical or typographical error, error in calculation or similar minor error made in a decision or order. There is no fee if a party requests this type of correction.

24.05 Processing Request as a Review Request If a party requests a correction or clarification that the Tribunal finds is a request for a substantive change in the decision or order, the Tribunal shall treat it as a request for review under section 35 of LPATA.

RULE 25

REVIEW OF A TRIBUNAL DECISION OR ORDER

25.01. Tribunal's Powers on Review When exercising its powers pursuant to Section 35 of LPATA and Section 21.2 of the SPPA, Rules 25.02 to 25.11 shall govern.

25.02. Request for Review of Tribunal Decision The Executive Chair shall consider a person's request for a review of a decision, approval, or order if the person files the information set out in Rule 25.03. A request for review does not stay the effect of the original decision, approval or order unless the Executive Chair so orders.

25.03. Contents of a Request A party making a request for review shall file notice of such request with the Executive Chair within 30 days of the date of the Tribunal's written decision. Such notice shall include:
(a) the requestor's full name, address, telephone number and e-mail address (if any);
(b) the full name, address, telephone number and e-mail address (if any) of the requestor's representative (if any);
(c) the requestor's or representative's signature;
(d) the reasons for the request;
(e) the desired result of the review (such as a change or alteration to the decision or a rehearing of the proceeding);
(f) any documents that support the request, including copies of any new evidence that was unavailable at the hearing;
(g) an affidavit stating the facts relied upon in support of the request;
(h) a statement as to whether the requestor has or will submit an application for leave to appeal or judicial review to the court; and
(i) the filing fee (cheque or money order payable to the Minister of Finance) charged under LPATA.

25.04. Initial Screening of the Request The Tribunal will not consider a request for review if:
(a) the request does not include the information required by Rule 25.03;
(b) the request is made by a non-party unless the Executive Chair determines that there is a valid and well-founded reason why the requestor was not a party;
(c) the request is filed 30 days after the date of the Tribunal's written decision unless the Executive Chair determines that there is a valid and well-founded reason to extend this time; or
(d) it is a second request by the same party raising the same or similar issues.

25.05. Filing and Serving a Response to a Request for Review A party that files a request for review may be directed by the Tribunal to serve the request and all supporting material on all other parties to the original hearing event. The Tribunal may require any or all other parties to provide, by a specific date, a response to the request. The Tribunal may identify the issues to address in the response. The response to a request for review shall include the reasons for the response, any supporting documents, and an affidavit stating the facts relied upon in the response. The response shall be served on the other parties and filed with the Executive Chair.

25.06. Power of the Executive Chair to Dispose of the Request Subject to Rule 25.07, the Executive Chair may exercise their discretion to grant a request for review, in whole or in part, and may order a rehearing of the proceeding or order a motion be heard to review a decision. In the event the request for review is granted, the Tribunal will set a hearing date or a motion date (as applicable) and will notify all of the parties and provide direction for notice. The Executive Chair may assign a different Member or panel to conduct the rehearing or motion to review. The Executive Chair may also dismiss the request, in which case the decision, approval or order remains in force and effect.

25.07 The Exercise of the Executive Chair's Discretion The Executive Chair may exercise their discretion and grant a request and order either a rehearing of the proceeding or a motion to review the decision only if the Executive Chair is satisfied that the request for review raises a convincing and compelling case that the Tribunal:
(a) acted outside its jurisdiction;
(b) violated the rules of natural justice or procedural fairness, including those against bias;
(c) made an error of law or fact such that the Tribunal would likely have reached a different decision;

(d) heard false or misleading evidence from a party or witness, which was discovered only after the hearing and would have affected the result; or
(e) should consider evidence which was not available at the time of the hearing, but that is credible and could have affected the result.

25.08 The Motion to Review A Tribunal Member or panel assigned by the Associate Chair to conduct a motion to review may, after receiving submissions from the parties, order a rehearing of all or part of the proceeding only if satisfied that the request raises a convincing and compelling case in respect of one or more of the issues set out in clauses a) to e), inclusive, of Rule 25.07. Should the Tribunal Member or panel that conducts the motion determine that the requestor has not satisfied this requirement, then the request shall be dismissed and the decision, approval or order that is the subject of the request shall remain in force and effect.

25.09. Procedure on Motion The Tribunal's Rules on Motions generally apply to a motion to review unless the Tribunal directs otherwise.

25.10. The Review Hearing The Tribunal Member or panel that conducts the review hearing shall rehear the application, in whole or in part, as either directed by the Executive Chair or the decision arising from the motion to review, and may review, rescind, change, alter or vary any decision, approval or order made by the Tribunal.

25.11. The Executive Chair May Initiate a Request The Executive Chair may initiate a Request for Review and exercise their discretion under Rule 25.07 upon notice with reasons to all parties to a proceeding and within a reasonable time after the Tribunal decision, approval or order is made.

PART II

RULE 26

INITIATING PROCEEDINGS UNDER SUBSECTIONS 17(24), (36) AND (40), 22 (7), 34(11) AND (19) AND 51(34) OF THE *PLANNING ACT*

26.01 Application This Rule applies to appeals initiated under any of subsections 17(24), (36) and (40), 22(7), 34(11) and (19) and 51(34) of the *Planning Act* of a decision made by a municipality or approval authority or with respect to the failure of a municipality or approval authority to make a decision under these provisions. The Rules in Part I also apply to these proceedings, unless stated otherwise in Part II that a specific rule is not applicable or when otherwise directed by the Tribunal that a certain rule is not applicable in that proceeding.

26.02 Rules not Applicable The following Rules in Part I are not applicable to proceedings identified as appeals to the Tribunal authorized under subsection 17 (24), (36) and (40), 22 (7), 34 (11) and (19) and 51 (34) of the Planning Act **save and except** where there is an appeal that arises after the municipality or approval authority was given an opportunity to make a new decision following the Order of the Tribunal to remit the matter to the municipality:

- Rule 6.04
- Rule 7.04
- Rule 8.01(e)
- Rule 9

- Rule 13.01(a) to (g), inclusive
- Rule 19

26.03 Additional Definitions The following definitions are applicable to proceedings under Part II:

"*appeal record*" or "*responding appeal record*" are those records described in Rule 26 that shall include, as a minimum, a supporting case synopsis;

"case management conference" is a hearing event which is directed by the Tribunal in an appeal initiated pursuant to and authorized by subsections 17(24), 17(36) and 17(40), 22(7), 34(11), 34(19) and 51(34) of the *Planning Act*;

"certificate of service" is the form approved by the Tribunal that must be submitted at least 30 days before the date of the case management conference by a person other than an appellant, municipality or approval authority who wishes to participate in an appeal under subsections 17(24), 17(36), 17(40), 22(7), 34(11), 34(19) or 51(34) of the *Planning Act*;

"new decision" means the disposition of the municipality or the approval authority in respect of an appeal authorized under subsection 17(24), 17(36), 22(7), 34(11) and 34(19) of the *Planning Act* for which the municipality or approval authority was provided an opportunity to reconsider its decision or non-decision following a hearing by the Tribunal and Order to remit the matter to the municipality:

"interrogatory procedure" means the procedure approved by the Tribunal that directs a party to request in writing that another party to the proceeding provide written information or supporting documentation following a case management conference and prior to the hearing of the appeal; and,

"*validation" or "validity of the notice of appeal*" means the preliminary screening exercise to determine whether or not the content in the notice of appeal filed in the intended proceeding provides an explanation of the appeal pursuant to subsections 17(25), 17(37), 17(41), 22(8), 34 (11.0.0.04), 34(19.0.2) and 51(34) of the *Planning Act.*

26.04 Enhanced Municipal Record When an appeal is filed with the municipality or approval authority in a proceeding to which the rules of Part II apply, the municipality or approval authority shall prepare a municipal record as prescribed by regulation under the *Planning Act* and in accordance with Rule 5.04., and in addition to those requirements, shall organize the record of documents and materials in chronological order with a Contents Page(s) outlining the title or a concise description of each entry separated by tabs and capable of being copied and bound or secured in a binder(s). The municipality shall provide a copy of the municipal record to the Tribunal and one copy to each person who has filed an appeal, and shall maintain one copy with the clerk of the municipality, which shall be available for inspection by any person or copied at a reasonable cost during business hours.

26.05 Preliminary screening of the notice of appeal The Tribunal shall, within 10 days of the Registrar's acknowledgement of receipt of a notice of appeal, undertake a screening to make a preliminary determination of the validity of the notice of appeal, and shall thereafter advise the person who filed the notice, and the municipality or the approval authority, as the case may be, of the result of this screening exercise.

26.06 Dispute as to a Valid Appeal Where the screening has made a preliminary determination that a notice of appeal is valid, the municipality, the approval authority or a party including a person whose application is the subject of the appeal, if they wish to challenge that preliminary determination, may request a date for a motion from the Tribunal, with notice to the appellant, to set aside the validity of the notice of appeal and to seek an order to dismiss the appeal without a hearing. The requirements in Rule 10 will apply to the motion.

26.07 Tribunal Member may initiate a motion A Member may initiate a motion, at any time in a proceeding, and direct the municipality, approval authority or a party including a person whose application is the subject of the appeal, to file and exchange submissions necessary for the Tribunal to inquire into the matter of its jurisdiction over the matter raised in the notice of appeal.

26.08 Dispute as to a not valid appeal Where the Tribunal has made a preliminary determination that an appeal is not valid, the Tribunal shall notify the person who filed the appeal. A person so notified may within 15 days make a written motion to the Tribunal under Rule 10, challenging the preliminary determination that an appeal is not valid and shall provide the motion materials to the municipality, approval authority and any other appellants. The requirements in Rule 10 will apply to this motion.

26.09 The Effect of a Ruling under RULE 26.06, RULE 26.07 and RULE 26.08 In the event the Tribunal makes a determination that an appeal is not valid, the appeal is dismissed. In the event the Tribunal sets aside the preliminary determination and finds that the appeal is valid, the appeal will proceed in accordance with the process outlined by these Rules.

26.10 Commencement of the Proceeding Where the disposition of an appeal is subject to a prescribed timeline, the commencement of the period to which the timeline applies shall be the date the Registrar advises the appellant(s) the preliminary screening exercise has determined the appeal is valid.

26.11 Appeal Record and Case Synopsis When an appellant is notified by the Tribunal that a preliminary determination has been made that an appeal is valid, the appellant shall, within twenty (20) days of receipt of the notice, file three copies of an appeal record and case synopsis with the Registrar and serve one copy upon the municipality or approval authority, as the case may be.

26.12 Contents of Appeal Record The appeal record referred to in Rule 26.11 may contain a copy of any document or part of any document that is contained in the Municipal Record or, in the alternative to avoid duplication, the appellant may reference any document or part of a document contained in the municipal record that they intend to rely on. At a minimum, the appeal record shall contain:

a) a table of contents describing each document in the appeal record;
b) a copy of the notice of appeal;
c) a copy of the resolution of council or Notice of Decision of council/approval authority from which the appeal is being taken or a declaration that there has been a failure to make a decision within the prescribed time limit;
d) a list or a compilation of excerpted portions of the documents contained in the Municipal Record that the appellant will rely on;
e) an affidavit or statement by a person, or persons, with knowledge setting out the material facts associated with the application, and where the person can be qualified to offer opinion evidence on a matter, that person's opinion with respect to the matters in issue

along with a copy of the person's *curriculum vitae* supporting their qualification to give opinion evidence;
f) a list of the relevant and applicable statutory and policy provisions which relate to the application and the matters in issue along with extracts of those provisions; and
g) a chronology of the relevant policy documents that are applicable to the proposal and the dates such documents were adopted, enacted or otherwise took effect.

In addition, the appeal record may contain any relevant document or material on which the appellant will rely that:

a) was available to the municipality and its council during council's consideration of the matter but was not included in the Municipal record;
b) in the opinion of the appellant, should have been available to council during its consideration of the matter, by reason of it being in the possession of the municipality, but was not put before council and has not been included in the municipal record; or
c) in the event of an appeal of a non-decision of council, any documents or reports which update the application that is the subject of the appeal.

26.13 <u>Contents of the Appellant's Case Synopsis</u>: An appellant shall file an Appellant's Case Synopsis in the following form:

(1) The Appellant's Case Synopsis shall consist of:

a) the appellant's name and contact information;
b) where an application is the subject of an appeal, a summary of the application;
c) a statement of the decision made by the council or the approval authority or a statement that no decision has been taken in time following a complete application;
d) the nature of the appeal and a list of the issues raised in the appeal relating to questions of consistency with a policy statement issued under section 3(1) of the *Planning Act* and conformity or conflict with a provincial plan, upper-tier municipal official plan or lower-tier municipal official plan;
e) a detailed review of the facts as referenced from the combined records (the Municipal, Appeal and Responding Records), the sections of the of the subject policies or plans, as the case may be, and the arguments, or opinions that address the issues raised;
f) a listing of relevant authorities as may be available (statutes, case law and applicable Tribunal cases) and an analysis or explanation of how the authorities inform the issues;
g) the text of all relevant excerpted provisions of provincial planning policies, planning instruments, statutes, regulations or by-laws cited;
h) a statement of the order or other resolution sought from the tribunal; and
i) in the event that an oral hearing is afforded by the tribunal, an estimate of the amount of time needed for oral submissions, which in total shall not exceed 75 minutes for each party.

(2) References to the Municipal Record or appeal record shall be by volume, tab, page and line number, where applicable. Paragraphs shall be numbered consecutively throughout the case synopsis.

(3) The Appellant's Case Synopsis shall not exceed 20 pages in length unless authorized by the Tribunal.

26.14 Responding Appeal Record Where the municipality/approval authority is of the opinion that the Appellant's appeal record is incomplete, it may file three copies of a responding appeal record, with the Registrar, and serve one copy upon the appellant, containing, in consecutively numbered pages arranged in the following order:

a) a table of contents describing each additional document in the responding appeal record; and
b) a copy of any material which it believes formed part of the process associated with the application, and is material to determination of the issues and has been omitted by the appellant.

26.15 Responding Case Synopsis and Contents;

(1) The municipality or approval authority may file 3 copies of a case synopsis with the Registrar, and serve one copy upon the appellant, and may do so irrespective of whether they filed a responding appeal record. A case synopsis shall contain the following:

(a) a concise statement confirming the Respondent's agreement or disagreement with the appellant's identification of the original application(s) made by the applicant, the decision being appealed by the appellant and summarizing the nature of the decision(s) made by the Council or the Approval Authority, and where the Respondent disagrees, providing the Respondent's position;
(b) a concise overview statement describing the Respondent's position on the nature of the appeal and the appellant's issues relating to questions of consistency with a policy statement issued under section 3(1) of the *Planning Act* and conformity or conflict with a provincial plan, upper-tier municipal official plan or lower-tier municipal official plan;
(c) a concise summary of the facts in the appellant's summary of facts relevant to the identified issues of consistency, conformity or conflict in the appeal that the respondent accepts as correct and those facts with which the respondent disagrees, and a concise summary of any additional facts relied on, with such reference to the contents of the Appeal Record and/or the Respondent's Appeal Record as is necessary;
(d) the position of the respondent with respect to each issue raised by the appellant, immediately followed by a concise argument with reference to the facts, law, policies, plans, and authorities relating to that issue; and
(e) a statement of any additional issues of consistency, conformity or conflict raised, immediately followed by a concise argument with reference to the facts, law, policies, plans, and authorities relating to each such additional issue;
(f) a listing of relevant authorities as may be available (statutes, case law and applicable Tribunal cases) and an analysis or explanation of how the authorities inform the issues;
(g) the text of all relevant excerpted provisions of provincial planning policies, planning instruments, statutes, regulations or by-laws cited;
(h) a statement of the order that the Tribunal will be asked to make; and
(i) in the event that an oral hearing is afforded by the Tribunal, an estimate of the amount of time needed for oral submissions, which in total shall not exceed 75 minutes for each party.

(2) References to the Municipal Record and appellant's appeal record or the respondent's appeal record shall be by volume, tab, page and line number, where applicable. Paragraphs shall be numbered consecutively throughout the case synopsis.

(3) The Respondent's case synopsis shall not exceed 20 pages in length, unless authorized by the Tribunal.

26.16 Time for Service of Responding Material The Municipality/Approval Authority shall advise the Tribunal in writing within 10 days of its receipt of the appeal record of its intent to serve and file responding material and, if it elects to serve and file such material, shall serve and file it on the appellant and the Tribunal within 20 days of receipt of the appeal record by the Tribunal.

26.17 Determination to Hold a Case Management Conference The Tribunal shall direct the appellant, municipality or approval authority to participate in a case management conference when the screening has made a preliminary determination that a notice of appeal is valid.

26.18 Notice Period and Directions for the Case Management Conference The notice period for the case management conference shall be 75 days unless otherwise directed by the Tribunal. The Tribunal will also direct the appellant, municipality or approval authority to provide notice of the time and place of the case management conference, and to file an affidavit as directed by the Tribunal to confirm service of the notice.

26.19 Participation in the Case Management Conference A person other than the appellant, the municipality or approval authority who wishes to participate in an appeal initiated under subsections 17(24), 17(36), 17(40) 22(7), 34 (11), 34(19) or 51(34) of the *Planning Act* must file a written submission with the Registrar, at least 30 days before the date of the case management conference, and that submission shall explain the nature of their interest in the matter and how their participation will assist the Tribunal in determining the issues in the proceeding. Any submission shall also be provided to the municipality or to the approval authority whose decision or failure to make a decision is appealed and a certificate of service shall be filed with the Registrar to confirm service of any submission.

26.20 Case Management Conference The Tribunal may direct the appellant, municipality or approval authority whose decision or failure to make a decision is being appealed to participate in a case management conference conducted by a Member. A case management conference may include settlement conferences, motions or preliminary hearing matters. At a case management conference the Tribunal shall:

(a) identify persons other than the appellant, the municipality or approval authority, who wish to participate in the appeal, based on written submissions provided by these persons to the Tribunal;
(b) determine, from the written submissions provided, whether a person may participate in the appeal as an additional party, or participant, on such terms as the Tribunal may determine;
(c) identify facts or evidence the parties may agree upon or on which the Tribunal may make a binding decision;
(d) identify, define or narrow the issues raised in the appeal;
(e) obtain admissions that may simplify the hearing, which may include the examination of persons by the Tribunal as part of the case management conference;
(f) provide directions for disclosure of information among the parties or persons who may participate in the appeal;
(g) provide directions that a person or persons attend the hearing for examination by the Tribunal, including persons to provide expert opinion evidence;
(h) discuss opportunities for settlement, including the possible use of mediation or other dispute resolution processes;
(i) fix a date and place for the hearing and estimate its length;
(j) determine the format of a hearing, including whether a hearing be conducted in writing and any applicable dates to exchange documentation or submissions;

(k) discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public or to seal documents;
(l) address the production and cost sharing of joint document books; and
(m) deal with any other matter that may assist in a fair, just, and expeditious resolution of the issues or proceeding.

26.21 Result of a Failure to Attend a Case Management Conference The Tribunal may proceed to conduct a case management conference if the appellant, municipality, approval authority, a party, person or their authorized representative(s) fail to attend.

26.22 Tribunal Order The Member conducting the case management conference will issue an order that may decide any of the matters considered at the conference and will provide procedural directions for any subsequent hearing event, including whether the hearing will be held in writing, electronically, or in person as an oral hearing. The Member conducting any subsequent hearing event, or the hearing, is bound by the order resulting from the case management conference unless the Member is satisfied that there is good reason to vary the order.

26.23 Further Directions following a Determination to hold a Hearing At any time at or after the case management conference, the Tribunal may give such further directions or impose such terms that are necessary for a fair, just and expeditious resolution of the proceeding, including directions that:

a) a party deliver within a specific time, evidence of a witness by affidavit to address the issues in dispute;
b) expert witnesses engaged by or on behalf of the parties identify areas of evidence to which they agree and areas of evidence to which they disagree, and the rationale for their opinions;
c) each expert witness file an executed acknowledgement of expert's duty form;
d) a concise summary of submissions be prepared, based on the supporting case summary and affidavit evidence, to be presented at the hearing; and
e) a person whose evidence may be relevant to determination of the issues in the hearing, to attend the hearing, to enable the Tribunal to ask that person questions.

26.24 Requiring the Attendance of a Witness In addition to its other powers in the conduct of a hearing, the Tribunal may require the attendance at the hearing of any person whose affidavit or declaration formed part of the appeal record or the responding appeal record, or whose report or submission formed part of any record filed, and the Tribunal may examine any such person(s). The Tribunal may also require that any party produce documentation that the Tribunal may find relevant, and to appear before the Tribunal to answer any questions related to that documentation.

26.25 Tribunal Direction for Transcripts The Tribunal may arrange for the attendance of a qualified verbatim reporter for the purpose of recording the testimony of a witness who is examined by the Tribunal at a hearing, and may direct the costs of the transcript are to be borne by the parties.

26.26 Establishing an interrogatory procedure The Tribunal may direct the parties to answer certain questions and exchange or provide materials and documents in writing within certain dates and any dispute over the content of the written response shall be decided by the Tribunal by motion.

RULE 27

TRIBUNAL DETERMINATION AND REMISSION OF DECISION TO MUNICIPAL COUNCIL/APPROVAL AUTHORITY IN THE EVENT OF A PROCEEDING INITIATED UNDER SUBSECTION 17 (24), (36), 22 (7), 34 (11) AND (19) OF THE *PLANNING ACT*

27.01 Identification of Failure of Consistency or Conformity Where the Tribunal has determined in the appeal before it that there is a lack of consistency with a policy statement issued under subsection 3(1) of the *Planning Act* or a failure to conform with, or a conflict with, a provincial plan or applicable official plan, the Tribunal will set forth in a written decision its specific findings in that regard, which decision shall be issued and delivered to the Municipal Council/Approval Authority and the other parties to the appeal.

27.02 Identification of Options to Achieve Compliance In the written decision referred to in Rule 27.01, the Tribunal may, but is not obliged to, identify one or more options to remedy the inconsistency or conflict or lack of conformity.

27.03 Appeal of a New Decision or Non-Decision The requirements to initiate a proceeding and notice of hearing appointment set out in the provisions of these Rules shall apply in the event of any appeal of a new decision or non-decision following the remission of an appeal to municipal council, and the Rules in Part I shall apply to the disposition of that proceeding.

PART III

RULE 28

EXPROPRIATION PROCEEDINGS

28.01. Application of Rule This Rule applies to proceedings under the *Expropriations Act*.

28.02 Definitions Definition of terms in this Rule on Expropriations:
"Act" means the *Expropriations Act. R.S.O. 1990, c E 26*, as amended

"claimant" means an owner as defined in the Act; and

"respondent" means a statutory authority as defined in the Act.

28.03 Notice of Arbitration and Statement of Claim by Claimant A claimant seeking compensation shall serve a combined Notice of Arbitration and Statement of Claim on the respondent, and shall file with the Tribunal proof of service of the Notice within 10 days of the date of service. The Notice and Statement must set out,
(a) the amount claimed;
(b) the basis upon which the amount is calculated; and
(c) the facts in support of each element of compensation claimed.

28.04 Reply to Notice of Arbitration The respondent shall serve a Reply on the claimant within 20 days after service of the Notice of Arbitration, and shall file with the Tribunal a copy of the Reply and proof of service on the claimant.

28.05 Notice of Arbitration by Respondent Where a claimant has not served a Notice of Arbitration under Rule 28.03, the respondent may serve on the claimant a Notice of Arbitration, and shall file with the Tribunal proof of service of the Notice within 10 days of the date of service.

28.06 Service of Statement of Claim for Compensation Where a Notice of Arbitration has been served by the respondent, the Tribunal will not make an appointment for the hearing of the arbitration until the claimant has filed with the Tribunal and served on the respondent a Statement of Claim for Compensation within the time required by the Tribunal unless the Tribunal decides otherwise upon request.

28.07 Service of Reply to Statement of Claim for Compensation Where a claimant has served a Statement of Claim for Compensation under Rule 28.03, the respondent shall serve a Reply within 20 days after being served with the Statement, and shall file with the Tribunal a copy of the reply and proof of service on the claimant.

28.08 Denial to be Raised in Reply Where a respondent denies that a claimant is entitled to any compensation on the grounds:
(a) that the claimant has no interest in the land expropriated or injuriously affected;
(b) that no compensation is payable with respect to the interest of the claimant in such land; or
(c) that the claim is barred by a provision in the Act or any statute;
(d) it must raise such denial in its reply, setting out the relevant facts and statutory provisions relied on. If this is not done, the respondent may not make such denial at the hearing of the arbitration, unless the Tribunal permits it.

28.09 Forms An offer of compensation and acceptance of an offer of compensation made under section 25 of the Act may be in the Forms in R.R.O. 1990, Regulation 363. An acceptance may be served upon the person named in the offer of compensation to receive it.

28.10 General Rule for Service of Documents Service of documents may be made, in addition to the methods set out in subsection 1(2) of the Act,
(a) in the case of Her Majesty the Queen in right of the Province of Ontario, in the manner set out in section 10 of the *Proceedings Against the Crown Act;* and
(b) in the case of a municipal or other corporation, partnership or individual, on the persons prescribed by the *Rules of Civil Procedure*.

28.11 Required Pleadings The only pleadings required in an arbitration to determine compensation are a Statement of Claim and a Reply, or in the case of a matter under Rule 28.07, a Notice of Arbitration, a Statement of Claim for Compensation and a Reply, unless the Tribunal orders otherwise.

28.12 Examination of Representative by Opposing Party A person appointed under section 37 of the Act to represent an owner of land may be examined by an opposing party in the place of the owner.

28.13 Applicability of *Rules of Civil Procedure* No Tribunal order is required for examinations for discovery or documents. The *Rules of Civil Procedure* apply to proceedings under this Part unless the Tribunal on motion orders otherwise. (Note, however, that appraisal reports to be relied on must be served at least 15 days before the hearing).

Expropriation Prehearing Procedures

28.14 Prehearing Conference A party may request and the Tribunal may direct the parties to attend a prehearing conference, and the Rules governing such conferences apply.

28.15. Time for Hearing The Tribunal may appoint a time for a hearing of the arbitration upon receipt of the notice of readiness for hearing, signed by or on behalf of all parties; or by an order following an oral or telephone motion (notice of the motion cannot be served until 30 days after service of the Notice of Arbitration) or a prehearing conference.

28.16 Motions Heard in Other Locations If the owner of land located outside of the City of Toronto consents, oral motions may be heard at the Tribunal's offices in Toronto, or in any municipality reasonably close to where the lands are located.

28.17 Notice of Hearing The Registrar will mail a notice of the time and place for the arbitration to the respondent.

28.18 Verbatim Reporter The expropriating authority shall arrange, at the expense of the expropriating authority, for the attendance of a qualified verbatim reporter to record, in writing, all oral evidence submitted before the Tribunal.

28.19 Service of Notice of Hearing Upon receipt of the Notice of Hearing, the respondent shall, at least 20 days before the hearing, serve a copy of the notice of hearing upon all registered owners, and also upon any person known to the respondent to be an owner as defined in the Act, or who is claiming to be entitled to any part of the compensation which may be awarded at an arbitration under the Act.

28.20 Notice for Expert Reports If the *Rules of Civil Procedure* specify a greater notice period for appraisal or other expert reports than under section 28(1) of the Act, the greater notice period applies.

28.21 Filing of Documents At the commencement of a hearing to determine compensation, the respondent shall file a copy of the certificate of approval of expropriation under the Act, the plan of the expropriated land and proof of its registration in accordance with section 9 of the Act, where applicable; and an affidavit proving service of the notice of hearing under Rule 28.20 and that the persons served are all the persons required to be served.

28.22 Settlement Offer If an offer to settle is made and it is not dealt with in the Act, the *Rules of Civil Procedure* apply.

28.23 Form of Expropriation Order An order issued under this part shall be in the form of an order pursuant to R.R.O. 2090, Regulation 363.

ACKNOWLEDGMENT OF EXPERT'S DUTY

Case Number	Municipality

1. My name is□ (*name*)
   I live at the □ □ □ □ □ □ □ □ .□ □ □ □ □ □ □ □ □ □ □ □ □ □ □ ..(*municipality*)
   in the□ □ □ □ □ ...□ .□ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ ..(*county or region*)
   in the □ .....□ .□ .(*province*)
2. I have been engaged by or on behalf of□ ....□ □ □ □ □ □ □ □ □ □ □ □ (*name of party/parties*) to provide evidence in relation to the above-noted Tribunal proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
   a. to provide opinion evidence that is fair, objective and non-partisan;
   b. to provide opinion evidence that is related only to matters that are within my area of expertise; and
   c. to provide such additional assistance as the Tribunal may reasonably require, to determine a matter in issue.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date□ □ □ □ □ □ □ □ □ □   □ .
Signature

INDEX OF FORMS

List to be developed with hot links to the website. Should include:

The following forms referred to in these Rules are available on the Tribunal Website, and include, and are not limited to

1. **Sample Affidavit,**
2. **Certificate of Service of Case Management Conference**
3. **Notice of Constitutional Question**
4. **Notice of Motion, Notice of Response to Motion, and Reply**
5. **Submission Form – Case Management Conference**
6. **Sample Prehearing Conference Procedural Order**
7. **Sample Synopsis**