

# **Ontario Land Tribunal Appeal Guide**

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## Introduction

This guide provides a general overview of the most common types of appeals that can be filed with the Ontario Land Tribunal. This guide should not be relied upon as an authoritative text or interpreted as legal advice. The provisions of relevant legislation to an appeal and the Ontario Land Tribunal's *Rules of Practice and Procedure* prevail over the contents of this guide.

Information about specific cases is available on the [Ontario Land Tribunal's website](#) or by contacting:

Ontario Land Tribunal  
655 Bay Street, Suite 1500  
Toronto, Ontario M5G 1E5  
Telephone: 1 (416) 212-6349  
Toll Free: 1 (866) 448-2248  
TTY: 1 (800) 855-1155 via Bell Relay  
Email: [OLT.General.Inquiry@ontario.ca](mailto:OLT.General.Inquiry@ontario.ca)

# Legislation

The Ontario Land Tribunal (“OLT”) hears, decides and mediates appeals, applications or objections filed under a number of statutes related to land use planning, environmental and heritage protection, land valuation, mining and other matters.

For example, appeals or applications can be filed with the OLT under specific sections contained in the following Statutes of Ontario:

- The *Aggregate Resources Act*
- The *Clean Water Act, 2006*
- The *Conservation Authorities Act*
- The *Development Charges Act, 1997*
- The *Environmental Assessment Act*
- The *Environmental Bill of Rights, 1993*
- The *Environmental Protection Act*
- The *Expropriations Act*
- The *Funeral Burial and Crematorium Services Act, 2002*
- The *Greenbelt Act, 2005*
- The *Lakes and Rivers Improvement Act*
- The *Mining Act*
- The *Municipal Act, 2001*
- The *City of Toronto Act, 2006*
- The *Niagara Escarpment Planning and Development Act*
- The *Nutrient Management Act, 2002*
- The *Oak Ridges Moraine Conservation Act, 2001*
- The *Oil, Gas and Salt Resources Act*
- The *Ontario Heritage Act*
- The *Ontario Water Resources Act*
- The *Pesticides Act*
- The *Planning Act*
- The *Resource Recovery and Circular Economy Act, 2016*
- The *Safe Drinking Water Act, 2002*

# Filing an Objection, Appeal or Application

For more information on filing an appeal, please see Rule 5 of the OLT's [Rules of Practice and Procedure](#), as well as the section of the legislation under which your appeal is being filed.

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## Who can file an appeal?

Who can file an objection, appeal, or application with the OLT (and other requirements, if any, for filing an objection, appeal, or application) depends on and are set out by the specific legislation which provides the right of appeal, application, or objection.

For example, an Appellant might be a person or corporation that has unsuccessfully brought an application before a decision-making authority. An Appellant might also be either a person or corporation that previously made submissions regarding an application to a decision-making authority or a specified person or public body as defined by legislation.

A person who initiates a proceeding before the OLT by filing a notice of objection is referred to as the “Objector”. A person or corporation who initiates a proceeding before the OLT by filing an appeal is referred to as the “Appellant”. A person or corporation who makes an application to the OLT or who requests that a matter be referred to the OLT is referred to as the “Applicant”. The term “Applicant Appellant” may be used to describe an Appellant who also made the underlying application.

## How can I file an objection, appeal or application for a hearing?

To file an appeal, you must notify the authority that issued the decision or the OLT in writing through the [e-file portal](#), or by email or letter mail and outline the reasons for your case under the relevant legislation. You are expected to submit your appeal through e-file or complete the appeal form available on the [OLT's webpage](#) and submit it to the proper authority as set out in the legislation. You may refer to the relevant legislation, appeal form, and Notice of the decision you wish to appeal for guidance regarding where to file your appeal.

When filing directly with the OLT, you are required to file your appeal form and initiating documents electronically in accordance with [Rule 5.1 of the OLT Rules](#), unless a statute or the OLT Rules provide for other methods. In most circumstances, an appeal, notice of objection, or application for a hearing must also be served on the authority that made the

decision that you wish to appeal (e.g., the clerk of the municipality that made the decision).

Notices of appeal or objection must clearly set out valid reasons.

Please note that the OLT does screen appeals to identify whether they were filed on time and in accordance with statutory requirements. The OLT can refuse to process an objection, appeal or application if it finds that the documents filed to initiate the proceeding are incomplete, filed without a required fee, or are otherwise not in compliance with its Rules.

There are different ways to complete and submit an objection, appeal or application, for more information and directions, please visit the Tribunal's [Submit Documents](#) page.

For more information, please visit the "[Heritage Matters](#)", "[Planning Matters](#)", "[Environmental Matters](#)" and "[Mining Matters](#)" sections as applicable.

### **What is the deadline for filing an objection, appeal or application?**

Your deadline will depend on the type of objection, appeal or application you want to file. To determine the deadline for your appeal, please check the specific section of the legislation that you wish to file your objection, appeal or application under. You may also refer to the Notice of the decision that you wish to appeal, which should include details regarding the timeline and process to appeal.

"Days" are calculated as calendar days, and when deadlines fall on a holiday, the time is extended to include the next business day. Please note that there are no provisions for the OLT to extend the statutory deadline to file an appeal. If the deadline is not met, the OLT does not have the authority to hold a hearing to consider your appeal.

### **What is the filing fee for an objection, application, or appeal?**

A person is expected to pay an applicable fee at the time they file an appeal or application with the OLT, in accordance with [section 11\(1\) of the \*Ontario Land Tribunal Act, 2021\*](#). For a list of all OLT fees, please visit the "[Fee Chart](#)" page on the OLT website.

### **Does everyone have to pay the fees? What if I can't afford the filing fee?**

For matters where the appeal fee is \$1,100, you may request a lower filing fee of \$400 if you are a private citizen, a registered charity or a non-profit ratepayers' association. The request for the lower fee must be made at the time of filing the appeal.

If you are a low-income individual who cannot afford to pay the fee, you can ask the OLT to further waive the fee, or a portion of the fee, so that you may proceed with your appeal. The request for the fee waiver must be made at the time of filing the appeal. Please use our Low-Income Fee Waiver Request Form.

Visit the [Low-Income Fee Waiver Policy for details](#).

### **Are there other costs I will be responsible for?**

You may be responsible for your costs as they relate to the appeal, such as:

- Hiring a lawyer or representative;
- Issuing and serving a subpoena to call a witness; and
- Hiring an expert witness.

At the end of the hearing, if you are of the opinion that there are reasons to have your costs paid for by the opposing party, you may ask for those costs. For more information, please refer to the “Recovering Hearing Costs” section of the [Hearings Guide](#)

### **How is an objection, appeal or application processed once the OLT receives it?**

Once the OLT receives the objection, appeal or application and the filing fee is processed, the OLT will initiate a formal process to structure how the objection, appeal or application will be heard.

Each objection, appeal or application is assigned an OLT “case number” and a case coordinator is assigned to manage the file. The case coordinator will review the file and may contact parties for additional information.

The OLT will send the known parties an acknowledgement letter, which will include the case file number(s), the name of the case coordinator, and general information about the OLT’s process.

## Planning Matters

This section applies to common appeals brought under the *Planning Act*. You should review Rule 5 of the OLT [Rules](#) and the relevant section of the legislation that you are bringing an appeal under to be sure that you are filing correctly.

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The Ontario Land Tribunal (OLT)'s planning jurisdiction includes hearing and deciding appeals in relation to a broad range of land use planning and development, heritage conservation and municipal governance. Planning matters that come before the OLT are identified in statutes such as the *Planning Act*, *Aggregate Resources Act*, *Heritage Act*, *Municipal Act*, *Development Charges Act* and *Expropriations Act*. These include appeals of official plans, zoning by-laws, subdivision plans, consents and minor variances, land compensations, development charges, electoral ward boundaries, municipal finances, and aggregate resources.

The *Planning Act* governs land use planning and development in the province of Ontario. The OLT may hear appeals based on the decisions of single tier, lower tier, or upper tier municipal governments with planning responsibilities. The Act sets out who is eligible to make an appeal to the OLT and the procedures that must be followed to do so.

The *Aggregate Resources Act* provides for the standards and policies that aggregate and petroleum industries must comply with. The Act aims to ensure long-term management of resources and reduces negative impacts on the public. The OLT may hear objections or referrals of licence applications.

The *Ontario Heritage Act* gives municipalities and the provincial government powers to preserve the heritage of Ontario. The primary focus of the Act is the protection of heritage buildings, cultural heritage, natural landscapes and archaeological sites. The OLT hears appeals of certain municipal decisions related to heritage preservation.

The *Development Charges Act, 1997* grants municipalities the right to impose charges on property owners when developing or redeveloping land. The fees charged are to help pay for new services and infrastructure needed for growth. The Act also provides for Education Development Charges.

The *Expropriations Act* provides for a means for those expropriated to receive fair compensation when their lands are expropriated or affected by nearby expropriation. It also sets out the authority and process that must be followed in order to expropriate.

## Who can file an appeal?

Who can file an appeal depends on the type of appeal.

For some appeals, you may file an appeal of a municipal decision if you are the applicant or if you submitted oral or written comments to the municipality/approval authority prior to a decision of council or at the statutory public hearing.

For other appeals, you may file an appeal of a municipal decision if you are the:

- applicant;
- the Minister;
- the registered owner of any land to which an application would apply who submitted oral or written comments prior to the decision; or
- a specified person or public body that has an interest in the matter and you submitted oral or written comments to the municipality/approval authority at the statutory public meeting or prior to a decision of council.

If you wish to appeal a non-decision on an application, there may be other restrictions on who can appeal and when that appeal can be filed.

Please refer to the specific section of the *Planning Act* you wish to file your appeal under to confirm you have a statutory right to file an appeal.

## How can I file an appeal?

The Notice of Decision from the municipality or approval authority will notify you as to how you should file your appeal. Appeals are generally filed with the municipality or approval authority and then forwarded to the OLT.

There are different ways to complete and submit an objection, appeal or application. For more information and directions, please visit the Tribunal's [Submit Documents](#) page.

You must file your appeal within the legislated timelines, along with the required filing fee. Your appeal form should clearly state the grounds for appeal.

In describing your grounds for appeal, provide reasons for your objection to the Official Plan, by-laws or municipal decision. If you intend to make one of the following arguments, you must explain how the decision or by-law at issue:

- Is inconsistent with the *Provincial Planning Statement*;
- Fails to conform with or conflicts with a provincial plan; or
- Fails to conform to an applicable official plan or zoning by-law.

## Heritage Matters

This section applies to common appeals brought under the *Ontario Heritage Act*. You should review Rule 5 of the OLT [Rules](#) and the relevant section of the legislation that you are bringing an appeal under to be sure that you are filing correctly.

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The Ontario Land Tribunal (OLT), through the mandate provided by the *Ontario Heritage Act*, considers a number of matters such as: the proposed designation of a property as having cultural heritage value or interest; applications for the repeal of a by-law on a specific property; applications related to the alteration of a property covered by a by-law; and, matters related to archaeological licensing.

The OLT, through the prehearing process and mediation efforts, may attempt to settle the dispute where appropriate. Where a case does not settle and proceeds to hearing, after the hearing, the OLT will provide a Recommendation on the matter to either the municipal council or the Minister of Heritage, Sport, Tourism and Culture Industries, who have the final decision.

The OLT is empowered to operate under the jurisdiction of the *Ontario Land Tribunal Act* to address matters under [Parts 4, 5 and 6](#) of the *Ontario Heritage Act*. [Part 4](#) deals with the protection of cultural heritage properties by a municipality or by the Minister of Tourism, Culture and Sport. [Part 5](#) deals with the designation of heritage conservation districts, heritage conservation district plans, and demolition, alteration, or construction within heritage conservation districts. [Part 6](#) deals with the protection of archaeological sites by the Minister of Heritage, Sport, Tourism and Culture Industries, and licensing permits to excavate or alter an archaeological site.

The OLT does not hear matters on costs of physical maintenance, repairs, or any proposed work related to the actual condition of the property (or structure), as these are outside the scope of the evaluation of cultural heritage value or interest.

Matters come before the OLT under the following sections of the *Ontario Heritage Act*:

### 1. Municipal Designations (s.29 (1)) (s.30.1 (10))

If the property owner or any member of the public objects to the proposed designation of a property considered to have cultural heritage value or interest of municipal significance

or an amendment to a designation by-law, they must do so in writing to the municipal clerk of the municipality where the property is located, within 30 days of publication of the Notice of Intention to Designate. The matter will then be referred to the OLT to commence its formal hearing process.

## 2. Provincial Designations (s.34.6 (4))

If the property owner or any member of the public objects to the designation of a property considered to have cultural heritage value or interest of provincial significance, they must do so in writing to the Minister of Heritage, Sport, Tourism and Culture Industries, within 30 days of publication of the Notice of Intention to Designate. The matter will then be referred to the OLT to commence its formal hearing process.

## 3. Alterations to Designated Property (s.33 (9))

If a municipal council or the Minister of Heritage, Sport, Tourism and Culture Industries, whichever has jurisdiction, refuses an application to allow alterations to a designated property, or adds terms and conditions to allow any alterations, the property owner can object and have the matter referred to the OLT to commence its formal hearing process.

## 4. Repeal of Designating Bylaw (s.31 (9); s. 32 (7); s.34.9 (5))

If a municipal council or the Minister of Heritage, Sport, Tourism and Culture Industries, whichever has jurisdiction, wants to repeal an existing designating bylaw, anyone can object and the matter can be referred to the OLT to commence its formal hearing process.

If the property owner requests a repeal of an existing designating bylaw and council or the Minister of Heritage, Sport, Tourism and Culture Industries, whichever has jurisdiction, refuses, the owner can have the matter referred to the OLT to commence its formal hearing process.

## 5. Archaeological Licensing (s.49, (4))

If the Minister of Heritage, Sport, Tourism and Culture Industries refuses to issue or renew, or proposes to suspend or revoke, an archaeological licence, the matter can be referred to the OLT to commence its formal hearing process.

## 6. Designation of Archaeological Resources (s.52 to s.55)

An objection to the decision of the Minister of Heritage, Sport, Tourism and Culture Industries to designate, or not to repeal designation, of a property of archaeological or historical significance, can be referred to the OLT to commence its formal hearing process.

## 7. Demolition Permits (s.34.1(1); 34.5(10); s.42(6))

If the council of a municipality or the Minister of Heritage, Sport, Tourism and Culture Industries consents to an application for a permit to demolish or remove a designated property with conditions, or refuses the application, the owner of the property may appeal the council's or the Minister's decision to the OLT.

If the council of a municipality consents to an application to alter, erect, or remove a building within a heritage conservation district with conditions, or refuses the application, the owner of the property may appeal the council's decision to the OLT.

#### 8. Heritage Conservation Study Area ([s.40.1\(4\)](#))

If the council of a municipality designates a heritage conservation study area, any member of the public may appeal the passing of the designating by law to the OLT.

#### 9. Heritage Conservation District ([s.41\(4\)](#))

If the council of a municipality designates a heritage conservation area, any member of the public may appeal the passing of the designating by law to the OLT.

### **Who can appeal or apply to the OLT?**

Any member of the public, residing in Ontario, can appeal a designation by-law, or repeal of a designation by-law proposed repealing by-law within the 30-day appeal period.

An owner of a designated property may appeal an amending by-law within the 30-day appeal period.

An owner of a designated property may appeal where council refuses an application to repeal the by-law or part thereof and where council refuses an application or a permit to alter the designated property or imposes terms and conditions upon a permit to alter the designated property within the 30-day appeal period.

When the Minister publicly issues a Notice of Intention to Designate a property, there is a 30-day period where they can receive letters of objection from members of the public. If one or more such objections are received by the Minister of Heritage, Sport, Tourism and Culture Industries, they will "refer" the objection to the OLT to be heard as an "appeal". The OLT process then begins.

Please refer to the specific section of the [Ontario Heritage Act](#) you wish to file your objection or application under to confirm you have a statutory right to file an appeal.

There are different ways to complete and submit an objection, appeal or application. For more information and directions, please visit the Tribunal's [Submit Documents](#) page.

**What happens if I do not submit my appeal or application within the statutory timelines?**

All appeals must be received by the OLT within the 30-day appeal period. If a case is referred to the OLT with an appeal dated past the 30-day appeal period, the OLT will refuse to process the appeal.

## Environmental Matters

This section applies to common appeals brought under the following legislation:

- The *Clean Water Act, 2006*
- The *Environmental Bill of Rights, 1993*
- The *Environmental Protection Act*
- The *Nutrient Management Act, 2002*
- The *Ontario Water Resources Act*
- The *Pesticides Act*
- The *Resource Recovery and Circular Economy Act, 2016*
- The *Niagara Escarpment Planning and Development Act*
- The *Safe Drinking Water Act, 2002*
- The *Waste Diversion Transition Act, 2016*

You should review Rule 5 of the OLT *Rules* and the relevant section of the legislation that you are bringing an appeal under to be sure that you are filing correctly.

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Environmental matters before the Ontario Land Tribunal (OLT) typically relate to appeals of the decision by the Director of the Ministry of the Environment, Conservation and Parks to issue, alter, revoke, cancel or close an order, approval, licence, permit, registration or account under the *Clean Water Act, 2006*, the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Resource Recovery and Circular Economy Act, 2016*, the *Safe Drinking Water Act, 2002*, and the *Waste Diversion Transition Act, 2016*.

Under the authority of the *Environmental Bill of Rights, 1993*, the OLT also holds hearings to decide whether to grant a person's application for leave (that is, grant permission) to appeal certain types of decisions made by a person appointed as a Director under the *Environmental Protection Act*, the *Ontario Water Resources Act*, the *Pesticides Act* and the *Safe Drinking Water Act, 2002*.

The OLT can also hold public hearings to assess the merits of an undertaking that will have an impact on the environment under the *Environmental Assessment Act*, the *Environmental Protection Act*, and the *Ontario Water Resources Act*.

Under the *Niagara Escarpment Planning and Development Act*, Members of the OLT are appointed by the Minister of Natural Resources and Forestry as Hearing Officers to

conduct hearings. The Hearing Officers issue reports or make recommendations concerning appeals of decisions of the Niagara Escarpment Commission development permit applications. Members are also appointed to conduct public hearings for the purpose of making recommendations regarding proposed Niagara Escarpment Plan (NEP) amendments.

Under the *Oak Ridges Moraine Conservation Act, 2001*, the OLT also conducts Oak Ridges Moraine Conservation Plan amendment proceedings, municipal official plan and zoning by-law amendment proceedings, and proceedings in matters that have been appealed to the OLT and stayed by the Minister of Municipal Affairs and Housing.

In addition, under the *Greenbelt Act, 2005*, the OLT also conducts Greenbelt Plan amendment proceedings and proceedings in regard to matters that have been appealed to the OLT under the *Planning Act* and stayed by the Minister of Municipal Affairs and Housing.

## **Appeals regarding the Niagara Escarpment Commission's Decision on a Development Permit Application**

### **What is a development permit appeal?**

Most developments within the Niagara Escarpment Plan Area, including changes to land use, require a development permit from the Niagara Escarpment Commission (the "Commission"). Examples of applications for development permits include proposals for new single dwellings and other buildings, quarries, wineries, irrigation or recreational ponds, altering the grade of land, and changes in the use of any land, building or structure.

An application for a development permit is submitted to the Commission for review by one of its land use planners. The planner then prepares a staff report with a recommendation to the Commission. The Commission may issue, refuse or impose conditions on the development permit.

### **Who can appeal a development permit decision?**

The following persons may appeal the Commission's decision regarding a development permit application:

- the person making the application;
- those persons who have asked to receive notification of the decision;
- those persons whom the Commission considers may have an interest in the decision; and,
- all property owners within 120 metres of the subject property.

An appeal results in a public hearing conducted by a Hearing Officer appointed under the Niagara Escarpment Planning and Development Act. The person who has applied to the Commission for the development permit is referred to as the “Applicant”. The Applicant may appeal the approval, conditions or a refusal of a development permit, in which case the Applicant is also the “Appellant”. Any other person who appeals the Commission’s decision regarding a development permit application is also referred to as the “Appellant”.

### **What is the deadline for filing an Appeal?**

Within 14 days from the date of the mailing of the Commission’s decision, the Appellant must file a Notice of Appeal by mail, fax or email with the Commission. The Notice of Appeal must set out the reasons for the appeal.

In determining whether a Notice of Appeal has been filed in time, “days” are calculated as calendar days, and when the deadline falls on a holiday, the time is extended to include the next business day. There are no provisions under the Niagara Escarpment Planning and Development Act for extending the time to file an appeal. If a Notice of Appeal is not filed on time, the OLT does not have the authority to hold a hearing.

# **Applications to Amend the Niagara Escarpment Plan**

## **What is a Plan Amendment?**

Any person, ministry or municipality (referred to as an “Applicant”) may propose an amendment to the [Niagara Escarpment Plan](#). As way of example, this could include a proposed development that is not a permitted use under the Plan. To authorize the development, the Applicant must bring an application for an amendment to the Plan either to change the Plan’s permitted uses or development criteria, to change the land use designation of the subject property, or to remove the subject property from the Plan Area entirely.

## **How is an application for a Plan Amendment processed?**

Once an application for a Plan Amendment is submitted to the Commission, it seeks comments by publishing a notice in the local newspapers notifying the public of the proposed Plan Amendment and by circulating a copy of the application to the local municipalities, ministries, agencies and advisory committees. The comment period usually lasts between three to four months.

After the comment period has passed, the Commission will appoint one or more Hearing Officers from the OLT to hold a public hearing if there are written objections to the proposed amendment. The purpose of the hearing is to receive representations from the public about the proposed Plan Amendment.

Within 60 days or longer if the Commission allows, the Hearing Officer will provide the Commission and the Minister of Natural Resources and Forestry with a report summarizing the representations made during the hearing, and their recommendation on whether the Plan Amendment should be accepted, rejected or modified.

After considering the report, the Commission submits its recommendation to the Minister of Natural Resources and Forestry. In some cases, as set out in the [Niagara Escarpment Planning and Development Act](#), the Minister of Natural Resources and Forestry may approve, modify or refuse the amendment, or may be required to submit the Plan Amendment with their recommendations to the Lieutenant Governor in Council. The Lieutenant Governor in Council may approve, modify or refuse the Plan Amendment.

## **Seeking Leave to Appeal: Applications under the *Environmental Bill of Rights, 1993***

### **What is Leave to Appeal?**

The *Environmental Bill of Rights, 1993* (“*EBR*”) provides the public with a number of rights that permit the public to play a full and meaningful role in protecting the environment. Such rights include advance notice of government proposals (e.g., laws, regulations, policies, programs and approvals), which can have a significant impact on the environment, and the opportunity to comment on those proposals.

In addition, the *EBR* also provides the public with the right to request permission to appeal the issuance or approval of a Class I or II instrument to the OLT. This is called seeking “leave to appeal”.

### **What is a Class I or II instrument?**

[Ontario Regulation 681/94](#) lists the types of decisions made by the Ontario government that are categorized as Class I or II instruments. Some examples include an environmental compliance approval for the release of contaminants into the air (issued under [section 9 of the \*Environmental Protection Act\*](#)), a permit for the taking of water (issued under [section 34 of the \*Ontario Water Resources Act\*](#)), and an order to remove waste from a site (issued under [section 43 of the \*Environmental Protection Act\*](#)). Please refer to [Ontario Regulation 681/94](#) for a complete list of Class I and Class II instruments.

### **Can I file an Application for Leave to Appeal?**

If you wish to file an application for leave to appeal, you must:

- Be a resident of Ontario; and,
- Have an “interest” in the decision regarding the Class I or II instrument.

Any person who has exercised their right under the *EBR* to comment on the instrument when it was proposed on the Environmental Registry of Ontario has demonstrated an “interest” in the decision. Furthermore, any person who could be affected by the decision can also be said to have an “interest” in the decision.

A person who files an application for leave to appeal is referred to as the “Applicant”.

### **What is the Environmental Registry of Ontario?**

The [Environmental Registry of Ontario](#) is a website used by ministries of the Ontario government to give public notice of proposals and decisions that impact the environment and provide a platform for the public to comment on those proposals. It also provides information on which decisions can be appealed by the public through the application for leave to appeal process.

The OLT does not operate or maintain the Environmental Registry of Ontario. The Ministry of the Environment, Conservation and Parks is responsible for overseeing the government's obligations under the *EBR*, including the Environmental Registry of Ontario.

### **What is the deadline for filing an Application for Leave to Appeal?**

An application for leave to appeal must be filed with the OLT within 15 calendar days after the decision for the instrument is posted on the Environmental Registry. If an application is submitted late, the OLT does not have the legal authority to consider the application.

### **What is the format for evidence on an application for leave to appeal?**

Unless the OLT otherwise orders, opinion evidence is required in the form of a sworn affidavit. Evidence may also be entered under oath and the witness will be subject to cross-examination before the Member conducting the hearing.

### **How do you file an Application for Leave to Appeal?**

There are different ways to complete and submit an objection, appeal or application. For more information and directions, please visit the Tribunal's [Submit Documents](#) page.

If filing on paper, a copy of the form and all relevant materials (listed in the Section 4B Checklist) must be served on the Minister of the Environment, Conservation and Parks, the person who issued the instrument that is the subject of the leave application and the Instrument-holder, on or before the day on which the application is filed with the OLT.

The Minister of the Environment, Conservation and Parks is to be served at:

The Minister of the Environment, Conservation and Parks  
777 Bay Street, 5th Floor  
Toronto, Ontario M7A 2J3  
Fax: 416-314-6713  
Email: [Minister.MECP@ontario.ca](mailto:Minister.MECP@ontario.ca)

If filing on paper, an affidavit of service must also be filed with the OLT when the application is filed.

### **What happens if the Applicant is unable to submit all the required information at the time of filing?**

If the Applicant is unable to submit all the required information at the time of filing, the Applicant should state this in the form. If there is any information outstanding, the OLT will send a letter explaining the deficiencies. The application may be dismissed if the deficiencies are not corrected within the time frame provided by the OLT.

## **Can the Director and Instrument-holder respond to an application for leave to appeal?**

The Director or Instrument-holder may serve and file a response within 15 days after the leave proceeding is initiated, unless directed otherwise by the OLT. The Director shall include in their response a copy of any government policy developed to guide decisions regarding the type of instrument that is the subject of the application.

## **Can the Applicant reply to the responses filed by the Director and Instrument-holder?**

Unless directed otherwise by the OLT, an Applicant may serve and file a reply to the response of the Director or Instrument-holder no later than three days from the date the response is filed.

## **Stays of Environmental Matters**

### **Does filing an appeal result in the Director's decision not taking effect?**

In most cases, filing an appeal does not stop the order from being in force and effect. Decisions of a Director, Risk Management Official, Inspector, Registrar or Deputy Registrar generally take effect as soon as they are issued. Even though a decision is being appealed, it must be complied with immediately, unless the OLT issues a stay order. A stay order postpones the requirements of all or part of a decision.

Some orders, such as orders to pay the costs of work, costs and expenses, environmental penalties or administrative penalties, are automatically stayed on appeal.

The right to apply for a stay is not available for all types of decisions. For example, if a Director has refused to issue an Environmental Compliance Approval, the OLT cannot stay the Director's decision (i.e. the OLT cannot order the Director to issue the Environmental Compliance Approval before holding the hearing), nor can the OLT stay an order to monitor, record and report.

Additionally, the OLT cannot stay an order if doing so would cause:

- danger to the health or safety of any person;
- impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it;
- injury or damage or serious risk of injury or damage to any property or to any plant or animal life; and/or,
- result in a drinking-water health hazard in the case of an order under the *Clean Water Act, 2006*.

## **How is a stay requested?**

A person who intends to apply for a stay of a decision of the Director, Risk Management Official, Inspector, Registrar or Deputy Registrar should indicate their intention to do so on the OLT e-file portal or in the A1 Appeal Form. A stay is requested by making a motion to the OLT. After the OLT hears the motion, it will determine whether to issue a stay or not.

A person seeking a stay shall arrange a teleconference call, through the assigned case coordinator, with the OLT, the Director, Risk Management Official, Inspector, Registrar or Deputy Registrar, and any other Parties to seek:

- directions as to the form and content of the motion;
- the exchange of necessary supporting materials, including affidavit materials;
- the scheduling of dates for cross-examination of witnesses, if required; and,
- the scheduling of the hearing of the motion.

## **What information is required on a stay motion?**

After the date, time and place for the stay hearing are established, the person requesting the stay must serve the Director, Risk Management Official, Inspector, Registrar or Deputy Registrar, and any other parties with a formal Notice of Motion at least 15 days before the hearing of the stay motion and file two copies with the OLT. The OLT may shorten this period if requested. The Notice of Motion must set out the reasons for requesting a stay, and the date, time and place of the motion hearing. The Notice of Motion must also include evidence and submissions regarding:

- how the relevant statutory tests that are applicable to the granting or removal of a stay are met;
- if there is a serious issue to be decided by the OLT;
- if irreparable harm will ensue if the stay is not granted; and,
- if the balance of convenience, including effects on the public interest, favours granting the stay.

For full details on what is required in the Notice of Motion, please see Rule 10.4 of the OLT [Rules](#).

## Mining Matters

This section applies to common appeals brought under the *Mining Act*. You should review Rule 5 of the OLT [Rules](#) and the relevant section of the legislation that you are bringing an appeal under to be sure that you are filing correctly.

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Mining cases at the Ontario Land Tribunal (OLT) relate to matters under legislation administered by the Ministry of Energy, Northern Development and Mines (MENDM) and the Ministry of Natural Resources and Forestry (MNRF). These matters can include the resolution of mining and lands disputes and appeals of decisions made by conservation authorities, which involve property owners who want to develop lands in floodplains and wetlands.

### How can I file an appeal?

There are different ways to complete and submit an objection, appeal or application. For more information and directions, please visit the Tribunal's [Submit Documents](#) page.

When filing an application or appeal of a decision, you must outline your case under the:

- [Mining Act](#)
- [Conservation Authorities Act](#)
- [Oil, Gas and Salt Resources Act](#)
- [Aggregate Resources Act](#)
- [Lakes and Rivers Improvement Act](#)
- [Assessment Act](#)

For Vesting Order applications under [section 74 of the \*Mining Act\*](#), you will also need to provide:

- A copy of the death certificate or the statement of death from the funeral director;
- A notarized copy of the certificate of appointment of estate trustee with a will, including the will of the deceased;
- Where there is no will, a notarized copy of the certificate of appointment of estate trustee without a will (if there is no certificate of appointment of estate trustee without a will, this must be set out in an affidavit);
- An affidavit setting out your relationship to the deceased with an indication of whether there are any other individuals (e.g. children) who may be entitled to an interest in the estate by reason of law;

- Evidence of the date of marriage, if any, and a copy of the pre-marital or marital agreement if one exists (if one does not exist, this should be set out in an affidavit);
- A copy of the Ministry of Energy, Northern Development and Mines' Client Report which will list the cell and boundary mining claims owned by the deceased; and,
- A statement setting out whether you are seeking an extension of time in which to perform and file assessment work and the reason for that request.

For applications or appeals under sections [68](#), [69](#), [79](#), [105](#), [112](#), [152](#) and [175](#) of the *Mining Act*, you will also need to provide:

- Contact information of the parties, including the applicant, appellant, respondent and counsel or representatives if they have been retained; and,
- Identification of the property(s) including unpatented and patented mining claims, the relief being sought, the reasons for the appeal, including the date the Decision of the Provincial Mining Recorder was recorded (if applicable).

For Vesting Order applications under section [181](#) or [196](#) of the *Mining Act*, you will also need to provide:

- Contact information of the parties, including the applicant, appellant, respondent and counsel or representatives if they have been retained;
- Proof that the applicant is the registered owner on title in the Land Registry Office and has been for four consecutive years prior to the date of the application;
- A copy of the most recent Parcel Register(s) or Abstract(s) of Title and any pertinent/related documents from the Land Registry Office, including the Property Identifier Number(s) (PIN's);
- A letter from the Mining Lands Dispositions Office, Mining Lands Section, Ministry of Energy, Northern Development and Mines, outlining the payment details of rents/taxes for each year that rents/taxes have been paid; and,
- Address(es), if possible, or an indication of the latest known places of residence of delinquent co-owners (if addresses cannot be provided, a Direction to Pay will be issued and will include a detailed Notice to be placed in a newspaper(s) of the OLT's choosing; the applicant will bear the cost of placing the Notice and a copy must be sent to the Registrar of the OLT as proof of publication).

### **What is the deadline for filing an appeal?**

The deadline for filing an appeal is generally 30 days after the decision of the Provincial Mining Recorder has been recorded, if applicable. You should review the relevant section(s) of the legislation and/or the Notice of Decision you are appealing to confirm the statutory deadline.

# Expropriation Matters

This section applies to matters under the *Expropriations Act*. You should review Part I and Rule 26 of the OLT *Rules* and the relevant section of the Expropriation Act to be sure that you are filing correctly.

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The Ontario Land Tribunal (OLT) holds jurisdiction to resolve disputes under the *Expropriations Act*. This includes hearings of necessity under section 7, applications to determine compensation under section 26, and requests for expropriation costs under section 32 of the *Expropriations Act*.

## **Who can initiate a matter before the OLT under the *Expropriations Act*?**

Subsection 1(1) of the *Expropriations Act* provides that an “owner” includes “a mortgagee, tenant, execution creditor, a person entitled to a limited estate or interest in land, a guardian of property, and a guardian, executor, administrator or trustee in whom land is vested.” These persons may initiate a matter before the OLT, including hearings of necessity under section 7, applications to determine compensation under section 26, and requests for expropriation costs under section 32 of the *Expropriations Act*.

In addition, the expropriating/statutory authority (authority) can also initiate matters under sections 26 and 32.

## **What is expropriation?**

If privately owned land is needed for public projects such as the building of roads, highways or schools, the land can be taken by a public authority such as a municipality, school board or the Province. The authority must offer the owner a fair amount of money for their land.

## **What is the process leading up to an expropriation?**

An authority must follow a set process to take land from an owner set out in the *Expropriations Act*, including giving a notice of intention to expropriate and offering fair compensation.

## **What disputes under the *Expropriation Act* can the OLT hear?**

An owner who receives a notice of intention to expropriate from an authority can ask the OLT to inquire into whether the taking is fair, sound and reasonably necessary to achieve the authority’s objectives. For more detail, see sections 6 and 7 of the *Expropriations Act*.

In addition, where the owner and the authority do not agree on the amount of compensation payable as a result of the expropriation, either one may ask the OLT to determine compensation. For more detail, see section 26 of the *Expropriations Act*.

Lastly, the OLT has jurisdiction to determine the amount of expropriation costs payable to an owner to recover their reasonable legal, appraisal and other costs incurred in determining the compensation payable. For more detail, see section 32 of the *Expropriations Act*.

### **How can the OLT help resolve my dispute?**

In resolving a dispute, the OLT can offer to mediate a settlement of the dispute or issues involved, and/or to inquire/adjudicate the merits of the matter.

The OLT operates under the authority of the *Ontario Land Tribunal Act* and provides a fair and accessible forum to resolve disputes. A mediation before the OLT is private and only includes the claimant and the authority that acquired the lands. A hearing of necessity and an adjudication of compensation and/or expropriation costs are open to the public, subject to the issuance of a confidentiality order.

The Tribunal offers two mediations streams for expropriation disputes: (1) Simplified Mediation and (2) Formal Mediation. Both streams are conducted by certified Mediators.

The differences between the two streams are as follows:

<b>Simplified Mediation</b>	<b>Formal Mediation</b>
Only available to the parties before the OLT in matters under the <i>Expropriations Act</i>	Available to the parties before the OLT in any matter within our jurisdiction
Mediated by Mediators who are appointed by Order-in-Council	Mediated by Tribunal-designated external Mediators
Previously operated as the former Board of Negotiation	Operated by the OLT <a href="#">Mediation Services Team</a>

The option of which mediation stream to choose is up to the parties engaging in mediation.

### **How do I request mediation?**

A Party can request OLT-led mediation at any stage of the proceeding, including both before and/or after the service of a Notice of Application and Statements of Claim.

If you would like to ask the OLT to hold a mediation, please fill out our [Expropriation](#)

[Mediation Request Form](#). There is no cost to hear your matter at the OLT.

You can send the completed form by:

- E-mail: [OLT.Registrar@ontario.ca](mailto:OLT.Registrar@ontario.ca)
- Mail: 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5

Please ensure that you also send a copy to the other party (the authority or the owner).

When the OLT receives your request, you will be sent an acknowledgement letter. This letter will ask you to provide the OLT with your availability for the mediation.

## Hearing events

Each case is different and depending on the type of appeal, application or objection the Tribunal can schedule multiple hearing events. These can be different hearing events such as Case Management Conferences, Mediation, Hearings or Motions.

The Ontario Land Tribunal strives to schedule hearing events as quickly and efficiently as possible; however, scheduling depends on a number of factors, such as the length of time required for the hearing event, the number and complexity of the issues and the Tribunal calendar availability.

Most hearing events are open to the public and anyone can attend to watch, unless directed otherwise by the Member(s) pursuant to s. 9 of the Statutory Powers Procedure Act. The Member can close all or part of a hearing event to the public in certain circumstances, such as where intimate financial or personal matters may be discussed. Mediation sessions are confidential and not open to the public.

For more information, please visit the Hearings [Guide](#).

## Glossary

Please refer to the OLT's [Rules of Practice and Procedure](#) for additional defined terms.

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Adjournment – a postponement of a hearing event.

Affidavit – 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 – a person who initiates and brings an appeal to the Tribunal;

Appeal record – a collection of documents provided to the OLT as part of the appeal and compiled either by the appellant or the municipality/approval authority (see Rule 5.5 of the OLT [Rules](#)).

Applicant – the party who brings the initial application to the approval authority, or a person who makes an application to the Tribunal, including a person who requests a matter be referred to the Tribunal. The term “applicant appellant” may also be used to describe an applicant when that person brings an appeal to the Tribunal.

Case Management Conference (CMC) – a hearing event convened prior to the hearing on the merits of the appeal.

Cross-examination – the questioning of a witness called by the opposing party.

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

Electronic Hearing – 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.

Hearing Event – a procedure held by the Tribunal at any stage of a proceeding and includes a motion, case management conference and hearing, whether these are held in the form of an in-person hearing, electronic hearing or written hearing, and does not include a cross-examination on an affidavit not held before the Tribunal.

Mediation – the intervention into a disputed matter or matters before the Tribunal by a Tribunal Member, or alternatively, a Mediator approved by both the Chair and the Ministry of the Attorney General, 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.

Motion – 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.

Notice of Hearing – a document which provides notice of the date, time and location of a hearing, as well as the subject of the matter and the parties to the matter.

Objector – a person or corporation who has served a notice of objection to the clerk of the municipality.

Oral Hearing – a hearing event which allows for oral submissions by the parties or their representatives. It may refer to an in-person hearing event, or an event held by video or teleconference.

Order – a direction from the OLT to a party or parties, included in the final or interim decision of an appeal.

Owner – a person or corporation who is registered on title in the proper land registry office as the owner of the subject property.

Participant – a person who is not a party to a proceeding and is only permitted to make or file a written statement to the Tribunal upon such terms as the Tribunal may determine in respect of the proceeding.

Party – means 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.

Representative – 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 a proceeding before the Tribunal, and this includes legal counsel or the individuals that are authorized to provide legal services.

Settlement Conference – 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.

Summons – a written order of the OLT ordering a person to appear before it as a witness, subject to a penalty for failing to comply.

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

Video Hearing – a hearing event that is held using videoconferencing software.

Visual Evidence – 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;

Witness – a person providing factual or opinion evidence relevant to the issues at the hearing. Only a person qualified as an expert witness may give opinion evidence.

Written Evidence/Materials – material 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.

Written Hearing – a hearing event held by means of the exchange of documents whether in hardcopy form or by electronic means.