



Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

Tel: 416-212-6349 | 1-866-448-2248

olt.gov.on.ca

Hearings Guide

February 16, 2023

Contents

Introduction	8
Participating in a Hearing Event	9
How can neighbours and other concerned people participate?	9
What is a party?	9
What is a participant?	9
How can I request to be a party or participant?	9
When will my request be considered?	10
Are hearing events open to the public?	10
What if I have accessibility requirements?	10
Can I request that the hearing event take place in another language?	10
Do I need a lawyer or paralegal to be a party or participant in a hearing, case management conference or mediation?	10
Will the hearing be recorded by the OLT?	11
Can I record a hearing?	11
Can I speak to or correspond with the Member(s)?	11
Hearing Events	12
What is a CMC?	12
What are the disclosure requirements?	12
Who can take part in a CMC?	13
Are CMCs open to the public?	13

How do I get notified of a CMC?	13
Do I have to submit anything before the CMC?	13
How can I prepare for the CMC?	13
What can I expect during the CMC process?	14
Can a CMC be postponed or adjourned?	14
Mediation	15
What is mediation?	15
When is mediation available?	15
How do I request mediation?	15
Who will mediate my appeal?	15
Is mediation open to the public?	16
How can I prepare for mediation?	16
What can I expect during the mediation?	16
What if an agreement is reached at mediation?	16
What if an agreement is not reached at mediation?	16
Will the mediation be recorded?	17
Hearing on the Merits, or Hearing	18
Who can take part in a hearing?	18
Are hearings open to the public?	18
Where/How will the hearing be held?	18
How long is the hearing?	18
How do I get notified of a hearing?	19
Do I need to attend the hearing?	19

How can I prepare for a hearing?	19
When must evidence materials be submitted for a hearing?	19
Why do I need to submit my evidence in advance of the hearing?	19
Can I submit photographs and videos as evidence?	20
Can the evidence of two or more Parties be combined?	20
What can I expect during the hearing?	20
Can the OLT require a witness to attend a hearing?	20
What are a witness's responsibilities?	21
What is the order of presentation at a hearing?	21
Can a hearing be postponed or adjourned?	22
What if I miss my hearing?	22
What principles govern the OLT's hearings?	22
Motions	23
What is a motion?	23
How do I bring a motion?	23
How will the motion hearing be held?	24
When do I deliver a Notice of Motion?	24
Can a party respond to a Notice of Motion?	24
Can a motion be made at the beginning of a hearing?	25
Postponing Hearing Events (Adjournments)	26
Can I postpone my hearing event?	26
How do I request an adjournment?	26
When can I request an adjournment?	26
What happens after I send in my request to adjourn?	26

How does the OLT decide adjournment requests?	27
What if I need to postpone the hearing event because of an emergency?	27
Recovering Hearing Costs	28
Can I recover my hearing costs?	28
Can I request to recover my hearing costs?	28
How do I request to recover my hearing costs?	28
What expenses can I include in my request for costs?	29
Decisions	30
How can I get a copy of a decision?	30
When will I receive a decision?	30
How are decisions enforced?	30
I don't agree with OLT's decision – can I ask them to review it?	30
Can I appeal the OLT's decision?	31
Withdrawals	33
How do I withdraw before the case is closed?	33
How do I withdraw if I am the applicant or an appellant?	33
If I withdraw, will the OLT matter continue?	33
Planning Matters	34
How are planning appeals processed?	34
Heritage Matters	36
What type of decision can the OLT make in Ontario Heritage Act objections/appeals?	36

What happens if a full settlement is reached at mediation for a heritage matter?	36
Environmental Matters	37
Appeals regarding the Niagara Escarpment Commission's Decision on a Development Permit Application	37
What is the role of the Hearing Officer?	37
When will the Hearing Officer's report be released?	38
Applications to Amend the Niagara Escarpment Plan	38
How is the hearing conducted?	38
Seeking Leave to Appeal: Applications under the Environmental Bill of Rights, 1993	38
How is an application for leave to appeal heard?	38
What type of decision can the OLT make?	38
How long will the OLT take to decide on my application for leave to appeal?	39
What is the significance of obtaining leave to appeal?	39
Is the instrument suspended if leave to appeal is granted?	39
How does the OLT hear an Application for Leave to Appeal?	39
Can the OLT's decision be appealed or reviewed?	39
Expropriation Matters	40
Who is involved in mediation?	40
Is mediation open to the public?	40

Who negotiates my compensation?	40
What are the qualifications of mediators?	40
When/where will my mediation be scheduled?	41
What if I have additional materials or attendees to provide?	42
How long do I have to set a mediation date?	42
Will there be a site visit?	42
What happens at the mediation?	42
How long does the mediation last?	43
What happens after the mediation? Does the OLT make decisions?	43
Glossary	44

Introduction

This guide provides a general overview of the hearing process at 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 specific to a case is available on the case status portal or by contacting your assigned case coordinator.

More Information about the Tribunal 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

Participating in a Hearing Event

For more information on requesting party or participant status, please see Rules 7.7 and 8 of the OLT's [Rules of Practice and Procedure](#), as well as the section of the legislation that the objection, appeal or application has been filed under.

How can neighbours and other concerned people participate?

Those with an interest in the matter may be able to request party or participant status in the proceeding. The specific legislation under which the objection, appeal or application was initiated may set out certain conditions for a person to be granted status by the OLT to participate as a party or as a participant. A party or participant may choose to support the Appellant, support the decision being appealed, or support the position of another party.

What is a party?

Parties are fully involved in the proceedings before the OLT, and are expected to file submissions, present evidence at the hearing, question witnesses and fully understand the issues in dispute. They may also request adjournments, seek costs or a review of the decision at the end of the hearing. For more information, refer to Rule 8 of the OLT [Rules](#).

What is a participant?

Participants have a limited role in the appeal, except as provided for by legislation. They do not fully take part in the proceedings and may only provide written submissions to the OLT, pursuant to [s. 17 of the Ontario Land Tribunal Act, 2021](#). Participants may not request costs, adjournments, or a review of the decision. For more information, refer to Rule 7.7 of the OLT [Rules](#).

How can I request to be a party or participant?

A person who wishes to seek party or participant status is expected to pre-file a [Party Status Request Form](#) or a [Participant Status Request Form and Participant Statement Form](#) with the OLT and all parties at least 10 days ahead of the first hearing event (e.g. at the case management conference) to explain their interest in the appeal. A person seeking party status should also explain how their involvement will assist the OLT in resolving issues raised in the appeal. A participant's written statement must set out their position on the appeal and issues of the proceeding, together with an explanation of their reasons in support of their position.

When will my request be considered?

At the first hearing event, whether it is a case management conference (CMC) or a hearing, the Member(s) will decide on any requests for persons to become a party or a participant in the case.

For more information on CMCs, please see the [“Case Management Conference \(CMC\)” section](#) of this guide.

Are hearing events open to the public?

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 hearing events that happen by teleconference or videoconference call, please contact the case coordinator for call-in details.

What if I have accessibility requirements?

If you have any accessibility requirements, please [contact the Accessibility Coordinator](#) as soon as possible by email at OLT.Coordinator@ontario.ca or by phone at 416-212-6349 / 1-866-448-2248.

Can I request that the hearing event take place in another language?

To request that the hearing event take place in French, please [contact the OLT](#) at least 25 days before the hearing event. For services in other languages, you must provide your own interpreter.

For more information, please see Rule 14 of the OLT [Rules](#) and the OLT’s [French Language Services Policy](#).

Do I need a lawyer or paralegal to be a party or participant in a hearing, case management conference or mediation?

No, a lawyer or paralegal is not required for hearing events before the OLT. If you choose to represent yourself, you should be prepared to:

1. Conduct your own research on the matter;
2. Find the documents and information you need for your case;
3. Comply with all deadlines set out by the OLT; and
4. Present your evidence and submissions at the hearing.

If you do decide to hire a legal representative, you need to ensure that the person is licensed by the [Law Society of Ontario \(LSO\)](#) or they may not be able to represent you.

You may also be able to have a friend or relative represent you if they meet an exemption under the [Law Society Act](#) or by-laws. For example, there is an exemption that allows for persons who are not in the business of providing legal services to occasionally provide assistance to a friend or relative for no fee.

For more information about representation, including licensing and exemptions, please visit the [LSO website](#) and Rule 4 of the OLT [Rules](#).

Will the hearing be recorded by the OLT?

No, hearings are not recorded by the OLT except under limited circumstances (for example, the evidence taken before the OLT on some [Mining Act](#) and [Conservation Authority Act](#) matters is required to be recorded). However, you may request permission to record the hearing or to arrange, at your expense, for a court reporter to transcribe the hearing.

Can I record a hearing?

Under Rule 22 of the OLT's [Rules of Practice and Procedure](#), recording of the hearing – photograph, motion picture, audio, video, screenshot or otherwise – is **not permitted** unless the presiding Tribunal Member authorizes the recording.

Approval may be subject to conditions that no distribution or public re-playing of the recording occurs, and that it does not constitute an official transcript of the hearing or a record for use in any subsequent proceeding.

To request permission, please [contact the OLT](#) in advance of the hearing.

Please note that as per section 29 of the [Statutory Powers Procedure Act](#), persons found improperly recording hearing events before the OLT and/or distributing those recordings may be liable to a fine of up to \$25,000.

Can I speak to or correspond with the Member(s)?

During the hearing, you may speak to the presiding Member(s) on any matter. However, it is not allowed to contact them outside of the hearing room as doing so could compromise, or appear to compromise, the neutrality and independence of the OLT and its Members, and their ability to provide natural justice.

If you have any issues or concerns, you may wish to contact your case coordinator, and they may forward your correspondence to the Member(s) as appropriate.

Hearing Events

Depending on the appeal, application, or objection, the Ontario Land Tribunal may schedule different hearing events. These are the different types of events that can be scheduled for a matter before the Tribunal:

Case Management Conference (CMC)

For more information on CMCs, please see Rule 19 of the OLT's [Rules of Practice and Procedure](#), as well as [section 15 of the Ontario Land Tribunal Act](#).

What is a CMC?

A case management conference (CMC) is convened under Rule 19 of the OLT [Rules](#) and [section 15 of the Ontario Land Tribunal Act](#). A CMC is a hearing event, held prior to the hearing on the merits, that provides the OLT with the opportunity to identify parties and participants, identify or narrow the issues, identify facts that may be agreed upon, provide directions for disclosure and exchange of information, and set the date for the hearing.

The OLT will also invite the parties to discuss opportunities for settlement, including the possible use of mediation or other dispute resolution processes. If a full settlement is reached, the parties must submit a letter confirming that the appeal is withdrawn and the case is closed. If a settlement is not reached, the CMC proceeds to the phase of preparing all parties for the formal hearing.

What are the disclosure requirements?

All parties must provide a copy of every relevant document that is in their possession, control or power to all other parties without charge. This must be done no later than the date the OLT sets for the exchange of these documents. The obligation to disclose is ongoing throughout the hearing process. All relevant documents discovered during the course of preparation for the hearing and the hearing must be provided to the other parties.

Privileged documents are exempt from disclosure requirements.

All documents intended to be relied upon at the hearing must be filed with the OLT. Documents are expected to be filed in electronic form as directed by the OLT and in accordance with Rule 7 of the OLT [Rules](#).

Who can take part in a CMC?

The objector(s), owner(s), applicant(s), appellant(s), and the municipality and/or the approval authority (whose decision or failure to make a decision is the subject of the appeal) are entitled to participate in the CMC.

Those persons who wish to seek party or participant status shall explain in writing to the OLT their interest in the matter and how their participation can assist the OLT in understanding the issues.

Are CMCs open to the public?

Yes, CMCs are open to the public and anyone can attend and watch, unless directed otherwise by the Member(s) pursuant to [s.9 of the Statutory Powers Procedure Act](#).

For hearing events that happen through teleconference or videoconference call, please contact the case coordinator for call-in details.

How do I get notified of a CMC?

You may be notified of a CMC either by the OLT, by the individuals identified by the municipality as having an interest in the matter, or by the municipality/approval authority if you participated in the decision-making process at the municipality and asked to be informed of any municipal decision on the matter. The OLT may provide an Appointment for Hearing through email, or it may direct the municipality/approval authority to service the notice (depending on the type of appeal).

You can expect to receive at least 30 days' notice of the CMC by regular mail or email.

Do I have to submit anything before the CMC?

Persons other than the existing parties who wish to participate in a CMC are expected to pre-file a written submission to the OLT to explain their interest. Deadlines for pre-filing are provided in the Notice of CMC.

For more information, please see the [“Participating in a Hearing Event” section](#) of this guide.

Parties are encouraged to file a draft Procedural Order and Issues List for review to identify the issues in dispute and the matters that are required to be carried out before the hearing.

For more information, please see the [“Hearing Submission Guide”](#).

How can I prepare for the CMC?

To prepare for your CMC, you should review the initiating documents, the record of the municipality or approval authority (if applicable), Rule 19 of the OLT [Rules](#), and the section of the legislation that the objection, appeal, or application has been filed under. If your CMC relates to a planning matter, you may also wish to review the *Provincial Policy Statement* and related provincial plans and municipal documents, such as official plans or by-laws.

Parties and persons seeking party status are expected to discuss the procedural order in advance of the CMC and try to determine the issues and process that they want the OLT to order following the CMC. The OLT will hear submissions on the draft procedural form at the CMC.

What can I expect during the CMC process?

Before the CMC, the Member(s) will review the objection(s), application or appeal record, any requests made for status by potential parties and participants, and any written submissions. At the CMC, the Member may request further information from the parties and discuss opportunities for settlement or mediation, where applicable. The Member may also make decisions including: who should attend the hearing, whether the hearing will be held in person, by teleconference or videoconference, or in writing, what issues will be considered, and any matters required to be carried out prior to the hearing. After the CMC, the Member will issue a decision and procedural order that may decide any of the matters considered at the CMC and provide direction for the next hearing event or schedule a date for the hearing on the merits.

The CMC is not intended to be the forum to discuss the arguments of a case. However, the Member may convert the CMC into a hearing. Parties should arrive prepared to discuss procedure and settlement, as well as to participate in a preliminary hearing. Some evidence may be permitted by the OLT to further support the positions of each party and/or to seek a settlement.

Can a CMC be postponed or adjourned?

In limited circumstances, the OLT will issue an adjournment of a CMC or hearing event. A party who requests an adjournment must do so in writing, give valid reasons, notify every other party and seek their consent for the adjournment, and submit their request well in advance of the start of the event. For more information, refer to Rule 17 of the OLT [Rules](#).

For more information on postponements and adjournments, please see the [“Postponing Hearing Events \(Adjournments\)” section](#) of this guide.

Mediation

For more information on mediation, please see Rule 18 of the OLT's [Rules of Practice and Procedure](#).

For information on mediation related to expropriation matters, please see the [“Expropriation Matters” section](#) of this guide.

What is mediation?

Mediation is a voluntary and confidential process to provide parties with the opportunity to develop a detailed understanding of the issues in dispute and to explore and consider options for a mutually acceptable solution on some or all of the issues in dispute. If a settlement is reached through mediation and an order of the OLT is required, it will proceed to a settlement hearing. In some circumstances, a settlement may not require an order of the OLT to finalize their settlement or agreement.

Please note that an OLT-assisted mediation is **separate and distinct** from a mediation held by the municipality and/or between parties.

When is mediation available?

Opportunities for mediation can be explored anytime during an appeal process.

How do I request mediation?

To request mediation, you are required to submit your request in writing to the OLT. The OLT will conduct a Mediation Assessment to determine mediation parties and if the issue or matter is suitable for mediation.

If the OLT determines mediation is appropriate, it will coordinate with approved mediation parties and set a date for mediation. OLT may also send a mediation notice to all involved parties. If the OLT decides mediation is not appropriate, it will schedule a hearing and send a Notice of Hearing to the parties, subject to the case management and streaming of the appeal.

Who will mediate my appeal?

If the OLT determines that mediation is appropriate, the OLT will assign an OLT Mediator. In the event that the mediation is unsuccessful or partially successful, the Mediator(s) will not participate in the hearing or otherwise communicate with the Member(s) assigned to the hearing of that matter.

Is mediation open to the public?

No, mediations are confidential. Any information or documents exchanged, any statements made, any suggested resolution of the issues, or any offers to settle made during a mediation shall remain confidential and cannot be disclosed in evidence in any proceeding, nor placed in the OLT file. A Mediator's notes are also confidential, and a Mediator may not be called as a witness to give evidence or produce documents that relate to the mediation.

In some circumstances and subject to conditions, a person who is not a party may participate in a mediation with the permission of the OLT and the consent of the parties.

How can I prepare for mediation?

To prepare for mediation, you should review Rule 18 of the OLT [Rules](#) as well as the legislation that the appeal, application, or objection has been filed under. You may also wish to review any materials that have been filed with the OLT and any relevant policy documents (e.g., provincial plans or municipal documents, such as official plans or by-laws).

What can I expect during the mediation?

During mediation, the parties will try to reach an agreement to resolve their dispute in order to avoid or shorten a hearing. Therefore, all parties are required to have in attendance an individual with the authority to make binding decisions or an individual with sufficient seniority, title, and authority to make recommendations to a decision-making body with the authority to make binding decisions.

At the beginning of the mediation, the Mediator will advise parties on how the mediation will proceed and set out the ground rules. Mediators are impartial and are not present to assist the parties in achieving success with their case, and will not provide legal, planning or other expert advice. The Mediator may, if requested, and in confidence, offer a view of the strengths and/or weaknesses of a particular party's case if the mediator is of the opinion that such a view will assist the party in developing strategies for achieving a successful resolution of the issues. The Mediator may also help make the discussion of the issues easier and may offer new solutions.

What if an agreement is reached at mediation?

If the parties reach an agreement, the OLT will schedule a settlement conference after settlement documents have been signed, finalized and forwarded to the OLT. During a settlement conference, an OLT Member(s) will review the settlement and may issue orders, including approving any planning instruments under appeal in accordance with the terms of the settlement.

What if an agreement is not reached at mediation?

Mediation and settlement discussions are confidential and conducted "without prejudice." This means that if a party makes a statement or shares information in the spirit of settlement, but a settlement is not reached, that statement cannot be used against them in the event of a formal hearing.

If mediation does not resolve the issues, the OLT will schedule a hearing. The Member(s) assigned

to the hearing will not be provided any information from the mediation or communicate with the Mediator regarding the matter.

Will the mediation be recorded?

It is not permitted to record mediations at the OLT. All documents relied on and anything said in mediation is confidential.

Hearing on the Merits, or Hearing

For more information on hearings, please see the OLT's [Rules of Practice and Procedure](#), as well as the section of the legislation that the objection, appeal or application has been filed under.

Who can take part in a hearing?

Those persons who the OLT granted party status at the case management conference (CMC) may fully participate in the hearing and may present evidence, call and/or cross-examine witnesses or present final submissions. In some circumstances, such as when a CMC has not occurred before the hearing, persons may be granted party status at the beginning of the hearing and may fully participate at the hearing.

Participants may only submit a written statement to the OLT, as per [section 17 of the Ontario Land Tribunal Act \(OLTA\)](#).

Are hearings open to the public?

Most hearings are open to the public and anyone can attend and watch, unless directed otherwise by the Member(s) pursuant to [s.9 of the Statutory Powers Procedure Act](#).

For hearing events that take place by teleconference or videoconference call, please contact the case coordinator for call-in details.

In some cases, the OLT may determine that a specific hearing event will be live-streamed via the [YouTube website](#). The OLT maintains a channel on YouTube to post videos and live-stream events.

Where/How will the hearing be held?

An appeal will normally be conducted through an oral hearing, which may be heard in-person or electronically (i.e. by telephone or videoconference). Currently, the Tribunal is scheduling hearing events by videoconference. If in-person, the hearing will be held in the municipality in which the property is located. The Notice of Hearing will show the specific location of your hearing. An appeal may also be heard in writing, or by a combination of writing and oral events.

How long is the hearing?

The length of the hearing depends on a number of factors including the number of parties involved, the number and complexity of the issues, and the evidence being presented.

How do I get notified of a hearing?

It depends on the type of appeal. You may be notified of a hearing either by the OLT, the applicant/appellant or the municipality/approval authority. The OLT may provide an Appointment for Hearing or it may direct the applicant or municipality/approval authority to serve the notice.

Do I need to attend the hearing?

It is a good idea to be present at the hearing, even if you authorize a lawyer or representative to act on your behalf. There may be questions that arise from another party that only you can answer, or from the OLT about the issues in dispute or evidence presented.

When a CMC has not occurred before the hearing, and request for party status or participant status are being considered at the hearing, individuals submitting status request must be present at the hearing.

How can I prepare for a hearing?

The key to effective participation in a hearing is being well informed and prepared to present your views and evidence. The OLT can only consider the information that is presented at the hearing. Any information or evidence presented should be relevant to the issues before the OLT.

To prepare for your hearing, you should review the OLT [Rules](#), the legislation under which the objection, appeal or application was filed, and any directions given in the procedural order. You may also wish to review the decision of the municipality or the approval authority that is the subject of the appeal, any materials filed with the OLT, including the other party's evidence and witness statements, and any related provincial plans, policies, municipal documents (e.g., official plans or by-laws).

When must evidence materials be submitted for a hearing?

All evidence materials intended for the hearing must be submitted to the OLT and the parties in advance of the hearing as required by the terms of a procedural order or as directed by the OLT. In some cases, the OLT may require hard copies be submitted.

Why do I need to submit my evidence in advance of the hearing?

Submitting evidence in advance provides the OLT and the parties with the opportunity to review your materials and prepare for the hearing. Exchanging information ensures that everyone is informed about the case and will contribute towards the fair, just, expeditious, and cost-efficient disposition of the issues before the OLT.

You should submit all documents and witness statements in accordance with Rule 7 of the OLT [Rules](#). If you do not submit a particular document before the deadline provided by the OLT, you may not be able to use it during the hearing.

Can I submit photographs and videos as evidence?

Yes, photographs and videos can be submitted as visual evidence. However, the person who took

them may need to attend the hearing to explain what is being shown.

If the opposing parties agree with respect to the content of the photographs or videos, then it may be possible to submit the visual evidence without the person who took them.

Can the evidence of two or more Parties be combined?

At a hearing, the OLT will consider all evidence from the official parties, submitted in accordance with the OLT's [Rules of Practice and Procedure](#), and other applicable legislation. The OLT generally discourages the presentation of duplicate evidence and may limit duplicate evidence pursuant to [s.18\(3\) of the Ontario Land Tribunal Act, 2021](#). In some cases, objectors with similar views may select to combine their cases and use witnesses that can present evidence on behalf of the group. The OLT should be informed in advance of the hearing, if this is to take place.

What can I expect during the hearing?

The Member(s) will proceed with the hearing in accordance with the OLT [Rules](#) and based upon the directions in the procedural order, if any. The number of panel members can range between one to three, depending on the nature of the objection, appeal or application.

The order in which the parties will present their cases and issues in dispute will be guided by the procedural order and hearing plan (if applicable). A hearing plan outlines how the hearing will proceed and ensures the OLT is providing enough time to address the matter. Parties may be directed by the OLT at the CMC to file a hearing plan that addresses, for instance, the order of witnesses and anticipated time needed for submissions.

Can the OLT require a witness to attend a hearing?

Yes, the OLT can require a witness to attend a hearing by issuing a summons. In some circumstances, witnesses may require a summons from the OLT to attend the hearing, even if they are agreeable to giving evidence. For example, a witness might not be paid by their employer in the absence of a summons.

The OLT summons form can be found on the ["Forms" page of the OLT website](#).

The party summoning a witness is responsible for paying for the witness' attendance costs at the same rate that a person summoned to appear before the Superior Court is paid. For more information on attendance costs for summoned witnesses, please see Tariff A of the Ontario [Rules of Civil Procedure](#) under the [Courts of Justice Act](#).

What are a witness's responsibilities?

Witnesses may be trained professionals, members of the community, academic specialists or individuals

with specific knowledge who can give the OLT relevant information related to the issues in the appeal.

An expert witness is someone who has been accepted by the OLT to present opinion evidence in matters within their expertise in a fair, objective and non-partisan manner. A party who wishes to have witnesses present opinion evidence must have them qualified as experts by the OLT before their evidence can be admitted.

Witnesses may be called to give oral evidence at a hearing held in person or electronically. All oral evidence at a hearing is given under oath or affirmation. Before testifying, each witness will be asked to either swear or affirm that the evidence that they will provide is the truth. Providing false evidence to the OLT may constitute a criminal offence.

At a hearing, witnesses will be called, qualified if appearing as an expert witness, and may then present their evidence. Witnesses may refer to their notes or any documentation that was previously exchanged and filed with the OLT.

They can be asked questions by the parties. The OLT will allow cross-examination as necessary by a party opposite in interest to inform the Member(s) in making their decision. The Member(s) may also ask questions of a witness at the hearing.

The Member(s) will decide whether further information is needed to understand the matter before it. If so, the Member(s) may request, at the hearing, that the parties bring a witness to respond to questions from the Member(s).

What is the order of presentation at a hearing?

The OLT can direct the order in which parties make statements and present evidence. This is often set in a procedural order. In some instances, the decision-maker whose decision is being appealed (i.e., the Director, Risk Management Official, Inspector, Registrar or Deputy Registrar, municipality, approval authority, committee of adjustment) will present their case first and call each of their witnesses. In other cases, the OLT may wish to hear from the appellant or applicant first because it is more efficient to focus on the disputed issues.

At the beginning of the hearing, parties may give brief opening statements addressing what they feel are the issues in the case before the OLT, a summary of the evidence they intend to present, the names of the witnesses that they intend to call, and the amount of time they feel they will need to present their case.

After opening statements and any preliminary procedural matters, the parties call witnesses in the order directed by the OLT. In most cases, witnesses will give evidence through direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- direct examination by any party of similar interest, in the manner determined by the OLT;
- cross-examination by parties of opposite interest;

- re-examination by the party presenting the witness on issues that arise for the first time during cross-examination

After the parties have presented their evidence, the party that proceeded first will have the chance to present any additional evidence, in response to the evidence of another party(s). This is called reply evidence and it is limited to evidence that could not have been reasonably expected during their initial presentation of evidence.

When all the evidence has been heard, each party can make a final submission. This closing statement gives the parties a chance to summarize the important facts that they are relying on, to summarize any points of law or policy that they think are relevant for the OLT's consideration, and to persuade the OLT to accept their argument or position.

At any time during the hearing, the OLT may ask questions of parties, witnesses, lawyers or representatives.

Can a hearing be postponed or adjourned?

Hearing dates are fixed and the parties are expected to be prepared and ready to proceed on the date set. A last minute request for an adjournment of the hearing will only be allowed in extraordinary circumstances, such as an unavoidable emergency. The OLT is required to dispose of proceedings without unreasonable delay, and in some cases, there may be legislative time periods for a decision. Your adjournment request should indicate the parties whom have consented and not consented to the request.

For more information on postponements and adjournments, please refer to Rule 17 of the OLT [Rules](#) and the [“Postponing Hearing Events \(Adjournments\)” section](#) of this guide.

What if I miss my hearing?

If you miss your hearing, it is important that you notify the OLT of the reason for your absence in writing as soon as possible. However, the OLT may proceed with the hearing in your absence, as is stated in the Notice of Hearing.

For information on postponing hearing events, please refer to the [“Postponing Hearing Events” section](#) of this guide.

What principles govern the OLT's hearings?

The OLT conducts its hearings to ensure the fair, just, expeditious and cost-effective adjudication of the appeal. The OLT is committed to open, accessible and understandable hearing procedures that enhance access to justice and public participation.

The OLT's objective is to consider all the evidence presented, and make a decision with written reasons in a manner that is consistent with the legislation under which the hearing is being heard, and that fulfills the core values of accessibility, fairness, transparency, timeliness, integrity, professionalism and independence.

Motion

For more information on motions, please see Rule 10 of the OLT's [*Rules of Practice and Procedure*](#).

What is a motion?

A motion is a written or oral request made by a party (or parties) to the OLT to obtain direction before or during a hearing event (e.g., a person may ask for certain documents to be presented, ask to have clarification on a procedure, or ask to have the proceedings dismissed).

If the request to hear a motion is granted, a motion hearing will be held by video or teleconference or in writing. At the motion hearing, the requestor (i.e., the moving party) will be asked to give reasons supporting their request. The other parties will then have an opportunity to provide their submissions on the request (i.e., supporting, opposing or not taking a position on the requested motion).

Some examples of issues that may be dealt with by motions are requests for:

- An adjournment;
- The dismissal of a matter;
- Seeking party status;
- Someone to provide documents;
- A confidentiality order; or
- Directions on a procedure that applies to the case.

How do I bring a motion?

To bring a motion, you must advise the OLT in writing, describing why you wish to bring a motion, and request a date. The OLT may:

- Deny your request;
- Advise you of appropriate options; or
- Schedule a date for the motion to be heard.

If your request for a motion hearing is granted, the OLT will advise you of the date, and time of the motion hearing. Alternatively, the OLT may determine that the motion should be held in writing, in which case the OLT will inform the parties.

Once you receive a date from the OLT, you must send the other parties:

- A copy of the Notice of Motion;
- A brief and clear sworn statement (i.e., an [affidavit](#)) of the issues and facts that support your request;
- A statement about what you want the OLT to order; and,
- Copies of any documents that will be used at the motion.

Notice of Motion and Affidavit forms are available on the [“Forms” page of the OLT website](#).

How will the motion hearing be held?

A motion will often be heard through an oral hearing. Currently the Tribunal is scheduling motions electronically (i.e., by telephone or videoconference). Motions that involve less complex issues or do not require further explanation from the parties may be heard in writing.

In deciding the format of the motion hearing, the OLT may consider:

- How many parties are involved;
- The parties’ positions on the motion (i.e., whether the motion is on consent);
- How much time the motion hearing will require; and
- The complexity of the motion.

But ultimately, it is at the discretion of the Tribunal to decide how the motion will be heard.

When do I deliver a Notice of Motion?

For a motion held by telephone, or by videoconference, you must serve the Notice of Motion and all supporting documents to the OLT and the other parties at least 15 days before the motion hearing. You will have to file a sworn statement (i.e., an affidavit of service) with the OLT either before or at the motion hearing, confirming that this was done.

For a motion heard in writing, you must serve the Notice of Motion and supporting documents within 15 days of the OLT’s notice that the motion is to be held in writing.

Can a party respond to a Notice of Motion?

Yes, a party can respond to a Notice of Motion by delivering a Notice of Response.

The Notice of Response should:

1. State the response to be made, including a reference to any statutory provision or Rule to be relied on;
2. list the documentary evidence to be used at the motion hearing; and

3. include an affidavit setting out a brief and clear statement of the facts upon which the responding party will rely.

For a motion held by telephone, or by videoconference, the Notice of Response and all supporting documents must be served to the OLT and the other parties at least 7 days before the motion hearing. The responding party must file a sworn statement (i.e., an affidavit of service) with the OLT either before or at the motion hearing, confirming that this was done.

For a motion heard in writing, parties must serve a Notice of Response within 7 days of the date of the moving party's Notice of Motion.

The party that brought the motion may then file a reply submission. A Reply to the Notice of Response must be served at least 3 days before the motion hearing or, for motions heard in writing, within 3 days of the date of the Notice of Response.

Can a motion be made at the beginning of a hearing?

Motions may be brought at an electronic hearing with the permission of the Member(s). The OLT will generally only hear new motions brought without notice during hearing events if the need for the motion arises out of specific events related to the hearing or for the purpose of addressing new evidence at the hearing.

Postponing Hearing Events (Adjournments)

For more information on adjournments, please see Rule 17 of the OLT's [Rules of Practice and Procedure](#).

Can I postpone my hearing event?

If you want to change the date of your hearing event, you may ask the OLT to postpone your hearing event. This is known as an “adjournment”.

Once your appeal, application, or objection is filed, you should be prepared for your hearing event at any time, even on short notice. If your request to delay the hearing event is denied, the hearing event will go ahead as scheduled and you will be expected to attend.

How do I request an adjournment?

If you want to request an adjournment, you must first ask the other parties if they agree to an adjournment. If the other parties consent, you can file your adjournment request in accordance with Rule 17.2. If the other parties do not consent, you are required to file your request with the OLT 15 days prior to the hearing event or, if that is not possible, as soon as possible, in accordance with Rule 17.3. Please note that the parties' agreement will not determine whether the OLT will grant your adjournment request.

You must submit a Request for Adjournment form to the OLT and send a copy to all parties. In your request, please ensure you include the reasons you want an adjournment, a suggested new date, and whether the other parties have agreed to postpone. A copy of the form is available on the [“Forms” page of the OLT website](#).

When can I request an adjournment?

You should submit your adjournment request as soon as you know that you need a delay. Requests brought less than 15 days before the hearing event are considered late. If the reason for the adjournment arises less than 15 days before the hearing event begins, you must submit your request form as soon as possible. If the OLT does not allow the late request, you may bring a motion to adjourn at the beginning of the hearing event.

What happens after I send in my request to adjourn?

The OLT may make any appropriate order, including:

1. Denying the request (the hearing event will go ahead as originally scheduled);
2. Delaying the hearing event for a shorter time than requested;
3. Granting the request and reschedule the hearing event;
4. Direct that the hearing proceed but with a different witness, or evidence on another issue;
5. Grant an indefinite adjournment, if the Tribunal finds no substantial prejudice to the other parties or to the Tribunal's schedule and the Tribunal concludes the request is reasonable for the determination of the issues in dispute;
6. Convert the scheduled date to a mediation or case management conference; or
7. Make any other appropriate order.

In some cases, the OLT may also schedule a case management conference with the parties to discuss the status of the matter.

Even if all the parties agree to an adjournment, the OLT is not obligated to grant the request. The OLT may deny the request or may require a hearing with the parties before granting the adjournment. If someone objects to postponing the hearing or if the OLT denies the request, you may have to request a date to bring a Notice of Motion for an adjournment. For information on motions, please see the [“Motions” section](#) of this guide.

How does the OLT decide adjournment requests?

Hearing events will not be postponed or adjourned except under extraordinary circumstances.

In deciding whether to postpone a hearing event, the OLT will consider whether a delay is needed to have a fair hearing for all of the persons involved, as well as the costs or detriment of delaying. The OLT may also postpone a hearing event if it believes that a delay will assist with the fair, just, and cost-effective determination of the issues before it.

As an example, if discussions are nearing a settlement, the OLT may agree to postpone the hearing event to allow the parties to resolve or narrow the issues. In contrast, hiring a lawyer, representative, or expert shortly before a hearing is not a good reason for delaying a hearing event.

What if I need to postpone the hearing event because of an emergency?

In an emergency, the OLT may postpone a hearing event even if all of the parties do not agree. The OLT may grant last minute adjournments for emergencies, such as sudden illness to a Member, representative or witness that occur close enough to the hearing event that a replacement cannot be found.

Recovering Hearing Costs

For more information on recovering hearing costs, please see Rule 23 of the OLT's [Rules of Practice and Procedure](#).

Can I recover my hearing costs?

The Tribunal may, subject to any other Act, fix the costs of and incidental to any proceeding, and order a party to the proceeding to pay the costs, including an unsuccessful party to pay a successful party's costs.

Can I request to recover my hearing costs?

If you believe that another party involved in your matter acted improperly, you may ask the OLT to order that party to pay some or all of your costs. It is unusual for the OLT to order an award of costs against another party. Unlike in court proceedings, costs awards are not routinely granted.

Some examples of improper activities include:

- Missing a hearing event;
- Not co-operating during a hearing event;
- Changing a position without notice;
- Being unprepared for a hearing;
- Not complying with an OLT directive;
- Causing unnecessary delays;
- Presenting false evidence;
- Continuing to deal with inappropriate issues; or,
- Not making efforts to combine similar submissions.

The party being asked to pay will also be given a chance to respond.

Please note that a party's improper conduct does not automatically entitle the remaining parties to a cost award. The OLT will take into account a number of factors in considering a request for costs, including the magnitude of the improper conduct and the offending party's circumstances.

How do I request to recover my hearing costs?

In order to make a request for costs, you must notify the OLT and the party that you are seeking costs from either before the hearing ends or within 30 days after the OLT's written decision is issued. The

notice must indicate that (1) that you are seeking costs, (2) who you are seeking costs against, and (3) the approximate amount of costs that you are seeking.

Cost requests are typically heard in writing. The OLT may direct you to file written submissions or a Notice of Motion, in which case you must file and serve this documentation within 35 days of the OLT's direction. Your written submission or Notice of Motion must include:

- The name of the party you are seeking costs from;
- The reasons for your request;
- The amount requested;
- An estimate of the extra preparation or hearing time caused by the misconduct;
- Copies of supporting invoices or a sworn statement (i.e., an affidavit) verifying the expenses; and,
- A sworn statement (i.e., an affidavit) verifying that the expenses were necessary.

The other party will have an opportunity to respond unless otherwise directed by the OLT. If you served written submissions, the responding party must provide their written response within 15 days of receiving your written submissions. If you served a Notice of Motion, the responding party must provide their Notice of Response at least 7 days before the date of the motion, in accordance with Rule 10. The party seeking costs will have an opportunity to reply in accordance with the OLT [Rules](#).

What expenses can I include in my request for costs?

The OLT may order that you receive reimbursement for your expenses related to preparing for and attending a hearing event. These expenses may include lawyers' fees for preparation and hearing time, travel and accommodation expenses, costs for materials used for presentations, as well as consultant and witness fees.

The OLT will generally require documentation to verify these expenses.

Decisions

For more information on decisions, please see Rule 24 and 25 of the OLT's [Rules of Practice and Procedure](#).

How can I get a copy of a decision?

When a decision is issued, it is sent to parties, participants, and anyone who requested to be notified. You can also access issued decisions on the ["Decisions" page of the OLT website](#).

When will I receive a decision?

The OLT is committed to the timely resolution of the matters before it and aims to issue its decisions as quickly as possible. While many decisions are issued within 90 days of the hearing, some matters may take longer, depending on the complexity of the issues.

How are decisions enforced?

When issuing decisions, the OLT expects that parties will respect and comply with its decision. If an individual or group feels a decision is not being adhered to, they can request a certified copy of the decision from the OLT and file it with the courts, after which it can be enforced as a certified court order.

I don't agree with OLT's decision – can I ask them to review it?

Yes, you may request the OLT to review its decision if you are a party (with some exceptions, including decisions made under the [Mining Act](#) and certain pre-Bill 108 sections of the [Ontario Heritage Act](#)).

For the OLT to consider reviewing one of its decisions, you need to establish that the OLT:

- Acted outside its jurisdiction;
- Violated the rules of natural justice or procedural fairness, such as by not giving notice of the hearing or being biased;
- Made a material error of fact or of law;
- Heard false or misleading information that could have changed the decision; or,
- Should consider new information that was not available at the time of the hearing, but that is credible and could have changed the decision.

You must file notice of a request for a review with the OLT within 30 days of the date of the OLT's written decision. A request for review must include:

- Your full name, address, telephone number and email address;
- The full name, address, telephone number and email address of your representative (if any);
- Your signature or your representative's signature;
- The reasons for the request;
- The desired result of the request (such as a change or alteration to the decision or a rehearing of the proceeding);
- Any documents that support the request, including copies of any new evidence that was not available at the hearing;
- A sworn statement (i.e., an affidavit) stating the facts relied upon in support of the request;
- A statement as to whether you have or will submit an application for judicial review or seek to appeal to the court; and
- The filing fee (cheque or money order payable to the Minister of Finance).

The fee to request a review is listed on the [“Fee Chart” of the OLT’s website](#).

The OLT may **not** consider your request if:

- The request does not include the required information;
- You are not a party;
- The request relies upon the same evidence or re-argues the same issues that were covered at the hearing;
- It is filed more than 30 days after the decision was issued unless the Chair determines that there is a valid and well-founded reason to extend this time; or
- It is your second request raising the same or similar issues.

If the OLT is satisfied that the request qualifies for review, the OLT may grant the request if it raises a convincing and compelling case. The OLT also may hear a motion or ask the parties to reconvene for a rehearing of the matter. If a motion is scheduled, the requestor will need to provide the Notice of Motion and supporting materials to the other parties who attended the hearing, at least 15 days before the date of the motion hearing or in accordance with the OLT’s directions. After hearing the review motion, the OLT may decide to schedule a re-hearing, or it may reject the request.

For more information on requesting a review of a Tribunal Decision or Order, please refer to Rule 25 of the OLT [Rules](#).

Can I appeal the OLT’s decision?

Yes, in many cases, a decision of the OLT may be appealed to the Divisional Court, but only on a question of law. Generally, a party to the OLT decision is first required to file a motion with the Divisional Court for leave (i.e., permission) to appeal. For more information, see [section 24 of the Ontario Land Tribunal Act](#).

There are some exceptions as many environmental statutes allow an appeal of the OLT’s decision

directly to the Divisional Court on a question of law without requiring a motion for leave. Some decisions (for instance, some [Conservation Authorities Act](#) matters) are final and cannot be appealed. It is important that you review the relevant legislation to determine your appeal rights.

In some cases, you may instead bring an application for judicial review of an OLT decision to the Divisional Court under the [Judicial Review Procedure Act](#).

A motion, appeal or application to the Divisional Court must be filed in accordance with the [Rules of Civil Procedure](#) under the [Courts of Justice Act](#).

Withdrawals

How do I withdraw before the case is closed?

If you no longer want to be a party to an OLT matter, you must send a written notice of withdrawal of your objection, application or appeal to the OLT and the parties. Once a withdrawal request is received, the OLT will send a letter of confirmation of the withdrawal to you, the other parties and the governing authority or clerk of the municipality, if applicable. You will no longer be involved in the matter. If you are the property owner and the proceeding is continued by other parties, you will be kept informed of the status of the proceeding.

How do I withdraw if I am the applicant or an appellant?

If you wish to withdraw your application or your appeal, you must send a written notice of withdrawal of your application or appeal to the OLT and the parties. Once the withdrawal is received and processed, the OLT will send a letter of confirmation to the parties. The outcome of the case before the Tribunal will depend on the type of appeal, application or objection and your role in the case.

If I withdraw, will the OLT matter continue?

Generally, your role in the proceeding ends once you withdraw from the matter. Whether a proceeding continues without you depends on the nature of the case before the OLT. If there are other objecting parties or appellants, or if the OLT is required to provide recommendations to the municipality, the matter may continue.

Planning Matters

How are planning appeals processed?

Planning appeals will be processed depending on the type of appeal filed and the legislation in effect on the date it was filed.

The OLT is currently processing [Planning Act](#) matters for major appeals (official plans or zoning by-laws) under several legislative systems that direct the Tribunal to apply different practices and procedures.

The OLT will notify all parties to clarify which process their appeal falls under. For specific case information, parties may contact their assigned case coordinator.

Appeal Process 1: Legacy Appeals

- Appeal Process 1 applies to appeals filed under the [Planning Act](#) **before** the amendments introduced on **April 3, 2018**.
- These appeals may be subject to the [Ontario Municipal Board Act](#) as it read before **April 3, 2018**, or the [Local Planning Appeal Tribunal Act](#) depending on the section of the Planning Act the appeal was filed under.

Appeal Process 2: Bill 139 Appeals

- Appeal Process 2 applies to appeals filed under the [Planning Act](#) and [Local Planning Appeal Tribunal Act](#) as they read on **September 2, 2019**.

Appeal Process 3: Bill 139 Hybrid Appeals

- Appeal Process 3 applies to appeals which are subject to amendments to the [Local Planning Appeal Tribunal Act \(LPATA\), 2017](#) (O. Reg 382/19), effective **November 15, 2019**.
- Certain third-party zoning by-law and official plan amendment appeals are subject to the Bill 139 administrative process but have opportunities to provide expanded appeal reasons introduced by Bill 108.

Appeal Process 4: Bill 245 Appeals

- Appeal Process 4 applies to all appeals that do not fall under the specific transition circumstances of Appeal Processes 1-3.
- Appeals filed under the [Planning Act](#) and [Local Planning Appeal Tribunal Act, 2017](#), as amended by Bill 108 effective **September 3, 2019**, or under the [Planning Act](#) and [Ontario Land Tribunal Act](#) effective **June 1, 2021** will follow Appeal Process 4.

- Many of the practices and procedures for *Planning Act* appeals that were in effect before the changes introduced in Bill 139 were restored by Bill 108 and continued under Bill 245.
- Some important differences between the legacy appeals and Bill 245 frameworks include participatory rights of non-parties.

Heritage Matters

What type of decision can the OLT make in Ontario Heritage Act objections/appeals?

Generally, the OLT issues a report with recommendations to the municipal council, making recommendations based on the evidence presented and arguments made at the hearing, within 30 days after the hearing, but a later release does not invalidate the hearing process. The OLT's case file is then closed. The municipal council makes the final decision on the matter, taking the OLT's report into account. Recent amendments to the [Ontario Heritage Act](#) will change this process. The OLT will issue a final decision to decide the appeal following the hearing and will not issue a recommendation report. That amendment will come into effect upon the date of proclamation of [Bill 108](#).

What happens if a full settlement is reached at mediation for a heritage matter?

If a full settlement is reached at mediation, each objector and the property owner (if applicable) must submit a letter of Withdrawal of Objection to the OLT, or the municipality must submit a letter of Withdrawal of the Notice of Intention to Designate. The case is then closed. For more information on mediation before the OLT, please view the ["Mediation" section](#) of this guide.

Environmental Matters

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

What is the role of the Hearing Officer?

The Hearing Officer will conduct a public hearing about the Commission's decision on the development permit application. The Hearing Officer will then report a summary of the representations made during the hearing, and their opinion on the merits of the Commission's decision, to the Minister of Natural Resources and Forestry.

The Hearing Officer is required to take into account the objectives of the [Niagara Escarpment Planning and Development Act](#) and the requirements of the Niagara Escarpment Plan.

Development permit appeals are also governed by the [OLT Act](#), the [Statutory Powers Procedure Act](#) and the OLT's [Rules of Practice and Procedure](#).

Under the [Niagara Escarpment Planning and Development Act](#), the appeal may resolve in one of the following ways:

1. If the person who appealed the Commission's decision withdraws their appeal or fails to appear at the hearing, the Commission's decision is deemed to be confirmed.
2. The Hearing Officer may decide that the Commission's decision was correct and should not be changed. In this case, the Commission's decision will be deemed to be confirmed. The Hearing Officer's decision is final. (This option is not available if the Commission's decision was appealed by a municipality.)
3. The Hearing Officer may amend the terms and conditions of the development permit, and the Commission's decision will be deemed to be confirmed if:
 - the Commission's decision was to issue a development permit;
 - the parties who appeared at the hearing have agreed on all of the terms and conditions that should be included in the development permit, and all of these terms and conditions are set out in the Hearing Officer's report; and,
 - the Hearing Officer expresses the opinion in their report that, if the Commission's decision included the terms and conditions as agreed to, the decision would be correct and should not be changed.

In this case, the Commission's decision will be deemed to be a decision to issue the

development permit with the terms and conditions as agreed to. The Hearing Officer's decision is final.

4. In all other cases, the Minister, after considering the Hearing Officer's report, may confirm or vary the Commission's decision, or make any other decision that in their opinion ought to have been made. The Minister's decision is final.

When will the Hearing Officer's report be released?

The Hearing Officer will make a report to the Minister of Natural Resources and Forestry within 30 days after the conclusion of the hearing, or within a longer period if the Minister allows it.

If the Hearing Officer makes a final decision on the merits of the Commission's decision, then a copy of the Hearing Officer's report is sent to all parties when it is sent to the Minister.

If, however, the Hearing Officer makes a recommendation to the Minister, the Minister will release a final report to the parties advising them of the Minister's decision and the Hearing Officer's recommendation. The Minister is not bound by the Hearing Officer's recommendation. The Minister's decision is final.

Applications to Amend the Niagara Escarpment Plan

How is the hearing conducted?

[Section 33 of the Public Inquiries Act, 2009](#) applies to Plan Amendment hearings. The OLT's [Rules of Practice and Procedure](#) are employed with necessary modifications.

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

How is an application for leave to appeal heard?

An application for leave to appeal is to be made and disposed of wholly in writing, except to the extent that the OLT directs otherwise.

What type of decision can the OLT make?

The OLT may grant permission to appeal all or part of the decision that is the subject of the application, or it may dismiss the application and refuse to grant permission.

It is important to note that the OLT is not deciding the merits of the decision to issue the instrument but is only making a preliminary decision as to whether to grant the applicant permission to appeal the instrument.

In making its decision, the OLT must apply the two-part test set out in [section 41 of the EBR](#):

Part 1 – Does it appear that there is a good reason to believe that no reasonable person, having regard to the relevant law and any relevant government policies, could have made the decision?

Part 2 – Does it appear that the decision sought to be appealed could result in significant harm to the environment?

If the applicant can provide submissions and evidence to show that their application meets both parts of the test, the OLT will grant leave (i.e., permission) to appeal. The OLT may grant leave to appeal the decision regarding an instrument in whole or in part.

How long will the OLT take to decide on my application for leave to appeal?

The OLT is required to make its decision within 30 days after the application is filed, unless it determines that, because of unusual circumstances, a longer period is required. If a longer period is needed, the OLT will issue a letter to inform the parties of the new date by which the decision will be issued.

What is the significance of obtaining leave to appeal?

If the OLT grants leave to appeal, the Applicant has the right to file a Notice of Appeal with the OLT within 15 days from the date the Applicant receives the OLT's decision. To file your Notice of Appeal, please complete and file the [Appeal Form \(A1\)](#).

Where leave has been granted and a Notice of Appeal is filed, the OLT will conduct a hearing to receive submissions and evidence, and decide whether the decision under appeal should be overturned or upheld or, if warranted, whether any additional conditions should be attached to the decision under appeal.

Is the instrument suspended if leave to appeal is granted?

Yes, a decision by the OLT to grant leave to appeal under the *EBR* automatically suspends the operation of the Class I or II instrument under appeal until the disposition of the appeal (unless the OLT orders otherwise).

How does the OLT hear an Application for Leave to Appeal?

The OLT will assign a panel of member(s) to decide an application for leave to appeal. These applications are dealt with wholly in writing.

Can the OLT's decision be appealed or reviewed?

No, the *EBR* does not provide a right of appeal of the OLT's decision on an application for leave to appeal. However, an application for judicial review of the OLT's decision can be filed with the Divisional Court. A judicial review application to the Divisional Court must be filed in accordance with the [Rules of Civil Procedure](#) under the [Courts of Justice Act](#).

A review (i.e., reconsideration) of the OLT's decision by the Tribunal itself may also be requested under the limited circumstances set out in Rule 25 of the OLT's [Rules of Practice and Procedure](#).

Expropriation Matters

This section applies to common appeals brought under the [Expropriations Act](#). You should review Rules 5 and 26 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.

The Ontario Land Tribunal (OLT) may deal with claims for compensation for land expropriations through mediation or through arbitration. When an authority expropriates land, the property owner may disagree with the amount of money the authority offers. If that happens, the property owner or the authority can ask the OLT to help mediate a settlement. If no settlement is reached, the matter may be appealed to the Tribunal for a final decision on the compensation.

The OLT operates under the authority of the [Ontario Land Tribunal Act](#) and provides a fair and accessible forum to negotiate compensation claims. A mediation before the OLT is private and only includes the claimant and the authority that acquired the lands.

Who is involved in mediation?

The expropriating authority and the owner are usually the only parties involved in an OLT matter. In most cases, the expropriating authority is a municipality, regional authority or a ministry of the Ontario government.

Is mediation open to the public?

Only parties to a matter can attend OLT mediations. All written materials are confidential.

Who negotiates my compensation?

A qualified OLT mediator will guide the mediation.

What are the qualifications of mediators?

Mediators have different backgrounds. They have experience working with real estate, property appraisal, and business loss claims. Many of the mediators also have brokerage experience. The Lieutenant Governor appoints these Members to the OLT. For more information on the appointment process, please visit the [Ontario government website](#).

When/where will my mediation be scheduled?

Before scheduling your mediation, the OLT looks at:

- Your availability
- The availability of the OLT
- The location of the mediation
- The accessibility of the location

A mediation that deals with land in the Greater Toronto Area (GTA) usually takes place at the OLT's offices in Toronto. If the subject property is located outside of the GTA, mediations may be held at the local municipal office, a lawyer's office, or another amenable location. Mediations may also be convened electronically (phone or video).

Before the mediation is confirmed, the OLT must receive the most current appraisal and/or expert report(s) relied upon at the mediation. Materials shall be provided electronically to the Tribunal by email at OLT.Registrar@ontario.ca.

Before the date of the mediation, the OLT also requires a list of all the attendees.

In order to confirm a mediation date, you will be required to provide current materials to the OLT by electronic submission. Once these are received, your mediation date will be confirmed by return mail.

Examples of materials you could provide are:

- Property appraisals and market evaluations
- Maps
- Aerial photographs
- Other photographs
- Lists of comparable property sales
- Business evaluations
- Tenant agreements
- Any other materials that support your compensation claim

Please email all materials to: OLT.Registrar@ontario.ca.

When your mediation is confirmed, the OLT will send you and the other party a Notice of Mediation that states:

- The location of the mediation
- The time and date of the mediation
- Whether any other materials should be sent to the OLT

If parties settle before mediation, they should inform the OLT so that their mediation can be cancelled.

What if I have additional materials or attendees to provide?

Any additional materials a party wishes to rely on during mediation can be subsequently provided to the OLT at least 10 days before the mediation date.

Just prior to the mediation date, the OLT will request a list of attendees and a complete list of materials relied upon at mediation from both parties.

How long do I have to set a mediation date?

The OLT can close a matter without holding a mediation. This is an administrative closure and happens when parties fail to provide current materials and proposed mediation dates within six months of filing a case. If the case is administratively closed, it can be reopened for mediation once a new Notice of Negotiation, current materials from both parties, and proposed dates are provided.

Will there be a site visit?

A mediator assigned by the OLT may choose to visit the expropriated property before meeting the parties to the negotiation. The parties do not have to be present with the mediator at the time of the site visit. The mediators may apply the information from their site visit to try to assist the parties to negotiate a settlement.

What happens at the mediation?

At the mediation, the parties discuss the dispute over the compensation and the mediators help to negotiate a settlement. After the discussions and the presentation of all the materials, the mediators recommend a solution.

At the beginning of the mediation, the mediators will review the mediation process that they will follow that day. The OLT's mandate is to assist the parties to successfully negotiate a settlement of the compensation for the claim by an informal process.

The mediators will:

- Confirm that everyone has the same reports and ask if there are any more materials that are to be referred to.
- Ask if there have been any discussions between the parties since the materials were first provided to the OLT.
- Ask what amounts have been offered to date for discussion.

During the mediation, both sides will be given the opportunity to present the compensation claim and the reasons for the dispute, the facts they agree on, and any areas and opinions where the experts agree and disagree.

After hearing from each of the parties, the mediators will meet with each side alone to discuss the opportunities to settle. The mediators may reconvene with both parties together to discuss areas of agreement and perhaps negotiate further.

If no settlement has been agreed to at the end of the mediation, the mediators may make a recommendation which is not binding on the parties. If there is no settlement at the mediation and the parties would like to reconvene to discuss any unresolved issues, the OLT may set up another mediation with the parties to try again.

How long does the mediation last?

Mediations usually begin at 9:30 a.m. and may last the full day. If the issues are complicated or there are multiple properties involved, the OLT may hold additional mediations.

What happens after the mediation? Does the OLT make decisions?

If you come to the OLT to negotiate a settlement, you will not receive an order or decision. In some cases, the mediators may give you a recommendation on how much your claim is worth, but this is not binding on either party. Recommendations are only given orally at the end of the mediation.

If the parties settle their disagreement based on a recommendation, the parties do not have to inform the OLT. The OLT does not draft minutes of settlement, nor provide a binding order.

If no settlement is reached during the mediation process, either party may file an appeal for arbitration to the Tribunal. Mediations efforts are without prejudice, and any efforts to settle are confidential. This means that if the parties are unable to reach a settlement, then a position or statement presented at the OLT mediation cannot be raised against that party in a subsequent OLT arbitration or civil proceeding.

Glossary

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

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 5.4 of the OLT [Rules](#)).

Applicant – a person who makes an application to the Tribunal and includes a person requesting 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 – 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.

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 – means 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.