



Ontario Land Tribunal

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# Hearing Submission Guide

December 2, 2024

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# Introduction

This guide provides a general overview of hearing submissions commonly filed with the Ontario Land Tribunal and does not apply for initial appeal submissions. 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 service or by contacting your assigned case coordinator.

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

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# Filing Hearing Materials

What material do I need to submit to the Tribunal?

Depending on the type of the appeal, some cases may require a number of different procedural documents to be submitted prior to a hearing event. Generally, there will be a Procedural Order governing the submission of documents. However, there are instances where there is no Procedural Order. For these cases, individuals should submit all documents they intend to present at the hearing event to the Tribunal and the parties in advance of the hearing event.

Please note that the Ontario Land Tribunal has the discretion to request additional documents. Should you have questions, please contact the assigned Case Coordinator.

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

Submitting evidence in advance provides the OLT with the opportunity to review your materials and prepare for the hearing.

Who do I submit my hearing material to?

All hearing materials must be provided in advance of a hearing event to the assigned Tribunal Case Coordinator and all parties (i.e. the municipality/approval authority, the applicant and/or the appellant(s), and any party added to a case) on the same day. Contact information for these individuals can be found on Schedule A of the Notice issued by the Tribunal or a Procedural Order.

Please note that legally, submitting documents to the parties is called "service". This is different from "filing", which means submitting document to the court/tribunal. For more info about service, please read Rule 7.11 -7.13 of the OLT [Rules](#).

Exchanging information with the other parties 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.

When do I need to submit documents?

If a person intends to refer to a document at the hearing (for clarity, any document that is not in the Tribunal's case file), it is expected to be pre-filed electronically with the Tribunal at least 10 days before the date of the video hearing and provided to all parties. The timeline applies unless otherwise specified in the [Rules](#) or a Procedural Order.

Do statutory holidays impact the submission deadline?

Submission deadlines are based on calendar days. If a submission deadline falls on a statutory holiday, the deadline will be extended to the following business day as per [Rule 3](#) of the *Rules of Civil Procedure*.

Do I need to include an Affidavit of Service when submitting hearing material to the Tribunal?

An Affidavit of Service is not required unless otherwise specified in the OLT [Rules](#).

Our municipality records Council meetings. Should I submit the audio and/or video recordings as supporting documentation?

If these recordings are available and you intend to present this at the hearing, you should provide a copy of the video or audio recordings of each public session at which oral submissions were made to the Municipal Council or Approval Authority regarding the application.

How do I submit my documents if they are too large to be sent through email?

The Tribunal asks parties to compile all materials being submitted to a single Word or PDF document for easy of use. These documents can then be attached to an email to the assigned Tribunal Case Coordinator and the parties.

Submission emails **under 25MB** may be emailed directly to the assigned Tribunal Case Coordinator and associated parties. Emails over **25MB** must be transferred using an electronic file sharing link/ service to avoid sending documents across multiple email parts. Where appropriate, documents are to be submitted in .pdf format.

# Documents

## Affidavits

What is an affidavit?

An affidavit is a written statement of facts or other evidence that you affirm or swear by oath is true. At some point during the OLT process, you may be asked to produce an affidavit for a hearing event.

Why do I need an affidavit?

An affidavit may assist the OLT in a number of circumstances. It may contain facts or other evidence that is in dispute before the OLT and may assist the OLT in understanding and determining the issues at a hearing event. Affidavits may also be relied upon in written hearing events, where witnesses are not called upon to give oral evidence and the OLT relies entirely on written evidence. An affidavit of service may also be required, as proof that a Notice of motion or other materials were served upon the parties and any other person directed by the OLT. The party required to give notice of a hearing event is also required to file an affidavit of service with the OLT.

Who can sign/commission/notarize my affidavit?

Before filing your affidavit, you will need to sign it to confirm that the information included in your statement is true. At the same time, you will also need someone to commission your affidavit. This person also signs and dates the affidavit, to confirm that the document was sworn or affirmed before them.

Only certain people are authorized to commission an affidavit. Your local municipal office may have a person on staff who can sign your affidavit. Someone who is a lawyer, commissioner or notary public (a person who is able to affirm and/or swear to a written statement by law) may also be able to sign your affidavit.

What information needs to be included in my affidavit?

You should include all facts and information that you wish for the OLT to rely upon. Please note that generally only someone qualified as an expert witness may give opinion evidence.

For your reference, (1) an Affidavit, (2) an Affidavit of Service, and (3) Notice of Hearing Event – Affidavit of Service are all available on the ["Forms" page of the OLT website.](#)

## Procedural Order

What is a procedural order?

A procedural order is provided to identify who may participate in the hearing, the issues in dispute, the witness list, the matters that are required to be carried out before the hearing, and the submission dates for documents to be relied upon at the hearing.

How do we create a procedural order?

The Tribunal recommends that the appellant, municipality, the applicant (if applicable), or those who wish to seek party status in this proceeding, meet, remotely if necessary, to discuss the draft procedural order before the date of the case management conference and try to identify the issues and process they want the Tribunal to order following the conference. The Tribunal will hear submissions on the content of the proposed procedural order at the case management conference and issue a procedural order at a later date.

When is a procedural order required?

A Procedural Order is required to organize hearing submissions exchange between the parties and hearing submissions to the Tribunal for multi-day hearings.

Submitting a procedural order

A Draft of the Procedural Order is to be submitted by email to the assigned Tribunal Coordinator prior to the start of the Case Management Conference.

A sample Procedural Order available on the ["Forms" page of the OLT website.](#)



# Hearing Plans

What is a hearing plan?

A hearing plan outlines how the hearing will proceed and ensures the Tribunal is providing enough time to deal with the matter.

It is recommended that the parties meet to discuss the hearing plan before submitting it to the Tribunal. The Tribunal will review and approve the proposed hearing plan and may contact parties if additional information is needed.

When is a hearing plan required?

A hearing plan is required for all types of appeals before the Ontario Land Tribunal (OLT) that are scheduled for a hearing of four (4) days or more. The Tribunal may also direct parties to submit a hearing plan if it deems it necessary for organizational purposes.

How to organize a hearing plan

Each day should start at the time specified by the Tribunal. This time can be found on your Notice of Hearing or a Tribunal Decision. The last activity for each day should be scheduled to end no later than 5:00 p.m.

The schedule should include three breaks for each day – morning, lunch and afternoon. When scheduling witnesses, use your best judgement to decide how much time is needed to present the information.

The order of witnesses in the hearing plan should match the order set out in the Procedural Order. If no Procedural Order was issued, parties should schedule witnesses in the order of the proceeding, where the Appellant goes first. Witnesses should be identified alphabetically, starting with "Witness A", followed by "Witness B" and so on, to show who is speaking on which days and at what times.

Submitting a hearing plan

Parties are expected to jointly create the hearing plan and submit it to the Tribunal's Case Coordinator at least 30 days in advance of the hearing start date noting the case number and the hearing start date. The hearing plan is subject to change at the discretion of the hearing panel.

A sample Hearing Plan available on the [\*"Hearing Plan" page of the OLT website.\*](#)

# Witness Statements

What is a Witness Statement?

A witness statement is a written statement of the evidence by an expert serving as a witness to one of the parties intended to present at the hearing.

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.

When do I have to submit a witness statement?

If the hearing is expected to last more than five days, the OLT may require that parties calling expert witnesses serve on the other parties any expert witness statements and reports prepared for the hearing, at least 30 days in advance of the commencement of the hearing, unless otherwise directed by the OLT. The OLT may in its discretion, or at the request of a party, also make this pre-filing order for hearings expected to last fewer than five days.

An expert may not be permitted to testify if this statement or report is not served on all parties within the time directed by the OLT.

What is included in a witness statement?

An expert witness statement must contain an executed acknowledgment of expert's duty form and the expert's qualifications; the issues the expert will address, their opinions on these issues, the reasons that support their opinions and their conclusions; and a list of the reports or documents, whether prepared by the expert or by someone else, that the expert will refer to at the hearing. The expert's complete report may be filed instead of this statement if it contains all of the required information.

The OLT may also require that a witness who is not presenting expert evidence provide a witness statement containing a short, written outline of the person's background experience and interest in the matter; a list of the issues that they will discuss; and a list of reports or materials that they will rely on at the hearing.

For more information on witness statements, please see Rules 7.4 to 7.6 of the OLT [Rules](#).

A sample acknowledgement of expert's duty is available on the ["Forms" page of the OLT website](#).

# Document Books/ Electronic Hearing Package

What is a Document Book/Electronic hearing package?

A document book or electronic hearing package is the document, created by the parties, containing all required procedural documents, witness statements, evidence, and other materials intended to be relied upon at the hearing.

On what type of device do I submit the electronic hearing package?

Electronic documents should be provided to the Tribunal and associated parties through email or an electronic file sharing link/service.

Should I password protect the electronic files (example Microsoft Word or Adobe PDF files)?

No - electronic files must not be password protected or have other electronic security locks unless specified by the Tribunal.

If it is your organization's practice is to password protect/encrypt documents, you must provide the Tribunal with the password.

What needs to be included in the document book/electronic hearing package

- The title of proceedings
- Table of contents
- Extracts of relevant policies
- Witness statements

How do I organize the electronic copy of the hearing package?

To assist the Tribunal and the adjudicator during the event, it is important that all submissions are paginated and labelled appropriately to clearly identify the content of each document. Where a document contains numerous sections, each section is to be indexed to a table of contents.

Additionally, clearly identify and separately tab the relevant sections that will be relied upon for quicker reference. The entirety of the policy documents (e.g. the PPS, Planning Act, Official Plans, Zoning By-laws, etc.) are not required unless deemed necessary to be presented by the parties or as otherwise directed by the Tribunal. Parties may also choose to provide hyperlinks to the (a) entire policy document and (b) excerpts which they and their experts intend to rely upon.

Parties are asked to adhere to the following naming convention: case number\_party role\_document type\_date of hearing event.

For example: OLT-22-000001\_Applicant\_Notice of Motion\_Jan 1, 2020

Please see Rules 7.1 and 7.2 of the OLT [Rules](#) for the standard document submission requirements.

How to prepare a table of contents?

The table of contents should be organized to clearly identify each document along with a Tab # and Page #. If it is deemed necessary to include the entirety of a policy document, such as an

Official Plan, please ensure that a separate tab is used to clearly identify the relevant sections within the document. If only extracts of documents are submitted, please ensure hyperlinks to the entire documents are provided.

A sample Hearing Plan available on the ["Hearing Plan" page of the OLT website](#).

# Motion Materials

What are motion materials?

Motion materials are the documents that make up the Notice of motion, Notice of response and Notice of reply along with all supporting documents.

How to organize motion materials

The Notice of motion to be heard in person, electronically, or in writing shall include:

- the day, time and location of the hearing of the motion;
- the relief sought and grounds to be argued;
- a reference to any statutory provision or Rule to be relied on;
- an affidavit including a statement of the facts the moving party will rely on, including exhibits of any documentary evidence to be used; and
- the names and addresses of the responding parties or their representatives and all persons to whom the Notice of motion is to be given.

The Notice of motion includes an affidavit setting out a statement of the facts upon which the moving party will rely on.

A responding party shall serve a Notice of response that states the response to be made, including a reference to any statutory provision or Rule to be relied on and documentary evidence to be used at the hearing of the motion. The Notice of response includes an affidavit setting out a brief and clear statement of the facts upon which the responding party will rely.

Who do I send the motion materials to?

Motion materials shall be served to the assigned case coordinator, to all parties, and any other person as directed by the Tribunal. An affidavit of service shall be filed with the Tribunal prior to or at the hearing of the motion.

When do I serve the motion materials?

A party bringing a motion shall serve the Notice of motion and all supporting material at least 15 days before the date of the motion to be held unless the Tribunal orders otherwise. The Notice of response to motion and all supporting material shall be served no later than 7 days before the date of the motion unless the Tribunal orders otherwise. A moving party may serve a reply submission, 3 days prior to the commencement of the hearing of the motion.

A party bringing a motion in writing shall serve a Notice of written motion within 15 days of receipt of the Notice from the Tribunal. Parties wishing to respond to a written motion shall serve a response within 7 days of the date of the moving party's Notice of written motion. A moving party may reply to a response within 3 days of the date of the written response.

A sample Notice of Motion, Motion of Response to Motion, and Notice of Reply available on the ["Forms" page of the OLT Website.](#)

For more information on Motions, please see Rule 10 of the OLT [Rules.](#)