



OBA • ABO

MUNICIPAL LAW SECTION

Ontario Bar Association | Association du Barreau de l'Ontario

October 16, 2006

SECTIONS

Aboriginal Law
 Administrative Law
 Alternate Dispute Resolution
 Business Law
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 Association - Toronto Chapter
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 Construction Law
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 & Communications
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 Natural Resources and Energy
 Pensions and Benefits
 Privacy Law
 Public Sector Lawyers
 Real Property
 Sole, Small Firm
 & General Practice
 Taxation Law
 Trusts & Estates
 Worker's Compensation
 Young Lawyers

**By Facsimile Transmission to (905) 602-4295
and By Regular Mail**

Ms. Kathy Coulthart-Dewey
 President
 Association of Municipal Managers, Clerks and
 Treasurers of Ontario
 2680 Skymark Avenue,
 Suite 910
 Mississauga, ON L4W 5L6

- and to -

**By Facsimile Transmission to (613) 392-7151
and By Regular Mail**

Ms. Anne-Marie Cunningham
 President
 Ontario Association of Committees of Adjustment &
 Consent Authorities
 P.O. Box 490
 Trenton, ON K8V 5R6

Dear Ms. Coulthart-Dewey and Ms. Cunningham:

I am writing to you on behalf of the Municipal Law Section of the Ontario Bar Association (the "OBA"). The Municipal Law Section of the OBA represents approximately 400 private sector and public service lawyers. The OBA is an autonomous provincial branch of the Canadian Bar Association. The OBA is a voluntary, non-partisan professional association representing over 16,000 lawyers, judges and law students across the province and is the "voice of the legal profession" in Ontario.

As you are aware the Ontario Municipal Board ("the OMB") now requires appellants against Official Plan Amendments, Zoning By-law amendments, Site Plan Approvals, Demolition Permits, Development Charge By-laws, Consents to Sever and Variances to complete and submit to the OMB formal "Appellant Forms"(attached for your easy reference) to complete and give affect to their appeals against these types of planning approval applications.

It is our understanding that effective, October 1, 2006, Municipalities are now requiring that these forms be completed for any appeals, which are statutorily required to be submitted to a municipal official, such as a Clerk or the Secretary-Treasurer of the Committee of Adjustment. The OMB "Appellant Forms" requires that a filing fee accompany the appeal and that the filing fee be paid by certified cheque or money order in Canadian funds.

A number of our OBA members have advised us that there is no consistent practice being employed in the municipalities when it comes to requirements related to the filing of "Appellant Forms" and the provision of certified cheques to accompany such appeals. In some municipalities, certified cheques are not required nor requested.

The purpose of this letter is threefold:

Firstly, to advise that when a cheque is submitted by a law firm on behalf of an appellant to accompany an appeal the requirement for a certified cheque or money order is not necessary. Some of our members have consulted with the Ministry of Municipal Affairs and the OMB and have been advised by the Ministry and the OMB that a certified cheque is not required if the cheque is from a law firm. Attached to this letter is an e-mail communication from Leesa Kwong, Planner from the OMB advising that certified cheques are not required when the cheque is from a law firm.

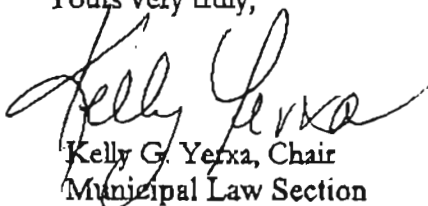
Secondly, when Notice is issued with respect to the making of a decision involving one of the above noted planning matters and the right of an individual to file an appeal is set out in the Notice, there is no indication that a potential appellant must complete the necessary "Appellant Form". Therefore we are requesting that when Notices of Decisions are issued, in addition to setting out the deadline for the filing of an appeal and with whom the appeal must be filed, these notices should also include an indication that an appeal must be submitted on the requisite "Appellant Form" and that these forms are available at the OMB website.

Thirdly, it appears redundant to require a client's authorization if the client has already authorized the lawyer to file the appeal on its behalf.

We would appreciate it if you could make this letter available to all of your respective members.

If you have any questions do not hesitate to contact me.

Yours very truly,



Kelly G. Yerxa, Chair
Municipal Law Section

Tel: (905) 335-7600 ext. 7611 or toll free at 1-877-213-3609 ext. 7611

e-mail: yerxak@burlington.ca

On or after October 30:

Tel: (905) - 842- 8030

e-mail: yerxa@omh.ca

- CC: Municipal Law Section Executive
Blossom Pangowish, Section Coordinator, OBA
- CC: Matthew Bryan, Citizen Liason Office Co-ordinator, Ontario
Municipal Board

Encls.



Ontario Municipal Board
 Commission des affaires municipales de l'Ontario
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 326-6800 or Toll Free: 1-866-887-8820
 FAX: (416) 326-5370
www.omb.gov.on.ca

APPELLANT FORM (O1)
PLANNING ACT
AMEND ZONING BY-LAW
(SUBMIT TO OMB)

Instructions:

- Complete one form for each type of appeal you are filing.
- A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
- The filing fee can be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- Submit your completed appeal form(s) and filing fee(s) to the Ontario Municipal Board by the required filing deadline.
- Please print clearly throughout the appeal form.
- The *Planning Act* and the *Ontario Municipal Board Act* are available at www.omb.gov.on.ca.

Receipt Number (OMB Office Use Only):

Reference Number (OMB Office Use Only):

Date Stamp - Appeal Received by OMB

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Zoning By-law Amendment	<input type="checkbox"/> Application to remove the 'Holding' symbol – failed to make a decision on the application within 120 days	36(3)
	<input type="checkbox"/> Application to remove the 'Holding' symbol – refused by the municipality	

Part 2: Location Information

Address and/or Legal Description of property subject to the appeal:

Municipality

Upper Tier (Example: county, district, region)

Part 3: Appellant Information

First Name: _____ Last Name: _____

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____ Fax #: _____

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Mailing Address: _____

Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____ Fax #: _____

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Mailing Address: _____

Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Part 5: Appeal Specific Information

1. Please provide the Municipal File Number: _____

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and use land-use planning reasons.

****If more space is required please continue in Part 8 or attach a separate page.**

(Please Print)

3. Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required please continue in Part 8 or attach a separate page.

Has a public meeting been held by the municipality? YES NO

If yes, please provide date of meeting(s): _____

Part 6: Related Matters

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please Print)

Part 7: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many witnesses do you expect to have at the hearing? _____

Describe witness(es)' area of expertise: _____

Do you believe this matter would benefit from a Prehearing Conference? YES NO

If yes, why? _____

Part 9: Required Documentation (Please check boxes to indicate document included in filing)

I confirm that I have attached the following items to this form.

Signature of Appellant/Representative: _____ Date: _____

The following material must be attached to this form where applicable, in the order which it is listed:

- A copy of the application to Council for a zoning by-law amendment. Please ensure the date the application was filed with the municipality is shown on the application.
- Board fee of \$125 made payable to the Minister of Finance. The appeal will not be processed without this fee.
- Copy of the proposed amending by-law that you seek to have Council enact.
- A copy of Council's refusal or an affidavit or declaration duly sworn certifying that Council refused or neglected to make a decision on the application within 120 days.
- If applicable, a copy of the Notice of Public Meeting and a copy of the minutes from the public meeting (printed format).
- An indication of the conformity of the proposed by-law with all applicable official plan provisions. Enclose a copy of the Municipality's planning staff report if one is available.
- Affidavit or sworn declaration certifying that copies of all material listed above, as well as a copy of this form, has been sent to the clerk of the municipality having jurisdiction to pass the amendment and that the clerk has been informed of the filing of this appeal. In addition, the affidavit must provide that the requirements of subsection 34(10.3) of the *Planning Act* have been met. i.e. the prescribed information and material noted in O.Regulation 199/96, as amended, and any fee under section 69 have been provided to council, and that the appeal is being filed at least 120 days after the fulfillment of the requirements noted therein.
- A map of the lands under appeal.

Part 10: Required Fee

Total Fee Submitted: \$ _____

Payment Method: Certified cheque Money Order

Cash - Do not send cash in the mail. If you are submitting your appeal to the OMB in person, you may pay with cash.

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash by mail.



Ontario Municipal Board
 Commission des affaires municipales de l'Ontario
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 326-8800 or Toll Free: 1-866-887-8820
 FAX: (416) 326-5370
www.omb.gov.on.ca

APPELLANT FORM (A1)

PLANNING ACT

(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)

Instructions:

- Complete one form for each type of appeal you are filing.
- A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
- The filing fee must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- Submit your completed appeal form(s) and filing fee(s) to either the Approval Authority or Municipality, as applicable, by the required filing deadline. The Approval Authority/Municipality will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- Please print clearly throughout the appeal form.
- The *Planning Act* and the *Ontario Municipal Board Act* are available at www.omb.gov.on.ca.

Receipt Number (OMB Office Use Only):

Date Stamp - Appeal Received by Municipality

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent	<input type="checkbox"/> Appeal a decision	53(18)
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions Imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

Address and/or Legal Description of property subject to the appeal: _____

Municipality: _____

Part 3: Appellant Information

First Name: _____ Last Name: _____

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation) _____

Professional Title (if applicable): _____

E-mail Address: _____

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____

Street Address

Apt/Suite/Unit#

City/Town

Province

Country (if not Canada)

Postal Code

Signature of Appellant: _____ Date: _____

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)**I hereby authorize the named company and/or individual(s) to represent me:**

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____

Street Address

Apt/Suite/Unit#

City/Town

Province

Country (if not Canada)

Postal Code

Signature of Appellant: _____ Date: _____

Part 5: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please Print)

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required please continue in Part 8 or attach a separate page.

(Please Print)

Part 6: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO
Are there other planning matters related to this appeal? YES NO

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please Print)

Part 7: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many witnesses do you expect to have at the hearing? _____

Describe witness(es)' area of expertise: _____

Do you believe this matter would benefit from mediation? YES NO
Do you believe this matter would benefit from a Prehearing Conference? YES NO

If yes, why? _____

