

**Town of Fort Frances
Administrative Report**

TO: Mayor and Council
FROM: Cody Vangel, Chief Building Official & Municipal Planner
SUBJECT: **Motion to support dissolution of the Ontario Land Tribunal (OLT)**
DATE: February 14, 2022

Issue:

Consideration to pass a motion to support Tom Mrakas, Mayor of Town of Aurora, and the dissolution of the Ontario Land Tribunal (OLT)

Strategic Impact:

N/A

Options/Alternatives:

1. Pass a motion to support the dissolution of the Ontario Land Tribunal, as drafted by Tom Mrakas.
2. Do not pass a motion to support the dissolution of the Ontario Land Tribunal.

Administrative Recommendation:

RECOMMENDED , as supported by the Planning and Development Executive Committee, THAT Council of the Town of Fort Frances withhold passing a motion to support the dissolution of the Ontario Land Tribunal.

Analysis:

To date I have had one encounter with the Ontario Land Tribunal (OLT) related to the rezoning of the former St. Michael's school. In this experience the following were noted in support of the proposed motion:

- Significant time delays
- Significant legal costs

To put time delays into perspective, the Town passed by-law 03/14-Y on May 10, 2021 which approved the rezoning application through by-law. This decision was then appealed to the OLT, LPAT at the time, which saw the actual hearing for the appeal matter held on January 13-14, 2022. Subsequently, an interim order was issued by the OLT on January 25, 2022. The overall turn around time (though not 100% complete yet) to date has been 8 months. These delays can have significant impacts on a project including missing out on grant funding, delaying property acquisition, delaying execution of final project drawings, causing construction to miss out on fair weather building seasons, etc.

Significant legal fees can be generated from these appeals through the hearing process where the matter is often "quarterbacked" by a lawyer with expert witnesses providing evidence. In the case of the Town of Fort Frances, our user fee by-law is setup such that the applicant bears all of these costs, and not the Town. However, this further creates additional costs to applicant for the project.

The Town has put forth \$100,000.00 in this year's capital budget to complete a renewal of the Town's Official Plan (OP) and Zoning By-law, I can agree with the frustration of putting forth these funds to complete said documents, to have the OP approved by the province, only to have potential appeals on future decisions to amend these documents.

However, with the above support stated, the following opposition will be noted:

- Appeal process – by applicant or public
- OLT appeals on other matters

From my experience with the *Planning Act* the following appeals are possible for a zoning by-law amendment or official plan amendment (the focus of draft motion):

- The applicant can appeal the refusal decision of Mayor and Council
- The applicant can appeal the non-decision of Mayor and Council
- The public can appeal the decision of Mayor and Council
- The minister can appeal the decision of Mayor and Council

I tend to disagree with the motion on the basis that we as administration will provide a planning report with an application for a zoning by-law amendment (ZBLA) or official plan amendment (OPA) detailing how an application does or does not comply with the zoning by-law, official plan, provincial policy statement, etc. A proposal may comply with all documents, though Council can decide to reject said application, leaving an applicant with no ground for appeal on an application that would generally comply with all policies.

Additionally, in the opposite spectrum, a ZBLA or OPA may be approved for an application that does not comply with the above-mentioned policies, where the dissolution of the OLT would not allow for the public to have an opportunity to appeal said decision.

Lastly, if Council fails to make decision on an application within the timeframes specified in the *Planning Act*, ultimately sitting on the application without decision, the current OLT format provides the applicant with an opportunity to appeal the non-decision.

As noted below, in addition to land use planning matters, the OLT also hears and decides on appeal matters related to environmental and natural features and heritage protection, land valuation, land compensation, municipal finance, and related matters. This entails a whole other realm of matters under the OLT umbrella, which I personally have not had any dealings with. To support said motion would support the dissolution of the OLT without providing substance to these additional matters.

History:

The Ontario Land Tribunal (OLT) hears and decides appeals and matters related to land use planning, environmental and natural features and heritage protection, land valuation, land compensation, municipal finance, and related matters.

The OLT was established on June 1, 2021 under the authority of section 2 of the Ontario Land Tribunal Act, 2021. The Act amalgamates the Board of Negotiation under the Expropriations Act, and continues the Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal, as the Ontario Land Tribunal.

Source: <https://olt.gov.on.ca/about-olt/>

Consultation:

N/A

Supporting Document / Financial Documents:

1. Draft motion as submitted to Mayor and Council of the Town of Fort Frances by Tom Mrakas, Mayor of the Town of Aurora.