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Ontario Land Tribunal - Rules of Practice and Procedure

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BAR ASSOCIATION
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Introduction

The Ontario Bar Association (“**OBA**”) provides feedback on the Ontario Land Tribunal’s (“**The Tribunal**”) proposed changes to its *Rules of Practice and Procedure* (“**Rules**”). The goal of this submission is to support the Tribunal’s commitment to continually improving processes to better serve the people of Ontario and provide timely, fair, and principled resolutions for the matters that come before it.

Ontario Bar Association

Established in 1907, the OBA is the largest and most diverse volunteer lawyer association in Ontario, with more than 17,000 members, practicing in every area of law in every region of the province. Each year, through the work of our 40 practice sections, the OBA provides advice to assist legislators and other key decision-makers in the interests of both the profession and the public and we deliver over 325 in-person and online professional development programs to an audience of over 20,000 lawyers, judges, students, and professors.

This submission was prepared and reviewed by members of the OBA’s Municipal Law section which has over 200 lawyers who are leading experts in municipal and land use planning law matters representing proponents, municipalities, residents, developers, and other stakeholders. Members of the Section often advocate before municipal councils and committees, all levels of court across Ontario and various tribunals, including the Ontario Land Tribunal.

Comments & Recommendations

Review of Tribunal Decision or Order - Amendments to the Chair’s Discretion

The Tribunal proposes to separate its existing Rule 25 grounds for review into two distinct categories. The Tribunal’s November 24, 2025 News Release indicates that:



- Rule 25.7 would provide grounds relating to legal errors/bias; and,
- Rule 25.8 would address discretionary grounds including allowing parties to bring a Request for Review, on consent, to amend a previous settlement.

Respectfully, there are concerns regarding both the necessity of the proposed amendment and the ambiguity it introduces. In particular, the inclusion of the word “**only**” in Rule 25.7, but not in Rule 25.8, creates uncertainty as to the intended relationship between the two separated provisions. Meaning, it is unclear whether the inclusion of “only” is meant to render Rule 25.7 as a mandatory threshold for granting a request, such that the Chair would be prevented from granting a review under Rule 25.8 unless one of the Rule 25.7 grounds is satisfied. If so, review may be denied in cases where there may otherwise be compelling reasons to do so (e.g., request on consent). Accordingly, the Tribunal ought to clarify its intent in excluding “only” from Rule 25.8 while retaining it in Rule 25.7.

Secondly, the rationale for separating Rules 25.7 and 25.8 (a)-(b) is unclear, particularly given that both provisions concern the Chair’s discretion to grant a request for review arising from issues in original proceedings. Moreover, it is equally unapparent how, in practice, these provisions would be applied differently. Thus, to avoid unnecessary complexity, we recommend that the Tribunal considers reconsolidating these grounds into a single list (e.g., five grounds under one rule).

That said, Rule 25.8(c) warrants separate treatment. Unlike provisions (a) and (b), it does not concern the reconsideration of a decision based on evidentiary grounds. Rather, it distinctively enables the Chair to amend planning instrument(s) of an earlier settlement if: on consent; the amendment constitutes good planning; and it is substantially in accordance with the original approval.

However, in its current form 25.8(c) is limited to amendments from an earlier settlement. In practice, Tribunal proceedings often involve a combination of contested and settled



issues. Restricting 25.8(c) to “earlier settlements” therefore introduces unneeded rigidity and may exclude requests that the provision intends to capture. As long as the request to amend an earlier decision is on consent, it should not matter whether the original decision was the result of a settlement or a contested hearing. This limitation risks undermining the Tribunal’s policy objective to “enhance procedural flexibility in the review process, making it easier for parties to seek appropriate remedies and for the Tribunal to address issues efficiently and fairly.

Accordingly, the Tribunal should consider expanding the scope of Rule 25.8(c) by substituting the reference to “settlement” with broader language such as “earlier decision, approval, or order.”

OBA Proposal:

25.7 The Exercise of the Chair’s Discretion the Chair may exercise their discretion and grant a request **only** if the Chair is satisfied that the request for review raises a convincing and compelling case that the Tribunal:

- a) acted outside its jurisdiction;
- b) violated the rules of natural justice or procedural fairness, including those against bias; **or**
- c) made an error of law or fact such that the Tribunal would likely have reached a different decision;
- d) **heard false or misleading evidence from a party or witness, which was discovered only after the hearing and would have affected the result; or**
- e) **should consider evidence which was not available at the time of the hearing, but that is credible and could have affected the result.**

25.8 In addition to Rule 25.7 The Chair may exercise their discretion and grant a request if the Chair is satisfied that the request for review raises a convincing and compelling case that the Tribunal:



a) should amend the planning instrument(s) of **an earlier settlement earlier decision, approval, or order where** the parties make a request on consent, the amendment(s) constitute good planning, and the amendment(s) are substantially in accordance with the original approval.

The Motion to Review

Lastly, there is a minor drafting error in Rule 25.9. In its current form, the Rule refers to “one or more of the issues set out in **clauses a) to e), inclusive, of Rule 25.7 or Rule 25.8.**” In light of the Tribunal’s proposed amendments to Rule 25, this lettered range is no longer accurate. Specifically, Rule 25.7 now contains grounds (a)-(c), and Rule 25.8 include grounds (a) – (c). The proposed solution is set out below.

OBA Proposal:

25.9 The Motion to Review A Tribunal Member or panel assigned by the Chair to conduct a motion to review may, after receiving submissions from the parties, order a rehearing of all or part of the proceeding only if satisfied that the request raises a convincing and compelling case in respect of one or more of the issues set out **in clauses a) to e), inclusive, of Rule 25.7 or Rule 25.8.** Should the Tribunal Member or panel that conducts the motion determine that the requestor has not satisfied this requirement, then the request shall be dismissed and the decision, approval or order that is the subject of the request shall remain in force and effect.

The OBA would be pleased to discuss this further and answer any questions that you may have.