#

# Sample Procedural Order

## Purpose of the Procedural Order

Case management conferences are scheduled by the Tribunal to organize the hearing. This sample procedural order is provided to identify who may participate in the hearing, the issues in dispute, and the matters that are required to be carried out before the hearing. The attachment to this sample procedural order explains the meaning of a number of terms in the sample procedural order, such as a party or a participant.

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 this sample 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 this sample procedural order at the case management conference and issue a procedural order at a later date.

If you are not represented by a lawyer, you should prepare by reviewing the Tribunal’s [Video Hearings Guide](https://olt.gov.on.ca/guides-videos/), and the Tribunal’s [*Rules of Practice and Procedure* (“Rules”)](https://olt.gov.on.ca/about-olt/law-policy/), particularly Rule 20, which are available on the Tribunal’s website.

**ISSUE DATE:
CASE NO(S).:**

**PROCEEDING COMMENCED UNDER** (*Specify: statute and provision under which proceeding was commenced):*

Applicant(s)/Appellant(s) *(specify)*:

Subject *(specify)*:

Property Address/Description *(specify)*:

Municipality *(specify)*:

Municipal File No. *(specify)*:

OLT Case No. *(specify PL number)*:

OLT File No. *(specify associated file PL number(s) if any)*:

OLT Case Name *(specify)*:

*(Repeat the above heading as needed for each provision(s) under which the proceeding is commenced)*

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties’ request or its own motion.

## Organization of the Hearing

1. The video hearing will begin on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(date)* at \_\_\_\_\_ a.m./p.m. at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. [Optional: An evening session will be held on ........]
2. The parties’ initial estimation for the length of the hearing is \_\_\_\_\_ days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
3. The parties and participants identified at the case management conference are set out in Attachment 1 (see the sample procedural order for the meaning of these terms).
4. The issues are set out in the Issues List attached as Attachment 2. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.
5. The order of evidence shall be as set out in Attachment 3 to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the parties’ consent, subject to the Tribunal’s approval, or by Order of the Tribunal.
6. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference*.*  Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative’s name, address, email address and the phone number as soon as possible.
7. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal’s [Video Hearing Guide](https://olt.gov.on.ca/appeals-process/video-hearing/), available on the Tribunal’s website.

## Requirements Before the Hearing

1. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before \_\_\_\_\_\_\_\_\_\_\_\_\_ *(date – at least 55 days prior to the start of the hearing* ) and in accordance with paragraph 22 below. A party who intends to call an expert witness must include a copy of the witness’ Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.
2. Expert witnesses in the same field shall have a meeting on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(date)* and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts’ meeting the parties must prepare and file a Statement of Agreed Facts and Issues with the OLT case co-ordinator on or before \_\_\_\_\_\_\_\_\_\_ *(date – at least 15 days prior to the start of the hearing*).
3. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in paragraph 13 below. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert’s testimony.
4. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert’s evidence as in paragraph 13 below. A party who intends to call a witness who is not an expert must file a brief outline of the witness’ evidence, as in paragraph 13 below.
5. On or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(date – at least 45 days prior to the start of the hearing)*, the parties shall provide copies of their [witness and] expert witness statements to the other parties and to the OLT case co-ordinator and in accordance with paragraph 22 below.
6. On or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(date – at least 45 days prior to the start of the hearing)*, a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 22 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
7. On or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date – *at least 35 days prior to the start of the hearing*) the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
8. On or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(date)*, the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 22 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
9. Parties may provide to all other parties and the OLT case co-ordinator a written response to any written evidence within ten (10) days after the evidence is received and in accordance with paragraph 22 below.
10. The parties shall cooperate to prepare a joint document book which shall be shared with the OLT case co-ordinator on or before \_\_\_\_\_\_\_\_\_\_\_\_ *(date – at least 10 days prior to the start of the hearing)*.
11. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. *See Rule 10 of the Tribunal’s Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.*
12. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.
13. The parties shall prepare and file a preliminary [hearing plan](https://olt.gov.on.ca/tribunals/lpat/lpat-process/hearing-plans/) with the Tribunal on or before \_\_\_\_\_\_\_\_\_ (date – *at least 7 days prior to the start of the hearing*) with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.
14. All filings shall be submitted electronically unless otherwise directed. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the *Rule* 7.
15. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal’s Rule 17 applies to such requests.

**This Member is [not] seized.**

**So orders the Tribunal.**

BEFORE:

Name of Member:

Date:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TRIBUNAL REGISTRAR

## Attachment to Sample Procedural Order

## Meaning of terms used in the Procedural Order:

*A* ***party*** *is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. An* ***unincorporated group*** *cannot be a party and it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer and may have an agent speak for them. The agent must have written authorisation from the party.*

***NOTE*** *that a person who wishes to become a party before or at the hearing, and who did not request this at the case management conference (CMC), must ask the Tribunal to permit this.*

*A* ***participant*** *is an individual or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Section 17 of the Ontario Land Tribunal Act states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal.* A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.

*A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.*

***Written evidence*** *includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material.*

***Visual evidence*** *includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.*

*A* ***witness statement*** *is a short written outline of the person’s background, experience and interest in the matter; a list of the issues which he or she will discuss ; and a list of reports or materials that the witness will rely on at the hearing.*

*An* ***expert witness statement*** *should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness’ opinions on those issues and the complete reasons supporting their opinions and conclusions and (5) a list of reports or materials that the witness will rely on at the hearing. An expert witness statement must be accompanied by an acknowledgement of expert’s duty.*

*A* ***participant statement*** *is a short written outline of the person’s or group’s background, experience and interest in the matter; a statement of the participant’s position on the appeal; a list of the issues which the participant wishes to address and the submissions of the participant on those issues; and a list of reports or materials, if any, which the participant wishes to refer to in their statement.*

## Additional Information

*A* ***summons*** *may compel the appearance of a person before the Tribunal who has not agreed to appear as a witness. A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons through a request. (See* [*Rule 13*](https://olt.gov.on.ca/about-olt/law-policy/) *on the summons procedure.) The request should indicate how the witness’ evidence is relevant to the hearing. If the Tribunal is not satisfied from the information provided in the request that the evidence is relevant, necessary or admissible, the party requesting the summons may provide a further request with more detail or bring a motion in accordance with the Rules.*

***The order of examination of witnesses*** *is usually 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 Tribunal;*
* *cross-examination by parties of opposite interest;*
* *re-examination by the party presenting the witness; or*
* *another order of examination mutually agreed among the parties or directed by the Tribunal.*