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Application ID: 30376

Submitted values are:

Bill or item of business: **Bill 245, Accelerating Access to Justice Act, 2021**

Choose a topic

Do you know the bill title or business (e.g., pre-budget consultations) you'd like to speak or submit material about?

Yes

Choose an application

Which application would you like to submit?

Request to appear as a committee witness (with the option of submitting material)

Add your information

Are you applying to appear as an individual or on behalf of an organization?

I am an employee or member applying to appear on behalf of an organization

Full name

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Job title or role

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Organization name

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City

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Postal or zip code

M5T 3K8

Province or state

ON

Country

Canada

To be decided

Yes

Language of your presentation

English

Do you require any special accommodation (e.g., accessibility, technology)?

No

Do you want to include an electronic written brief alongside your application to appear (optional)?

No

Would you like to add any other information?

We wish to speak to Schedule 6, paragraphs 13(1)(e) and 18(3)(b). We prefer to speak in person (via Zoom or other electronic means) in order to answer questions.

BILL 245
ACCESS TO JUSTICE ACT, 2021

Presentation notes by Max Allen, on behalf of the
GRANGE COMMUNITY ASSOCIATION, INC.

Standing Committee on the Legislative Assembly
March 11, 2021

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BILL 245 – Presentation of Grange Community Assn – March 11, 2021

1. Hello everybody. My name is Max Allen. I'm the vice president for planning and development of the Grange Community Association Inc. in Toronto. The Grange is the local residents association for the area just south and west of Queen's Park.

2. I'm going to give you four suggestions about Section 6 of Bill 245. That's the section about the LPAT, the Local Planning Appeal Tribunal that used to be called the OMB, the Ontario Municipal Board. Our Association has taken part in, believe it or not, some 58 LPAT and OMB hearings, so I speak mostly from direct experience rather than abstract theory.

3. I suggest the Committee, and the Legislature, do four things.

4. First, about paragraph 13.1.e of Section 6: Change the procedure so if it's necessary to designate one person to speak for a group, or a group of groups, the LPAT does not do the designating, but have the group choose their own spokesperson.

5. Second, about paragraph 18.3.b of Section 6: Delete it entirely. It's about limiting examination or cross-examination for any reason the Tribunal considers *fair and appropriate*. Perhaps arising from a recent Stated Case to Divisional Court, this is too broad, and mostly redundant; paragraph 18.3.a already confers the power to limit examination for all matters *relevant to the issues*.

6. Third – and this is not set out in any section now, and I can't tell you how to draft the language, but please don't require that intervening Parties like us "shelter" under an issue already listed by the main Parties.

7. This was required by the short-lived Wynne-government's LPAT rules of process and procedure. It implicitly assumes that the local City legal department plus the developer-appellant, in their wisdom, has all the interests of local residents in mind, and comes up with all the relevant issues themselves. In our experience, this isn't the case – and requiring “sheltering” under existing issues can miss important considerations.

8. And fourth (and again the language of a *solution* is not clear to me, but the *problem* certainly is): Local residents groups, at least in Toronto, are systematically excluded from Site Plan negotiations which are held behind closed doors.

9. A contested development typically goes thru three main stages of approval: [1] an Official Plan Amendment, [2] a Zoning By-law Amendment, and then [3] Site Plan Approval where the actual size, shape and materials of a new development are decided. We're not asking for veto power, but local residents need a guaranteed *voice* in that third Site Plan Approval phase – and only the Legislature can give it to us. Please do so, in the interests of efficiency and fairness.

10. As a brief postscript, here's my reaction to some suggestions you heard earlier today.

11. I disagree with the Canadian Environment Law Association: We think the Local Planning Appeal Support Centre should NOT be restored, at least in anything like its previous form.

12. I fully agree with CELA that Bill 245 should include criteria about when LPAT electronic hearings are appropriate, and when they aren't.

13. And I disagree with several suggestions you've heard about the LPAT "judges" – that is, those members charged with deciding cases before them. In my opinion they don't need specialized professional expertise, and they don't need to already know everything about a particular subject. Like judges in civil and criminal trials, they are expected to be generalists. LPAT decisions are expected to be made on the *solidity of the evidence*. What Tribunal members need to know is what the legislation and the policy documents require, plus some case law. LPAT members, who come from a great variety of backgrounds, can be (and are) trained in this by the LPAT itself.

14. Here's an example. I've been involved in the multi-billion dollar Toronto rail deck corridor case for four years. The case is about competing visions. It involves the heroic engineering challenge of constructing a raised deck and park over the downtown rail corridor, either with or without tall buildings. A three-member LPAT panel just finished hearing eight weeks of evidence in file PL180211. The Joint Document Book was 18,500 pages long. The panel consisted of a lawyer who was not a specialist in municipal law, the former chief administrative officer of Pickering, and a professional mediator. None of them was a structural engineer or a parks designer. Some of the *witnesses* were. The hearing worked fine.

15. To sum up: First: change 13.1.e about who can speak for groups. Second, delete 18.3.b entirely. Third, reconsider "sheltering". And fourth, open the site plan process to local residents.

Thank you. I'd be delighted if the Committee had questions.