



**Standing Committee on the Legislative Assembly
Bill 245, Accelerating Access to Justice Act, 2021.
Schedule 6: Ontario Land Tribunal Act, 2021**

Introduction

1. My name is Geoff Kettel, and I am President of the Federation of Urban Neighbourhoods (Ontario). I will be speaking about Schedule 6 (only).
2. The Federation of Urban Neighbourhoods is a province-wide volunteer-based umbrella organization of community and neighbourhood associations. We promote awareness of urban issues, undertake projects which will enhance quality of life for residents of urban settings, maintain a resource base for information, share expertise, represent the common interests of member organizations before public and private bodies as well as to encourage citizens to actively participate in, and become informed about community and civic affairs. Resident associations (which involve both property owners and tenants) are frequently engaged in hearings before the Local Planning Appeal Tribunal, Conservation Review Board, and occasionally the board of negotiation under the Expropriations Act.
3. Some relevant personal background. Besides FUN I am also Co-President of the Leaside Residents Association (LRA), and Co-Chair of the Federation of North Toronto Residents Associations (FoNTRA). These are incorporated not for profit volunteer based boards. FoNTRA and FUN are both federations representing groups of residents associations in their respective areas i.e. FoNTRA represents 30 RAs in Midtown Toronto, North Toronto and North York, and FUN represents urban communities across the province.
4. I have personal experience with planning tribunals and have appeared at the former Ontario Municipal Board (OMB), the Conservation Review Board (CRB), the Local Planning Appeal Tribunal (LPAT), and at the Toronto Local Appeal Body (TLAB), and have been accredited as an expert witness by the OMB and TLAB on several occasions.

The Proposed Legislation

Schedule 6 enacts the *Ontario Land Tribunal Act, 2021*. The new Act, if passed, would amalgamate five existing tribunals into one:

- the board of negotiation under the *Expropriations Act*,
- the Conservation Review Board (which deals with cultural heritage matters),
- the Environmental Review Tribunal (which deals with numerous environmental statutes),
- the Local Planning Appeal Tribunal (which deals with appeals under the Planning Act), and
- the Mining and Lands Tribunal (the Mining Act), and

continues them as the Ontario Land Tribunal.

The Act provides for the composition of the Ontario Land Tribunal, sets out its jurisdiction and powers and specifies the practices and procedures that apply with respect to proceedings before it.

Substantive concerns

Our major concern with the amalgamation of five tribunals, each of which deals with specialized areas of law and practice, is the potential loss of appreciation and sensitivity to the cases dealt with by these individual tribunals. Each tribunal requires adjudicators that have specialised expertise in the subject matter of the appeals that they hear, and in the interpretation of their home statutes, in addition to adjudicative expertise. The more specialised the tribunal's jurisdiction, the more this would be an issue.

For example for hearings before the Conservation Review Board (under the *Ontario Heritage Act*) you knew you would be heard by someone who was familiar with and had appreciation for built heritage and expertise in interpreting the *Ontario Heritage Act*. The subject matter knowledge and appreciation, and expertise in the interpretation of its "home statute", will be impossible to meet with such a wide span of subject legislation to be concerned with. Given the diversity of statutes and subject matter over which the Ontario Land Tribunal will have jurisdiction to hear appeals, it may be difficult to make the case that members of this Tribunal, who are arguably intended to be "generalists" dealing with a number of statutes, will develop expertise in interpreting such an array of "home statutes".

At the same time we are unaware of the rationale for this change; one presumes it would be "efficiency". But values like effectiveness, fairness, objectivity are key considerations for residents. We believe that the flexibility introduced by the Consolidated Hearings Act was an appropriate and responsible move, but not *full consolidation* of tribunals.

Procedural concerns

This important legislation is being introduced as part of an omnibus justice bill comprising disparate topics, and without consultation other than this Standing Committee review process.

The government has provided no information on the intended purpose for Schedule 6 of the Bill, its likely impact on decision-making, and on Ontario's land, resources, heritage, and environment, and on "good planning" generally.

Why the haste? Why not go through a proper public consultation process?

Contextual concerns

Resident associations are increasingly concerned that the legislation is only one of a number of changes to legislation, roll out of plans, and other approvals, such as Minister's Zoning Orders (MZOs), that are changing the landscape for planning in Ontario, overriding municipal governments, and which appear to benefit developers, not residents. These include:

- Changing City of Toronto wards in the middle of an election (Bill 5)
- Return final decision-making powers (not recommendations) to LPAT
- Cancellation of the Local Planning Appeal Support Centre
- Stripping conservation authorities of powers
- Overriding the City of Toronto approved TO Core and Midtown in Focus Plans
- Implementing a whole new orbital system of highways north of Toronto (GTA West/413 and Holland Marsh/Bradford Bypass)
- Mushrooming use of MZOs, and most recently, and egregiously, making the Provincial Policy Statement not apply to MZOs and retroactively (Bill 257)

Request

We respectfully request that the Committee recommend to the Legislature that it halt passage of Schedule 6 of Bill 245 and return to a proper process of consultation, engagement and transparency.

Respectfully submitted.

Geoff Kettel

President

Appendix

Schedule 6: ONTARIO LAND TRIBUNAL ACT, 2021

The Schedule enacts the *Ontario Land Tribunal Act, 2021*. The new Act amalgamates the board of negotiation continued under the *Expropriations Act*, the Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal, and continues them as the Ontario Land Tribunal. The Act provides for the composition of the Ontario Land Tribunal, sets out its jurisdiction and powers and specifies the practices and procedures that apply with respect to proceedings before it. The *Consolidated Hearings Act* is repealed, and consolidated hearings provided for under the new Act (section 21). Regulation-making authority is given to the Attorney General to provide for transitional matters.

The Act makes numerous complementary repeals, revocations and amendments:

1. The Acts and provisions that establish the bodies that are amalgamated and continued as the Ontario Land Tribunal are repealed. Regulations made under those Acts and provisions are revoked.
2. The *City of Toronto Act, 2006* and the *Municipal Act, 2001* are amended to incorporate the substance of the provisions of the *Local Planning Appeal Tribunal Act, 2017* respecting the jurisdiction of the Ontario Land Tribunal over municipal matters and public utilities.
3. The *Ontario Northland Transportation Commission Act* is amended to incorporate the substance of the provisions of the *Local Planning Appeal Tribunal Act, 2017* respecting the jurisdiction of the Ontario Land Tribunal over railways.
4. The *Expropriations Act* is amended to eliminate the appointment of the chief inquiry officer and other inquiry officers, and to provide for hearings under section 7 of that Act to proceed before the Ontario Land Tribunal.
5. Various Acts are amended to replace references to an amalgamated body with references to the Ontario Land Tribunal.
6. Various Acts are amended to replace outdated references to the Ontario Municipal Board with references to the Ontario Land Tribunal.