

**Environment and Land Tribunals
Ontario**

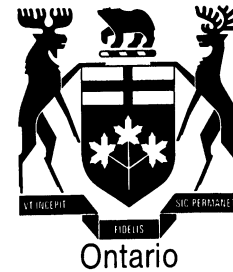
Local Planning Appeal Tribunal

655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Website: www.elto.gov.on.ca

**Tribunaux de l'environnement et de
l'aménagement du territoire Ontario**

Tribunal d'appel de l'aménagement
local

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Site Web: www.elto.gov.on.ca



November 13, 2018

Sent by email

The Clerk
City of Burlington
PO Box 5013
426 Brant St
Burlington, ON L7R 3Z6
cityclerks@burlington.ca

Subject: Case Number: PL180725
File Number: PL180725
Municipality: Burlington
By-Law Number: 2020.395
Property Location: 5219 Upper Middle Rd and 2004-2005 Georgina Crt
Applicant: Bloomfield Developments Inc.
Appellant: Rachel Raymond
Re: Notice of Direction – Case Management Conference

It is your responsibility to circulate the attached Notice of Case Management Conference and the extracts of the Tribunal's ***Rules of Practice and Procedure in accordance with the following notice directions:***

The Tribunal directs that you send a copy of the attached Notice of Case Management Conference and the extracts of the Tribunal's *Rules of Practice and Procedure* by personal service, registered mail or electronically*, at least **75 days**** prior to the date of the case management conference to:

1. Those persons who have filed with the clerk of the municipality a notice of appeal under Subsection 34(19) of the *Planning Act*, and their representatives (if applicable) (**REGISTERED MAIL, EMAIL* OR COURIER**).
2. The applicant, if any, and their representative, (if applicable), (**REGISTERED MAIL, EMAIL* OR COURIER**).

3. Every person who has given to the clerk of the municipality a written request for notice of the hearing.
4. Appropriate Municipal Staff.

The Tribunal will require an affidavit or declaration, duly sworn, to be filed **within 14 days** after notice is given, proving that notice has been given as directed. The affidavit or declaration must include the date on which the notice was sent and have attached a copy of the notice and a list of the names and addresses of all persons to whom notice was sent. Each document must be separately marked as a schedule.

Yours truly,



Tamara Zwarycz
Case Coordinator, Planner
(416) 326-6790

- * In accordance with Rules 7.10 to 7.13 of the Tribunal's *Rules of Practice and Procedure*.
- ** This requirement is a minimum. The party responsible for giving notice should do so as early as possible.

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PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Rachel Raymond
Subject: By-law No. 2020.395
Municipality: City of Burlington
LPAT Case No.: PL180725
LPAT File No.: PL180725
LPAT Case Name: Raymond v. Burlington (City)

NOTICE OF CASE MANAGEMENT CONFERENCE

The Local Planning Appeal Tribunal ("Tribunal") will conduct a case management conference for this matter.

This case management conference will be held:

AT: 10:00 AM
ON: Tuesday, February 12, 2019
AT: Municipal Building
Room 247, 2nd Floor
426 Brant St
Burlington, ON L7R 3Z6

The Tribunal has set aside **one (1) day** for this conference.

THE CASE MANAGEMENT CONFERENCE

The *Local Planning Appeal Tribunal Act, 2017* requires the Tribunal to conduct a case management conference after it has received a valid notice of appeal of the matter identified in the title of proceedings (above). The Appellant(s), the municipality and approval authority are expected to participate in the case management conference. Persons other than the appellant, municipality or approval authority, who wish to participate in the case management conference, are required, by section 40 and 41 of the *Local Planning Appeal Tribunal Act, 2017*, to pre-file a written submission.

IF YOU ARE NOT THE APPELLANT(S), MUNICIPALITY OR APPROVAL AUTHORITY IN THIS PROCEEDING, YOU MAY ONLY PARTICIPATE IN THE CASE MANAGEMENT CONFERENCE IF YOU FILE A WRITTEN SUBMISSION WITH THE TRIBUNAL REGISTRAR **NO LATER THAN FRIDAY, JANUARY 11, 2019**, WHICH IS 30 DAYS BEFORE THE DATE OF THE CASE MANAGEMENT CONFERENCE.

A COPY OF YOUR WRITTEN SUBMISSION IS TO BE PROVIDED TO THE APPELLANT(S), MUNICIPALITY OR APPROVAL AUTHORITY (SEE CONTACT INFORMATION: ADDRESS, EMAIL IN SCHEDULE "A" ATTACHED).

THE PRE-FILING REQUIREMENTS FOR PERSONS WHO WISH TO PARTICIPATE IN THE CASE MANAGEMENT CONFERENCE

A) THE CONTENT OF THE WRITTEN SUBMISSION

A person other than the appellant(s), the municipality or approval authority who wishes to participate in an appeal initiated under subsections 17(24), 17(36), 17(40), 22(7), 34 (11), 34(19) or 51(34) of the *Planning Act* must file a written submission with the Tribunal Registrar. The submission must explain the nature of their interest in the matter and how their participation will assist the Tribunal in resolving the issues raised in the appeal. The submission is to explain whether any decision or non-decision of the municipality or approval authority, which is the subject of the appeal before the Tribunal:

- Is inconsistent with a Provincial Policy Statement,
- Fails to conform with a provincial plan, or
- Fails to conform with an applicable official plan.

B) FILING REQUIREMENTS FOR THE WRITTEN SUBMISSION

- The written submission (containing the content above) must be emailed to the assigned Tribunal Case Coordinator, by Friday, January 11, 2019, **at least 30 days** before the date of the case management conference.
- A copy of the written submission shall be provided to the municipality or to the approval authority whose decision or failure to make a decision is appealed on the same day as it is emailed to the Tribunal: **at least 30 days** before the date of the case management conference.
- A copy of the written submission must also be provided to the Appellant(s) on the same day as it is emailed to the Tribunal: **at least 30 days** before the date of the case management conference.
- A certificate of service, in the form available on the Tribunal's website, shall be filed with the Tribunal Case Coordinator to confirm service of the written submission on the municipality and the approval authority.

NOTE: THE TRIBUNAL MAY NOT EXTEND THE TIME PERIOD TO FILE THE WRITTEN SUBMISSION

THE CASE MANAGEMENT CONFERENCE

The Tribunal shall determine, from among the persons that have provided written submissions, whether that person may participate in the case management conference, and the terms upon which a person is allowed to participate.

A Tribunal may also appoint one person, who filed a written submission to represent a class of persons, as either a party or participant at the case management conference and at any hearing, or any other hearing event, that may be directed by the Tribunal.

At the case management conference, the Tribunal shall discuss opportunities for settlement, including the possible use of mediation or other dispute resolution techniques.

Please see the extract of Rule 26.20 of the LPAT Rules of Practice and Procedure attached to this notice for further details of the matters the Tribunal will discuss at the Case Management Conference.

FURTHER DIRECTIONS

The Tribunal shall issue a disposition following the Case Management Conference that will set out the directions of the Tribunal. A copy of this decision can be obtained from the Tribunal's website by reference to the above case number.

A person who is not granted party or participant status by the Tribunal at the case management conference is not permitted to participate in any further hearing event that is convened by the Tribunal for this appeal.

Pour recevoir des services en français, veuillez communiquer avec la Division des audiences au (416) 212-6349, au moins 20 jours civils avant la date fixée pour l'audience.

We are committed to providing accessible services as set out in the Accessibility for Ontarians with Disabilities Act, 2005. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible. If you require documents in formats other than conventional print, or if you have specific accommodation needs, please let us know so we can make arrangements in advance. Please also identify any assistance you may require in the event of an emergency evacuation.

DATED at Toronto, this 13th day of November, 2018.

Mary Ann Hunwicks
Registrar

SCHEDULE A

CONTACT INFORMATION:

APPELLANT [REPRESENTATIVE]

Kevin Rutherford
2007 Georgia Crt
Burlington, ON L7L 7B6
rutherfordk@rogers.com

MUNICIPALITY OR APPROVAL AUTHORITY [REPRESENTATIVE]

Blake Hurley
City of Burlington
426 Brant St
PO Box 5013
Burlington, ON L7R 3Z6
blake.hurley@burlington.ca

SCHEDULE B

EXTRACTS OF LOCAL PLANNING APPEALS TRIBUNAL RULES ON DOCUMENTS, EXHIBITS, FILING, SERVICE

7.01 Form of Documents Unless otherwise directed by the Tribunal, every document filed or introduced by a party or participant in a proceeding shall be legible and prepared on letter size paper (8½" x 11"), except for large documents such as plans or surveys, and, where bound together with other documents, shall have each page numbered consecutively, throughout the entire text or within tabs, including any graphic content. Wherever possible, an electronic copy of the document must also be filed with the Tribunal, identically numbered as the paper document.

7.03 Copies of Documents for Parties and the Municipal Clerk A party who intends to introduce a document as evidence at a hearing event shall provide a copy of the document to all the parties at the beginning of the proceeding or by an earlier date if that is required by the terms of a procedural order or otherwise directed by the Tribunal. If the document is an official plan, those parts of the plan to be referred to at the hearing event should be distributed to the parties, and a copy of the entire plan must be made available to the Tribunal Member(s). If the Tribunal orders that the clerk of the municipality keep copies of documents for public inspection, they do not need to be certified copies, unless a party objects that they are not authentic copies.

7.10 Service by Personal Service or Electronic Service Where any document is required to be served or filed, including the one commencing a proceeding or a motion or providing notice, it shall be served by personal service, registered mail or electronically (unless a statute or the Tribunal requires another method of service) and shall be sent to:

- (a) the party's representative, if any;
- (b) where the party is an individual and is not represented, to that party directly, where that party has provided an address for service and/or an e-mail address;
- (c) where that party is a corporation and is not represented, to the corporation directly, to the attention of an individual with apparent authority to receive the document;
- (d) where served on or filed with a local board or commission, or any department, ministry or agency of the federal, provincial or municipal government, to an individual with apparent authority to receive the document; or
- (e) where served on or filed with the Tribunal, to the Registrar.

Subject to Rule 7.11, if a document is served by e-mail, then service is effective on the date of service.

7.11 If Served Electronically After 4:30 p.m. Any document served electronically after 4:30 p.m. is deemed to have been served on the next business day.

7.12 Proof of Electronic Service A confirmation printout received by the sender is proof of the full transmission and receipt of the electronic service.

7.13 No Hard Copy Needed A hard copy of an electronic document need not be sent by another means of transmission unless requested, and may then be sent by regular mail.

EXTRACTS OF LOCAL PLANNING APPEAL TRIBUNAL RULES ON ADJOURNMENTS

17.01 Hearing Dates Fixed Hearing events will take place on the date set unless the Tribunal agrees to an adjournment. Adjournments will not be allowed that may prevent the Tribunal from completing and disposing of its proceedings within any applicable prescribed time period.

17.02 Requests for Adjournment if All Parties Consent If all of the parties agree, they may make a written request to adjourn a hearing event. The request must include the reasons, a suggested new date, and the written consents of all parties. However, the Tribunal may require that the parties attend in person or convene an electronic hearing to request an adjournment, even if all of the parties consent. The consenting parties are expected to present submissions to the Tribunal on the application of any prescribed time period to dispose of the proceeding.

17.03 Requests for Adjournment without Consent If a party objects to an adjournment request, the party requesting the adjournment must bring a motion at least 15 days before the date set for the hearing event. If the reason for an adjournment arises less than 15 days before the date set for the hearing event, the party must give notice of the request to the Tribunal and to the other parties and serve their motion materials as soon as possible. If the Tribunal refuses to consider a late request, any motion for adjournment must be made in person, at the beginning of the hearing event.

17.04 Emergencies Only The Tribunal will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witness cannot be obtained. The Tribunal must be informed of these emergencies as soon as possible.

17.05 Powers of the Tribunal upon Adjournment Request The Tribunal may,

- (a) grant the request;
- (b) grant the request and fix a new date or, where appropriate, the Tribunal will schedule a prehearing or case management conference on the status of the matter;
- (c) grant a shorter adjournment than requested;
- (d) deny the request, even if all parties have consented;
- (e) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
- (f) grant an indefinite adjournment, if the request is made by a party and is accepted by the Tribunal as reasonable and the Tribunal finds no substantial prejudice to the other parties or to the Tribunal's schedule. In this case a party must make a request, or the Tribunal on its own initiative may direct, that the hearing be rescheduled or resumed as the case may be;
- (g) convert the scheduled date to a mediation or prehearing or case management conference;
- (h) issue a Notice of Postponement or a Notice of Resumption; or
- (i) make any other appropriate order.

EXTRACTS OF LOCAL PLANNING APPEAL TRIBUNAL RULES ON A CASE MANAGEMENT CONFERENCE

26.03 Additional Definitions The following definitions are applicable to proceedings under Part II:

“*case management conference*” is a hearing event which is directed by the Tribunal in an appeal initiated pursuant to and authorized by subsections 17(24), 17(36) and 17(40), 22(7), 34(11), 34(19) and 51(34) of the *Planning Act*;

“*certificate of service*” is the form approved by the Tribunal that must be submitted at least 30 days before the date of the case management conference by a person other than an appellant, municipality or approval authority who wishes to participate in an appeal under subsections 17(24), 17(36), 17(40), 22(7), 34(11), 34(19) or 51(34) of the *Planning Act*;

26.17 Determination to Hold a Case Management Conference The Tribunal shall direct the Appellant, municipality or approval authority to participate in a case management conference when the screening has made a preliminary determination that a notice of appeal is valid.

26.18 Notice Period and Directions for the Case Management Conference The notice period for the case management conference shall be 75 days unless otherwise directed by the Tribunal. The Tribunal will also direct the Appellant, municipality or approval authority to provide notice of the time and place of the case management conference, and to file an affidavit as directed by the Tribunal to confirm service of the notice.

26.19 Participation in the Case Management Conference A person other than the Appellant, the municipality or approval authority who wishes to participate in an appeal initiated under subsections 17(24), 17(36), 17(40) 22(7), 34 (11), 34(19) or 51(34) of the *Planning Act* must file a written submission with the Registrar, at least 30 days before the date of the case management conference, and that submission shall explain the nature of their interest in the matter and how their participation will assist the Tribunal in determining the issues in the proceeding. In addition, a person shall explain whether the decision or non-decision of the municipality or approval authority was inconsistent with a policy statement under subsection 3(1) of the *Planning Act*, fails to conform with or conflicts with a provincial plan, or fails to conform with an applicable official plan. Any submission shall also be provided to the municipality or to the approval authority whose decision or failure to make a decision is appealed and a certificate of service shall be filed with the Registrar to confirm service of any submission.

26.20 Case Management Conference The Tribunal may direct the Appellant, municipality or approval authority whose decision or failure to make a decision is being appealed to participate in a case management conference conducted by a Member. A

case management conference may include settlement conferences, motions or preliminary hearing matters. At a case management conference the Tribunal shall:

- (a) identify persons other than the Appellant, the municipality or approval authority, who wish to participate in the appeal, based on written submissions provided by these persons to the Tribunal;
- (b) determine, from the written submissions provided, whether a person may participate in the appeal as an additional party, or participant, on such terms as the Tribunal may determine;
- (c) identify facts or evidence the parties may agree upon or on which the Tribunal may make a binding decision;
- (d) identify, define or narrow the issues raised in the appeal;
- (e) obtain admissions that may simplify the hearing, which may include the examination of persons by the Tribunal as part of the case management conference;
- (f) provide directions for disclosure of information among the parties or persons who may participate in the appeal;
- (g) provide directions that a person or persons attend the hearing for examination by the Tribunal, including persons to provide expert opinion evidence;
- (h) discuss opportunities for settlement, including the possible use of mediation or other dispute resolution processes;
- (i) fix a date and place for the hearing and estimate its length;
- (j) determine the format of a hearing, including whether a hearing be conducted in writing and any applicable dates to exchange documentation or submissions;
- (k) discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public or to seal documents;
- (l) address the production and cost sharing of joint document books; and
- (m) deal with any other matter that may assist in a fair, just, and expeditious resolution of the issues or proceeding.

26.21 Result of a Failure to Attend a Case Management Conference The Tribunal may proceed to conduct a case management conference if the Appellant, municipality, approval authority, a party, person or their authorized representative(s) fail to attend.

26.22 Tribunal Order The Member conducting the case management conference will issue an order that may decide any of the matters considered at the conference and will provide procedural directions for any subsequent hearing event, including whether the hearing will be held in writing, electronically, or in person as an oral hearing. The Member conducting any subsequent hearing event, or the hearing, is bound by the order resulting from the case management conference unless the Member is satisfied that there is good reason to vary the order.

26.23 Further Directions following a Determination to hold a Hearing At any time at or after the case management conference, the Tribunal may give such further directions or impose such terms that are necessary for a fair, just and expeditious resolution of the proceeding, including directions that:

- a) a party deliver within a specific time, evidence of a witness by affidavit to address the issues in dispute;
- b) expert witnesses engaged by or on behalf of the parties identify areas of evidence to which they agree and areas of evidence to which they disagree, and the rationale for their opinions;
- c) each expert witness file an executed acknowledgement of expert's duty form;
- d) a concise summary of submissions be prepared, based on the supporting case summary and affidavit evidence, to be presented at the hearing; and
- e) a person whose evidence may be relevant to determination of the issues in the hearing, to attend the hearing, to enable the Tribunal to ask that person questions.

April 3, 2018