

**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



May 13, 2019

Via Purolator and Email

James Cook
President
Northshore Ridge Condominium Corporation
7-35 Nash St.
Kenora, ON P9N 3V3

Subject: Case Number:	PL190146
File Number:	PL190146
Municipality:	Kenora
By-Law Number:	BL 41-2019
Property Location:	Area of 543 Lakeview Drive
Applicant(s):	TCG Lake Ventures Corp.
Appellant(s):	Northshore Ridge Condominium Corporation

Re: Preliminary Screening of the Notice of Appeal

This letter is to advise that the Tribunal has now completed its preliminary screening of your notice of appeal in accordance with Rule 26.05 of the Tribunal's Rules of Practice and Procedure "(Rules)". The Tribunal has made a preliminary determination that this notice of appeal is **not valid** as it fails to provide an explanation for the appeal in accordance with the legislative requirements set out in section 34(19.0.2) of the *Planning Act*.

Dispute as to a Not Valid Appeal

Should you wish to challenge this preliminary determination that your notice of appeal does not provide an explanation of the statutory tests set out in the *Planning Act*, Rule 26.08 requires you to make a written motion to the Tribunal **within 15 days of the date of this letter, which is Friday, May 28, 2019**. Motion materials must be prepared in hard copy and electronically, in accordance with Rule 7 and Rule 10, and filed with the Tribunal Case Coordinator, **Ben Bath** at **Ben.Bath@ontario.ca**. The materials should explain how or why your notice of appeal satisfies the statutory tests.

If you make a written motion to the Tribunal challenging this preliminary determination, the Tribunal will schedule either a written or oral motion. The municipality, the approval authority and any other appellants must be provided with a copy of your motion materials and will be provided the opportunity to respond to your motion.

Please find attached a copy of Rule 7, Rule 10 and Rules 26.01 to 26.10 inclusive. A sample form for a 'Notice of Motion' is available on the Tribunal's website.

The Tribunal will close its file in the event that you do not make a written motion to the Tribunal within 15 days of the date of this letter to challenge the preliminary determination that your appeal is not valid.

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 by emailing ELTO@ontario.ca. 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.

For general information concerning the Tribunal's policies and procedures visit our website at www.elto.gov.on.ca or you may contact the Tribunal's offices at (416) 212-6349.

Yours truly,

Mary Ann Hunwicks
Registrar

c.c.

TCG Lake Ventures Corporation, mchia@tpi.ca
City of Kenora C/O Allan G. McKintrick, mckits@tbaytel.net
The Clerk, City of Kenora, hkasprick@kenora.ca

encl: Rule 7, Rule 10 and Rules 26.01 to 26.10

LOCAL PLANNING APPEAL TRIBUNAL RULES ON DOCUMENTS, EXHIBITS, FILING AND 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 (8 ½" 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.

April 3, 2018

LOCAL PLANNING APPEAL TRIBUNAL RULES ON MOTIONS

10.01 Notice of Motion A motion brought before the commencement of a hearing event shall be made by notice of motion.

10.02 Date for Motion A moving party shall obtain from Tribunal staff a motion date if the motion is to be heard in person or by electronic hearing. A person may request, or the Tribunal may order, that the motion be heard in person or by electronic hearing.

10.03 Motion in Writing A party bringing a motion before the commencement of a hearing event may request a motion be held in writing, or the Tribunal may make its own determination that the motion be held in writing, in which case the Tribunal will notify the moving party and all other parties. The moving party shall serve a notice of written motion within 15 days of receipt of this notice. Parties wishing to respond to a written motion shall serve a response within 7 days of the date of the moving party's notice of written motion. A moving party may reply to a response within 3 days of the date of the written response.

10.04 Content of Motion Material The notice of motion to be heard orally, by electronic hearing, or in writing shall:

- (a) state the day, time and location of the hearing of the motion;
- (a) state the precise relief sought;
- (b) state the grounds to be argued, including a reference to any statutory provision or rule to be relied on;
- (c) list the documentary evidence to be used at the hearing of the motion;
- (d) be accompanied by an affidavit setting out a brief and clear statement of the facts upon which the moving party will rely; and
- (e) state the names and addresses of the responding parties or their representatives and all persons to whom the notice of motion is to be given.

10.05 Service of the Notice of Motion A notice of motion and all supporting material, as set out in Rule 10.04, shall be served at least 15 days before the date of the motion to be held in person or by electronic hearing unless the Tribunal orders otherwise. A notice of motion shall be served on all parties, on any other person as directed by the Tribunal, and on the Registrar. An affidavit of service shall be filed with the Tribunal prior to or at the hearing of the motion.

10.06 The Notice of Response to Motion A responding party shall serve a notice of response that:

- (a) states the response to be made, including a reference to any statutory provision or rule to be relied on;
- (a) lists the documentary evidence to be used at the hearing of the motion; and
- (b) includes an affidavit setting out a brief and clear statement of the facts upon which the responding party will rely.

10.07 Service of the Notice of Response to Motion The notice of response to motion and all supporting material as set out in Rule 10.06 shall be served no later than 7 days before the date of the motion to be held in person or by electronic hearing unless the Tribunal orders otherwise. The notice of response shall be served on all parties, on any other person as directed by the Tribunal, and on the Registrar. An affidavit of service shall be filed with the Tribunal prior to or at the hearing of the motion.

10.08 Reply Submission A moving party may serve a reply submission, 3 days prior to the commencement of the hearing of the motion.

10.09 Oral Submissions All the parties to a motion which is heard in person or by electronic hearing may make oral submissions.

10.10 Motions Made at Oral Hearing Events A motion may be made at an oral hearing event with leave of and in accordance with any procedures ordered by the presiding Member.

10.11 Tribunal May Initiate a Motion The Tribunal may, at any time in a proceeding, initiate a motion to inquire into any matter or question of law in relation to its jurisdiction, and may determine the parties to that motion and issue directions necessary to inquire into the matter.

April 3, 2018

LOCAL PLANNING APPEAL TRIBUNAL RULES ON INITIATING PROCEEDINGS UNDER SUBSECTIONS 17(24), (36) AND (40), 22 (7), 34(11) AND (19) AND 51(34) OF THE *PLANNING ACT*

26.01 Application This Rule applies to appeals initiated under any of subsections 17(24), (36) and (40), 22(7), 34(11) and (19) and 51(34) of the *Planning Act* of a decision made by a municipality or approval authority or with respect to the failure of a municipality or approval authority to make a decision under these provisions. The Rules in Part I also apply to these proceedings, unless stated otherwise in Part II that a specific rule is not applicable or when otherwise directed by the Tribunal that a certain rule is not applicable in that proceeding.

26.02 Rules not Applicable The following Rules in Part I are not applicable to proceedings identified as appeals to the Tribunal authorized under subsection 17 (24), (36) and (40), 22 (7), 34 (11) and (19) and 51 (34) of the *Planning Act* **save and except** where there is an appeal that arises after the municipality or approval authority was given an opportunity to make a new decision (pursuant to subsection 17 (24) and (36), 22 (7), 34 (11) and (19) of the *Planning Act*) following the Order of the Tribunal to remit the matter to the municipality:

- Rule 6.04
- Rule 7.04
- Rule 8.01(e)
- Rule 9
- Rule 13.01(a) to (g), inclusive
- Rule 19

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

“*appeal record*” or “*responding appeal record*” are those records described in Rule 26 that shall include, as a minimum, a supporting case synopsis;

“*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*;

“*new decision*” means the disposition of the municipality or the approval authority in respect of an appeal authorized under subsection 17(24), 17(36), 22(7), 34(11) and 34(19) of the *Planning Act* for which the municipality or approval authority was provided an opportunity to reconsider its decision or non-decision following a hearing by the Tribunal and Order to remit the matter to the municipality;

“*interrogatory procedure*” means the procedure approved by the Tribunal that directs a party to request in writing that another party to the proceeding provide written

information or supporting documentation following a case management conference and prior to the hearing of the appeal; and,

“validation” or “validity of the notice of appeal” means the preliminary screening exercise to determine whether or not the content in the notice of appeal filed in the intended proceeding provides an explanation of the appeal pursuant to subsections 17(25), 17(37), 17(41), 22(8), 34 (11.0.0.04), 34(19.0.2) and 51(34) of the *Planning Act*.

26.04 Enhanced Municipal Record When an appeal is filed with the municipality or approval authority in a proceeding to which the rules of Part II apply, the municipality or approval authority shall prepare a municipal record as prescribed by regulation under the *Planning Act* and in accordance with Rule 5.04., and in addition to those requirements, shall organize the record of documents and materials in chronological order with a contents page(s) outlining the title or a concise description of each entry separated by tabs and capable of being copied and bound or secured in a binder(s). The municipality or approval authority shall provide a paper copy of the municipal record to the Tribunal, as well as one electronic copy (pursuant to Rule 7.01). The municipality or approval authority shall also provide one electronic copy to each person who has filed an appeal, and shall maintain one paper copy with the clerk of the municipality, which shall be available for inspection by any person or copied at a reasonable cost during business hours.

26.05 Preliminary Screening of the Notice of Appeal The Tribunal shall, within 10 days of the Registrar’s acknowledgement of receipt of a notice of appeal, undertake a screening to make a preliminary determination of the validity of the notice of appeal, and shall thereafter advise the person who filed the notice, and the municipality and the approval authority, of the result of this screening exercise.

26.06 Dispute as to a Valid Appeal Where the screening has made a preliminary determination that a notice of appeal is valid, the municipality, the approval authority or a party including a person whose application is the subject of the appeal, if they wish to challenge that preliminary determination, may request a date for a motion from the Tribunal, with notice to the Appellant, to set aside the validation of the notice of appeal and to seek an order to dismiss the appeal without a hearing. The requirements in Rule 10 will apply to the motion.

26.07 Tribunal Member May Initiate a Motion A Member may initiate a motion, at any time in a proceeding, and direct the municipality, approval authority or a party including a person whose application is the subject of the appeal, to file and exchange submissions necessary for the Tribunal to inquire into the matter of its jurisdiction over the matter raised in the notice of appeal.

26.08 Dispute as to a Not Valid Appeal Where the Tribunal has made a preliminary determination that an appeal is not valid, the Tribunal shall notify the person who filed the appeal. A person so notified may within 15 days make a written motion to the Tribunal under Rule 10, challenging the preliminary determination that an appeal is not valid and shall provide the motion materials to the municipality, approval authority and any other Appellants. The requirements in Rule 10 will apply to this motion.

26.09 The Effect of a Ruling under RULE 26.06, RULE 26.07 and RULE 26.08 In the event the Tribunal makes a determination that an appeal is not valid, the appeal is dismissed. In the event the Tribunal sets aside the preliminary determination and finds

that the appeal is valid, the appeal will proceed in accordance with the process outlined by these Rules.

26.10 Commencement of the Proceeding Where the disposition of an appeal is subject to a prescribed timeline, the commencement of the period to which the timeline applies shall be the date the Registrar advises the Appellant(s) the preliminary screening exercise has determined the appeal is valid.

April 3, 2018

