

# **Municipal Heritage Committee Ontario Heritage Act Regulations Comments**

## **Section 1: Principles for Decision-Making**

Subsection 1(3)2.iii. "...considering the views of all interested persons and communities."

- "Interested persons" and "communities" are not defined. This opens the door to different municipalities, staff and councils defining these terms and a lack of consistency across the province. It also allows for those who oppose heritage conservation or whose mandate runs counter to heritage conservation potentially influencing the decision-making process.
- "Considering" is not defined. The phrasing does not make it clear if considering views means consulting as part of the decision making process or influencing heritage conservation decisions based on the input of parties and individuals who may not be in favour of conservation. This term will require defining in such a way that it does not contradict the stated principle in subsection 1(3)1 to conserve heritage property and the policies contained in other provincial legislation, namely section 2.6 of the Provincial Policy Statement (2020), Cultural Heritage and Archaeology
- Specific definitions should be provided to ensure clarity and consistency with regard to interpreting and enforcing this regulation

## **Section 3: Prescribed Exceptions, s.29 (1.2)**

- In general, the 90-day timeline for issuing a notice of intention to designate after a prescribed event is not reasonably achievable, particularly in smaller municipalities with limited staff support. In order to make fully informed decisions, and to comply with the principles outlined in section 1 of the proposed regulations, municipalities and their Municipal Heritage Committees require appropriate time to conduct thorough research to understand the cultural heritage value of a property and to make a decision as to whether or not it should be designated in accordance with Ontario Regulation 9/06.
- The Committee proposes that the 90-day time period begin when a municipal heritage committee is made aware of an application. This allows for processing time for planning staff that is more in line with how municipalities function on a day to day basis. An outline of an ideal scenario designation resultant from a Planning Act application is attached. This change in when the 90-day time period begins would allow a buffer that takes into account how municipal administration

function and the new need for municipal heritage committees to closely monitor all incoming planning applications.

- It is not clear as to what the inability of Council to consult with its municipal heritage committee means. The Committee recommends that this scenario be more clearly defined in the regulations for clarity and consistency across different municipalities.
- The Committee recommends that there be additional exceptions which allow the 90-day period to be extended. These include:
  - Request for an extension to undertake research and analysis by the Municipal Heritage Committee
  - Holidays and recesses where Council and the Municipal Heritage Committee does not meet on their regular schedule
  - Municipal election periods

## **Section 5: Mandatory Content for Heritage Designation By-laws**

### Subsection 5(1)1 Requirements

- In general, the listed requirements contain contradictory requests, particularly with regard to fully explaining the cultural heritage value of a property, but also requesting brevity in that description. In particular, it is problematic that the description of heritage attributes be brief, but also that they fully explain how each attribute supports the cultural heritage value of a property.
- The requirement that the heritage attributes is brief does not consider that many sites, particularly cultural heritage landscapes, are complex and require significant identification of heritage attributes in order to identify the features that make a property unique and which contribute to its cultural heritage value.
- The Committee would propose that the requirement for brevity be removed to fully allow the heritage attributes of a property to be identified. This not only assists in the preservation of heritage properties but also allows for clarity for both property owners and municipalities by being clear, open and transparent about the full scope of what makes a property unique and worthy of preservation.
- The inclusion of a scale drawing or site plan is redundant when the heritage attributes of a property are included as part of the description of the property. It also places an addition burden on municipal staff when drafting and presenting designation by-laws. The Committees advises that this requirement be removed.
- The identification of non-heritage features is not necessary as part of a designation by-law and could provide confusion in by-laws. The Committee advises that this requirement be removed.

## **Section 8: Prescribed Information and Material**

### Subsection 8(6) Service of Application on a Municipality

- There is a lack of clarity with regard to the requirement of a municipality to respond to an applicant within 60 days of serving an application on the municipality and to deem it complete. While this timeline is realistic for applications which are complete when they are submitted, there is no clarity regarding the timeline and its application when an incomplete application is submitted. Particularly if a complex application is submitted and is missing documentation such as a heritage impact assessment or engineering report, 60 days from initial submission is not sufficient time for a municipality to review an application, request the submission of additional documentation from an applicant, the applicant to complete the required documentation, and resubmission and review.
- The Committee recommends that additional details be added to the regulations to clarify the above noted scenario and to identify if and when the 60-day timeframe stops and/or restarts in the case of an incomplete application.

## **Section 10-19: Record of Decision**

- The Committee is not opposed to the establishment of a clear set of guidelines regarding a record of decision and the provision of documents to the LPAT.
- However, the Committee is opposed to the LPAT as the appeals body for heritage designations and heritage permit applications for individually designated properties, as opposed to the Conservation Review Board. Unlike the CRB, which is made up of individuals with specific heritage knowledge and experience, the LPAT does not have the requisite experience on heritage matters to make judgements in these cases.
- The Committee is also concerned that the fact that the LPAT's decisions are binding on these matters removes decision making power from local Councils who know and understand their local areas and its heritage.
- The Committee requests that the amendments to the Ontario Heritage Act made under Bill 108 be reopened and revisited to address the appeals process for individually designated properties.