



Cataraqui
conservation

Full Authority Board Hearing Procedures 101

December 7, 2022

Presentation Outline

- Ontario Regulation 148/06 Overview
- Legislative Context for Hearings
- Board Roles and Responsibilities
- Pre-Hearing Procedures
- What to Expect
- Hearing Do's and Don'ts
- The Closed Session
- Further Appeal Rights
- Questions?



Ontario Regulation 148/06 Overview

Cataraqui Conservation Regulates:

- Development in river or stream valleys, wetlands, shorelines and hazardous lands and associated allowances;
- The straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream, watercourse or for changing or interfering in any way with a wetland.

Tests:

- In order to permit development:
 - *must be demonstrated in an application that the control of flooding, erosion, pollution, dynamic beaches or the conservation of land will not be affected.*
- In order to permit interference with a wetland:
 - *must be demonstrated in an application that the interference to the wetland is acceptable in terms of the natural features and hydrologic and ecological functions of the wetland*

Legislative Context for Hearings



Figure 1: Hierarchy of Legislation and Policies

Board Roles and Responsibilities

- Hearing Board is acting as a **decision-making tribunal**
- Tribunal is to act fairly (procedural rights)
- Tribunal is obliged not only to avoid any bias but also to avoid the *appearance* or *reasonable apprehension* of bias
- Members to act in accordance with CA's Code of Conduct & Conflict of Interest Policy
- Different role from Municipal Council or Planning Committee

What Can the Board Consider?

CAN

- Five Tests

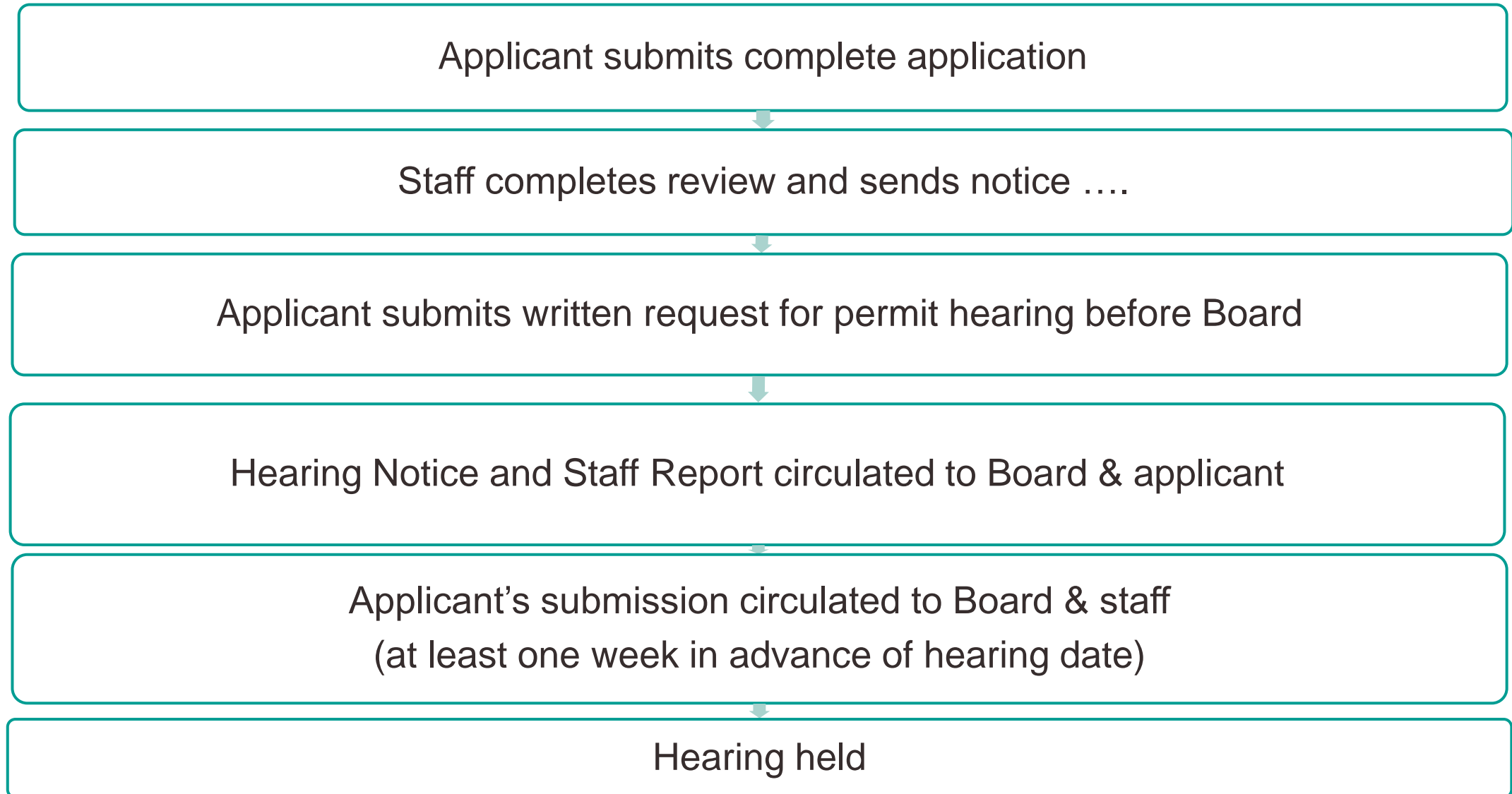
(Flooding, Erosion, Pollution, Dynamic Beaches & Conservation of Land)

- Consistency with Guidelines
- Precedent
- Risk to Authority

CANNOT

- Planning Principle
- Zoning Compliance
- Noise, Traffic, Visual Impacts
- Matters subject to provincial or federal approval

Application Process & Pre-Hearing Procedures



What to Expect

1. Chair's opening remarks
2. Staff presentation
3. Question break (staff's presentation)
4. Applicant presentation
5. Question break (applicant's presentation)
6. Final remarks from staff & applicant
7. Move into closed session to deliberate
8. Rise and report
9. Adjournment



Hearing Do's and Don'ts

Hearing Do's

- Declare conflict of interest
- Take notes during the presentations
- Hold questions until after each of the presentations
- Direct questions through the Chair
- Remain neutral during the presentations in open session

Hearing Don'ts

- Do not converse with staff or the applicant about the proposal prior to a hearing
- Do not interrupt a presentation to ask a question
- Try not to provide an opinion on the merits of a proposal during the open session of the hearing

The Closed Session

- The decision is made in closed session
- Open discussion of proposal merits / policy implications
- Decision Options:
 1. Approval of the permit
 2. Approval of the permit with conditions
 3. Refusal of the permit

*Hearing Board can elect to adjourn and reconvene at a later date
- A written decision notice is provided to the applicant that includes:
 1. The identification of the applicant, property and the nature of the application that was the subject of the hearing.
 2. The decision to refuse permission or approve the application with or without conditions.



Further Appeal Rights

- An applicant who has been refused permission by the Board, or objects to conditions imposed on a permission may, within 30 days of receiving the written notice of the hearing decision, appeal to the Minister of Northern Development, Mines, Natural Resources and Forestry.
- Ontario Land Tribunal has delegated authority from the Minister to hear appeals.
- Ontario Land Tribunal decision is final and binding.

Thank You

Questions?

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