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c 20 Consolidated Hearings Act, 1981

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CHAPTER 20

An Act to provide for the Consolidation of Hearings under certain Acts of the Legislature

Assented to July 3rd, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “establishing authority” means the chairmen or vice-chairmen of the Environmental Assessment Board and the Ontario Municipal Board, as provided in section 4;
- (b) “Hearings Registrar” means the Hearings Registrar under this Act;
- (c) “joint board” means a joint board established under this Act;
- (d) “joint board hearing” means a hearing under this Act by a joint board;
- (e) “municipality” means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization;
- (f) “person” includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of the *Crown Agency Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association;
- (g) “proponent” means a person who carries out or proposes to carry out or is the owner or person having charge, management or control of an undertaking;

R.S.O. 1980,
c. 106

- (h) "regulations" means regulations made under this Act;
- (i) "tribunal" means one or more persons, whether or not incorporated and however described, upon whom a power, right or duty to hold a hearing is conferred by or under an Act;
- (j) "undertaking" means an enterprise or activity, or a proposal, plan or program in respect of an enterprise or activity.

Application
of Act

2. This Act applies in respect of an undertaking in relation to which more than one hearing is required or may be required or held by more than one tribunal under one or more of the Acts set out in the Schedule or prescribed by the regulations.

Notice of
undertaking

3.—(1) The proponent of an undertaking to which this Act applies shall give written notice to the Hearings Registrar.

Contents
of notice

(2) A notice under subsection (1) must specify the general nature of the undertaking, the hearings that are required or that may be required or held, and the Acts under which the hearings are required or may be required or held.

Application
to
Divisional
Court

(3) Upon application by originating notice by any person who is or may be affected by an undertaking mentioned in subsection (1), the Divisional Court may order the proponent of the undertaking to give to the Hearings Registrar the written notice required by subsection (1).

Application
of subs. (3)

(4) Subsection (3) does not apply before a day to be named by proclamation of the Lieutenant Governor.

Joint board

4.—(1) Upon receipt of notice in accordance with section 3, the Hearings Registrar shall refer the matter to the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board.

Establish-
ment

(2) Where a matter is referred under subsection (1), the chairman of the Environmental Assessment Board and the chairman of the Ontario Municipal Board together by order shall establish the joint board and together shall determine the composition of the joint board.

Idem

(3) Where either of the chairmen mentioned in subsection (2) is unable to act or the office of chairman is vacant, a vice-chairman of the board shall act as and have all the powers of the chairman for the purposes of this Act.

(4) The joint board shall be composed of one or more members of either or both of the Environmental Assessment Board and the Ontario Municipal Board. Composition

(5) The establishing authority may change the composition of a joint board that has not commenced to hold a hearing. Change of composition

(6) The establishing authority by order, Appointment of members, chairman and vice-chairman

(a) shall appoint the members of the joint board; and

(b) shall appoint the chairman and may appoint a vice-chairman of the joint board from the members of the joint board.

(7) Where the chairman of a joint board is absent or unable to act or the office of chairman is vacant, the vice-chairman of the joint board shall act as and have all the powers of the chairman. Authority of vice-chairman

(8) Where a joint board commences to hold a hearing under this Act and the term of office on the Environmental Assessment Board or the Ontario Municipal Board of a member sitting for the joint hearing expires or is terminated before the proceeding is disposed of, the member shall remain a member of the joint board for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of membership

(9) A majority of the members of a joint board constitutes a quorum of the joint board, but where a vacancy occurs in the membership of a joint board the establishing authority by order, Quorum

(a) may confirm the existence of the vacancy; and

(b) may establish the number of members that constitute a quorum of the joint board.

(10) The decision of a majority of the members of a joint board presiding at a hearing is the decision of the joint board. Decision

(11) The joint board has the authority and the duty, Powers of joint board

(a) to hold a hearing in respect of and to consider the matters that could be considered at the hearings specified in the notice to the Hearings Registrar under section 3; and

(b) to make and issue a decision in respect of matters considered by the joint board.

Hearing

5.—(1) The joint board shall appoint a time and place for and shall hold a public hearing in respect of the matters in relation to which a hearing is required or may be required or held as specified in the notice to the Hearings Registrar under section 3.

Decision

(2) The joint board may make any decision that might be made by a tribunal that has a power, right or duty to hold a hearing in respect of which the joint board hearing was held or that might be made by any body or person after the holding of the hearing including but not limited to the granting of any authority or directing the granting or issuing of a permit or licence and the imposition of terms and conditions.

Deferral

- (3) A joint board may defer any matter or part of any matter,
- (a) to be heard and decided under this Act by the joint board or another joint board at another date; or
 - (b) to be decided by the tribunal, body, or person that, but for this Act, would have a power, right or duty to deal with the matter or part under any Act set out in the Schedule or prescribed by the regulations.

Idem,
terms, etc.

- (4) Where a joint board defers a matter or part of a matter under subsection (3),
- (a) the joint board may impose such terms and conditions or give such directions, or both, in respect of the proceedings or the matter or part deferred as the joint board considers proper;
 - (b) the joint board may direct that the matter or part deferred be decided without a hearing if, in the opinion of the joint board, the matter or part is not in controversy; and
 - (c) the joint board, tribunal, body or person to whom the matter or part is deferred has power to decide the matter or part in accordance with such terms, conditions and directions.

Idem,
application
of Act

(5) Where a matter or part of a matter is deferred under subsection (3) to another joint board, this Act applies with necessary modifications in respect of the matter or part and, for the purpose, the matter or part deferred shall be deemed to be an undertaking mentioned in section 3.

Where
hearing not
required

(6) A joint board may make any decision mentioned in subsection (2) without holding a hearing if the joint board is satisfied that in the circumstances a hearing would not be required or would be dispensed with under the Act specified in the Schedule

or prescribed by the regulations that, but for this Act, would apply in respect of the undertaking.

(7) The standards and criteria in or under an Act specified in a notice under section 3 that relate to the undertaking specified in the notice apply with necessary modifications in respect of a decision that may be made by a joint board under this Act. Standards and criteria

6.—(1) A proponent who does not intend to proceed with an undertaking may withdraw the notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing. Withdrawal of notice

(2) Upon application with notice, a joint board that is satisfied that a proponent does not intend to proceed with an undertaking by order may permit the proponent to withdraw the notice given under section 3 in respect of the undertaking, subject to such terms and conditions as the joint board considers proper in the circumstances. Idem

(3) A proponent may amend an incorrect or incomplete notice given under section 3 by written notice to the Hearings Registrar before the commencement of the joint board hearing. Amendment of notice by proponent

(4) A joint board may amend a notice given under section 3 on motion by a person entitled to take part in the proceedings or on its own initiative after the commencement of the joint board hearing and in so doing may impose such terms and conditions and give such directions as the joint board considers proper. Amendment of notice by joint board

7.—(1) Subject to subsection (2) and to any rule of conduct or practice or procedure prescribed by the regulations, the notices and the documents that would be required to be given or filed in respect of a hearing by a tribunal shall be given or filed, as the case may be, in the same manner in respect of the joint board hearing by the joint board established in respect of the hearing. Notices and filing of documents

(2) Upon application without notice, a joint board may change the requirements as to filing of documents or giving of notice in respect of any hearing in respect of which the joint board has been established if the joint board is satisfied that the change will facilitate the joint board hearing and is not unfair to any person entitled to be heard at or to attend the joint board hearing. Modification of requirements

(3) Subject to this Act and the regulations, a joint board may determine its own practice and procedure. Practice and procedure

- Costs (4) A joint board may award the costs of a proceeding before the joint board.
- Payment (5) A joint board that awards costs may order by whom and to whom the costs are to be paid.
- Taxation (6) A joint board that awards costs may fix the amount of the costs or direct that the amount be taxed, the scale according to which they are to be taxed and by whom they are to be taxed.
- Parties **8.**—(1) A person entitled to be heard at a hearing or to take part in proceedings before a tribunal that has a power, right or duty to hold a hearing in respect of which a joint board has been established has the same entitlement in respect of the proceedings before the joint board.
- Ministers entitled to take part in proceedings (2) Any minister of the Crown in right of Ontario is entitled, by counsel or otherwise, to take part in proceedings before a joint board.
- Joint board may appoint class representative (3) Upon application by a party other than the proponent, a joint board may, from among a class of parties having a common interest, recognize a person as representing the class, but any other member of the class may, with the consent of the joint board, take part in the proceedings notwithstanding the appointment.
- Additional parties (4) A joint board may specify additional persons who shall be parties to proceedings before the joint board.
- Sittings **9.**—(1) A joint board shall sit at such times and places as the chairman of the joint board may designate and, for the purposes of proceedings before it, the joint board may sit jointly either within or outside Ontario with any tribunal established under the law of another jurisdiction.
- Use of court house (2) Subject to the needs of the Supreme Court, a joint board has the same right as a judge of the Supreme Court with respect to the use of the court house in a municipality for a sitting of the joint board.
- Use of town hall (3) Where there is no court house in a municipality but there is a hall in the municipality belonging to the corporation of the municipality, a joint board has the right to use the hall for a sitting of the joint board and the corporation of the municipality shall make all arrangements necessary for the purpose.
- Expert assistance **10.** A joint board may appoint from time to time one or more persons having technical or special knowledge of any matter to

inquire into and report to the joint board and to assist the joint board in any capacity in respect of any matter before it.

11.—(1) A joint board may state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the joint board, is a question of law. Stating case for opinion

(2) The Divisional Court shall hear and determine the stated case and remit it to the joint board with the opinion of the Divisional Court thereon. Action thereon

12.—(1) A joint board may rehear all or part of any matter before issuing its decision in the proceedings before it. Rehearing

(2) Upon application, the establishing authority may re-establish a joint board where the establishing authority is of the opinion that part of the decision of the joint board requires clarification, and the re-established joint board may amend its decision in order to clarify the part and may rehear any part of the matter it considers necessary before making the amendment. Amendment of decision

(3) No member of a joint board shall participate in a decision of the joint board following upon a joint board hearing unless he was present throughout the joint board hearing and heard the evidence and argument of the parties. Only members at hearing to participate in decision

(4) A joint board shall give a copy of its decision and written reasons therefor to, Giving of decision

(a) the proponent;

(b) any person appointed under subsection 8 (3) to represent a class of parties to the proceedings;

(c) any other party to the proceedings who took part in the proceedings before the joint board;

(d) the member of the Executive Council responsible for the administration of any Act in respect of which the decision is made; and

(e) such other persons as the joint board may specify.

(5) In determining the persons, if any, to specify under clause (4) (e), the joint board shall take into consideration the persons who would have been entitled to notice of a decision by a tribunal or any other body or person that, but for this Act, would have a power, right or duty to hold a hearing or make a decision after a hearing in respect of the undertaking. Idem

13.—(1) Upon application, the Lieutenant Governor in Council by order, Powers of Lieutenant Governor in Council

- (a) may confirm, vary or rescind all or any part of a decision of a joint board;
- (b) may substitute for the decision of a joint board such decision as the Lieutenant Governor in Council considers appropriate; or
- (c) may require a joint board or a different joint board to hold a new hearing as to all or any part of the matters in respect of which the joint board was established.

Who may apply

(2) An application under subsection (1) may be made by any person entitled to be heard at or to take part in proceedings before the joint board.

Time for application

(3) An application under subsection (1) must be made within twenty-eight days after the day the decision or amended decision, as the case may be, of the joint board is issued.

Where member unable to act on new hearing

(4) Where the Lieutenant Governor in Council by order requires a joint board to hold a new hearing under this Act and one or more of the members of the joint board is unable to participate in the proceedings, the establishing authority by order shall appoint a member of the Environmental Assessment Board or the Ontario Municipal Board, as the case requires, in the place of the member unable to participate.

New hearing by different joint board

(5) Where the Lieutenant Governor in Council by order requires a different joint board to hold a new hearing under this Act, the establishing authority shall establish the joint board in accordance with section 4 and the joint board shall hold the new hearing in accordance with the order.

Interpretation

(6) A decision by a tribunal, body or person mentioned in section 5 shall be deemed to be a decision by a joint board.

When decision final

14. A decision of a joint board becomes final,

- (a) where no application is made to the Lieutenant Governor in Council under section 13, with the expiry of the twenty-eighth day after the issuance of the decision;
- (b) where an application is made to the Lieutenant Governor in Council under section 13 and,
 - (i) the joint board is required to hold a new hearing, when the joint board issues its decision following upon the new hearing, or

- (ii) the joint board is not required to hold a new hearing, upon the disposition of the application by the Lieutenant Governor in Council.

15.—(1) Where a hearing is required or may be required or held under any Act set out in the Schedule or prescribed by the regulations and a joint board makes a decision in respect of the hearing, subject to section 13,

Effect of joint board hearing and decision

- (a) the joint board decision stands for all purposes in place of the hearing;
- (b) the decision of the joint board stands for all purposes in place of any decision, order or action that is required or may be made or taken by the tribunal that has a power, right or duty to hold the hearing or by any other body or person after the holding of the hearing; and
- (c) no proceedings shall be taken by way of appeal in respect of the hearing or the decision except in accordance with this Act.

(2) An application for judicial review under the *Judicial Review Procedure Act*, or the bringing of proceedings specified in subsection 2 (1) of that Act, is not an appeal within the meaning of clause (1) (c).

Judicial review
R.S.O. 1980,
c. 224

16.—(1) There shall be a Hearings Registrar appointed by the Lieutenant Governor in Council.

Hearings Registrar

(2) The Hearings Registrar is the registrar of each joint board and is responsible for,

Duties

- (a) assisting in the establishment and operation of each joint board; and
- (b) such other duties as may be prescribed by the regulations or assigned to him by or under any other Act.

17. The Hearings Registrar shall not be required and no member or appointee of a joint board shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the discharge of his duties as Hearings Registrar or as a member or appointee of the joint board.

Testimony by member or appointee of joint board

18. Where a person is prohibited under any Act set out in the Schedule or prescribed by the regulations from disclosing information but is permitted to disclose the information in or for the purpose of proceedings under that Act, the person may disclose the information in or for the purposes of the proceedings of a joint board under this Act.

Disclosure of information

Regulations

19.—(1) The Lieutenant Governor in Council may make regulations,

- (a) for the conduct of and governing practice and procedure of joint board proceedings;
- (b) prescribing forms and providing for their use;
- (c) requiring the payment of fees in respect of proceedings before joint boards and prescribing the amounts thereof;
- (d) prescribing any matter referred to in this Act as prescribed by the regulations;
- (e) exempting any undertaking or class of undertakings or any hearing or class of hearings from the application of this Act or the regulations or any portion or section of this Act or the regulations, and prescribing conditions that shall apply to any such exemption.

Application of
R.S.O. 1980,
c. 446

(2) The *Regulations Act* does not apply to an order or decision under any other section of this Act.

Hearings
under
certain Acts

20.—(1) Where a proponent of an undertaking gives notice under section 3 to the Hearings Registrar, no person acting under any Act specified in the Schedule or prescribed by the regulations shall hold in respect of the undertaking a hearing specified in the notice or in any amendment to the notice.

Exception
where notice
withdrawn

(2) Subsection (1) does not apply where the notice under section 3 is withdrawn in accordance with section 6.

Other
proceedings

21. Nothing in this Act shall be construed to prevent a hearing or other proceeding under any other Act in respect of any matter not determined in a decision or order under this Act.

Service

22.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given or served if delivered personally or sent by prepaid mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the Hearings Registrar.

Idem

(2) Where notice is given or service is made by prepaid mail, the giving or service shall be deemed to be made on the seventh day after the day of mailing unless the person to whom notice is given or on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice, order or other document until a later date.

(3) Where a joint board is of the opinion that because the persons who are to be given any notice or document under this Act are so numerous, or for any other reason it is impracticable to give the notice or document to all or any of the persons individually, the joint board may instead of doing so cause the notice or reasonable notice of the contents of the document to be given to the persons by public advertisement or otherwise as the joint board may direct, and the date on which such notice or reasonable notice of the contents of the document is first published or otherwise given as directed, shall be deemed to be the date on which the notice or document is given.

Public
notice

(4) A decision of a joint board shall be deemed to be issued on the day that a copy of the decision is delivered personally or is sent by prepaid mail or is given under subsection (3) to the last of the persons mentioned in subsection 12 (4).

Decision
of joint
board

23. This Act binds the Crown.

Crown

24.—(1) This Act does not apply in respect of an undertaking in relation to which, before the day referred to in section 3, a hearing has been commenced under an Act set out in the Schedule or prescribed by the regulations.

Transitional

(2) Notwithstanding subsection (1), the tribunal holding the hearing mentioned in subsection (1), upon application with notice by a party to the proceedings, may order the proponent of the undertaking to give to the Hearings Registrar the written notice mentioned in subsection 3 (1).

Application
and order

(3) Upon the making of the order, this Act applies in respect of the undertaking.

Effect
of order

(4) Subsection (1) does not apply if the hearing has been completed before the day referred to in subsection (1), whether or not a decision has been made or issued following upon the hearing.

Exception

(5) Where a hearing mentioned in subsection (1) has been completed before the date referred to in subsection (1), and more than one further hearing is required or may be required or held under one or more of the Acts set out in the Schedule or prescribed by the regulations, the proponent may give to the Hearings Registrar the written notice mentioned in subsection 3 (1).

Notice by
proponent

(6) Where the proponent of an undertaking gives notice under subsection (5), this Act applies in respect of the undertaking.

Effect of
notice

25. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

26. The short title of this Act is the *Consolidated Hearings Act, 1981*.

SCHEDULE

Environmental Assessment Act

Environmental Protection Act

Expropriations Act, sections 6, 7 and 8

Municipal Act

Municipality of Metropolitan Toronto Act, subsection 66 (4)

Niagara Escarpment Planning and Development Act

Ontario Municipal Board Act

Ontario Water Resources Act

Parkway Belt Planning and Development Act

Planning Act

Regional Municipality of Ottawa-Carleton Act, subsection 181 (9)

Regional Municipality of York Act, subsections 169 (3) and (9)