

MEMO / NOTE DE SERVICE

To / Destinataire Mayor Watson and Members of Council File/N° de fichier:

From / Expéditeur M. Rick O'Connor
City Clerk

Subject / Objet Ottawa Ward Boundary Review 2020 – Date: March 16, 2021
Public Notice and Appeals Update

This memorandum provides Members of Council with information regarding the outcome of the statutory public notice and appeal period for the recently enacted by-law to establish new ward boundaries and Council composition for the City of Ottawa in the 2022-2026 Term of Council, further to the [Ottawa Ward Boundary Review 2020](#).

As described below in more detail, the City received two notices of appeal during the public notice and appeal process that followed Council's enactment on January 27, 2021, of [By-law No. 2021-3](#).

Pursuant to requirements under the *Municipal Act, 2001* (the Act), the City will forward the notices of appeal to the Local Planning Appeal Tribunal (LPAT). Legal Services will approach the LPAT for the earliest possible hearing date with the aim of ensuring that any new ward boundaries will take effect for the 2022 Municipal Elections. Some additional information follows.

Background

On January 27, 2021, Council enacted By-law No. 2021-3, being "A by-law of the City of Ottawa to establish ward boundaries and Council composition." The by-law is to take effect for the 2022-2026 Term of Council and would implement a new ward boundary structure composed of 24 wards, with 12 urban wards, nine suburban wards and three rural wards.

As described in the staff report titled, "[Ottawa Ward Boundary Review 2020 – Recommendations Report](#)," which Council considered on December 9, 2020, the Act provides for a 45-day period in which appeals of a ward boundary by-law may be made to the LPAT through the City. Specifically, Subsection 222(4) of the Act provides that "the Minister or any other person or agency may appeal to the Local Planning Appeal Tribunal by filing a notice of appeal with the municipality setting out the objections to the by-law and the reasons in support of the objections."

The Act required the City to provide public notice specifying the last date for filing a notice of appeal within 15 calendar days after Council enacted the by-law [i.e. by February 11, 2021].

Furthermore, the City must forward any notices of appeal to the LPAT within 15 calendar days after the last day for filing a notice of appeal [i.e. by March 30, 2021].

In accordance with the above-noted statutory requirements, the City on January 28, 2021, provided public notice on ottawa.ca regarding the enactment of By-law No. 2021-3. The public notice specified the last date for filing an appeal as March 15, 2021.

The City received two notices of appeal during the appeal period. The notices of appeal will be forwarded to the LPAT no later than March 30, 2021.

Summary of Appeals

Two notices of appeal were received with respect to [By-law No. 2021-3](#):

1. The Overbrook Community Association filed a notice of appeal relating to the ward boundaries between the current Ward 13 and Ward 12 ([Schedule A-16](#) and [Schedule A-17](#)). Finance and Economic Development Committee (FEDCO) [meeting of December 1, 2020](#), which moved the southern boundary between the wards from McArthur Avenue to Donald Street, with the eastern boundary remaining Rue de L'église but extending west on McArthur Avenue and south on Brant Street to Donald Street.
 - The notice of appeal objects to the by-law on the grounds that the City “failed to provide a meaningful opportunity for public input on the design of the ward boundary and the ability to comment on various ward options.”
 - The notice also alleges that the ward boundary change “fails to achieve effective representation by placing undue emphasis on the Natural/Physical boundaries component to the detriment of the Geographic Communities of Interest component.”
 - The community association seeks an order amending [By-law No. 2021-3](#), specifically regarding the ward boundaries between the current Ward 13 and Ward 12 set out in Schedule A-16 and Schedule A-17.
2. The Old Ottawa East Community Association filed a notice of appeal relating to the ward boundaries between the current Ward 17 and Ward 12 ([Schedule A-19](#) and [Schedule A-17](#)), and specifically the “transfer” of the uOttawa Lees Avenue campus from Ward 17 to Ward 12.
 - The notice of appeal notes that the transfer arose late in the public consultation process, and objects to the by-law on the grounds that the transfer will adversely affect population parity, undermine the community of interest in the area, and result in an inferior geographical/physical boundary between wards.
 - The notice also alleges that the transfer “undermines the public interest and public trust in ensuring that municipal governments make decisions based on complete and accurate information.”
 - The community association appears to seek an order that would amend the by-law (such as to return the uOttawa Lees Avenue campus to Ward 17 from Ward 12).

Next steps

The City is required to provide any the documentation that the LPAT requires in connection with the appeal, pursuant to Subsection 222(6) of the Act. Subsection 222(7) of the Act provides that the LPAT “shall hear the appeal and may, despite any Act, make an order affirming, amending or

repealing the by-law.” The LPAT has typically given priority to appeals of Ward Boundary By-laws to ensure that they are heard in a time frame to be effective for the subsequent election.

As described in the above-noted staff report, Legal Services will approach the LPAT for an earliest possible hearing date. Staff anticipate an LPAT hearing date will occur no later than Q3 2021.

Provided that any decision made by the LPAT occurs before January 1, 2022, it is anticipated that any new ward boundaries would be in effect for the October 2022 Municipal Elections. If the LPAT decision occurs after January 1, 2022 (and does not repeal the by-law), any new ward boundaries would come into force for the 2026 Municipal Elections.

A decision of LPAT is subject to appeal, with leave of the Court, to Divisional Court. Provided that the LPAT has issued an order before January 1, 2022, it would continue to be possible for the new ward boundaries to come into effect if leave to appeal is not granted or the appeal is dismissed. Should leave to appeal be sought, Legal Services would seek to have such dealt with on an expedited basis.

Staff estimate the cost of a typical appeal to the LPAT to be approximately \$15,000 to \$75,000, depending on the nature and potential complexity of the proceedings. Legal services to defend the LPAT appeal and any court appeal are to be covered through municipal in-house lawyers.

Further updates will be provided to Members of Council as the LPAT process proceeds. Please contact my Office if you have any questions.

M. Rick O'Connor
City Clerk