RMA
RURAL MUNICIPALITIES of ALBERTA

RMA Report: Development Hearings at the Land and Property Rights Tribunal

June 2025

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Executive Summary

Beginning in 2024, RMA members began to raise concerns about the Land and Property Rights Tribunal (LPRT), particularly regarding the tribunal's handling of development-related appeals. While the LPRT was designed to provide consistent, expert, and timely dispute resolution, rural municipalities reported that its processes were inefficient, inconsistent, and overly burdensome. In response, RMA convened a member working group to engage with the LPRT, review tribunal decisions, and analyze how its operations impact municipal governments.

Based on engagement with the member working group, research of guiding legislation and LPRT policies, and multiple discussions with LPRT leadership, this report focuses on three key issues in development hearings before the LPRT:

- the high cost to municipalities of participating in LPRT hearings,
- the inconsistent application of rules and procedures, and
- the tribunal's frequent failure to meet legislated timelines.

What RMA learned was that the LPRT lacks effective gatekeeping tools to prevent frivolous or out-of-scope appeals, is reticent to bifurcate hearings to resolve preliminary issues, and inconsistently applies discretionary procedural and evidentiary rules. These challenges delay and introduce uncertainty for developers and municipalities, undermine municipal autonomy, and result in the significant expenditure of municipal resources where it may not be necessary.

To address these concerns, RMA proposes several targeted reforms in this report, including:

- Requiring automatic preliminary hearings
- Implementing appeal filing fees
- Increasing the use of costs awards
- Creating stricter procedural rules to enhance consistency
- Increasing the specificity regarding circumstances and procedures for re-hearings
- Clarifying jurisdiction of LPRT
- Implementing stricter and more realistic timelines

Should these changes be implemented, it would ensure that the LPRT better serves its intended role as an efficient, fair, and consistent forum for resolving land and development disputes.

Introduction

The Land and Property Rights Tribunal (LPRT) was established under the *Land and Property Rights Tribunal Act* by amalgamating the former Land Compensation Board, Municipal Government Board, New Home Buyer Protection Board, and Surface Rights Board.

The LPRT plays a critical role in Alberta's municipal development and land use planning framework and is responsible for providing quasi-judicial and alternative dispute resolution services related to conflicts and appeals under several provincial acts, including appeals of municipal land use decisions under the *Municipal Government Act* .[1]

While the LPRT was designed to offer consistent, expert, and expedient dispute resolution, some of Alberta's rural municipalities reached out to RMA and raised concerns about its current functioning and operation, and what they perceived as unreasonable barriers and costs associated with participating in hearings. These concerns ranged from the amount of municipal resources required to participate in LPRT hearings to systemic issues and delays that undermine both the LPRT's stated goal of expediency and the practical needs of municipal governments.

In response, RMA set up a small working group of municipal members, researched LPRT decisions, and met twice with the LPRT itself, with the end goal of identifying issues and solutions. This report reflects the perspectives of RMA members and synthesizes an analysis of tribunal decisions, legislative context, member engagement, and direct engagement with the LPRT. It is structured to provide a clear understanding of the LPRT's operations, outline the issues municipalities face, and recommend improvements that would enhance fairness, efficiency, and certainty in the development appeal process.

[1] Land and Property Rights Tribunal (2021). *Land and Property Rights Tribunal Mandate and Roles document.* Retrieved from: https://open.alberta.ca/dataset/58f07c9a-d173-4c49-83c2-26bf5c3bc92a/resource/1d3fa0d3-fbe4-4958-98c6-24c7965297ae/download/ma-lprt-mandate-and-roles-document-2021-12.pdf

Overview of the Land and Property Rights Tribunal

Jurisdiction

The LPRT's jurisdiction is outlined in s. 488 of the *Municipal Government Act* (MGA) and s. 5 of the *Land and Property Rights Tribunal Act* (LPRT Act). The legislation provides that the LPRT has jurisdiction to hear a broad range of matters, including, among others:

- Complaints about designated industrial property assessments and equalized assessments
- Housing management disputes
- Annexation and expropriation appeals
- Disputes involving regional services commissions
- Surface rights appeals
- *New Home Buyer Protection Act* appeals
- Subdivision and development appeals[2]

Subdivision and Development Appeal Process

While rural municipalities interact with many aspects of the LPRT's operations, they have primarily experienced issues with development-related hearings, including both subdivision and development permit appeals brought by landowners, developers, or affected parties, on a frequent enough basis to reach out to RMA with concerns. Subdivision and development hearings can significantly affect land use planning, infrastructure investments, and long-term growth patterns in rural Alberta.

If a local development authority (DA) makes a decision about a subdivision or development application, such as refusing to issue a development permit to a person, issuing a development permit that is subject to conditions, or issuing a stop order under s. 645 of the MGA, the person may appeal the decision to the LPRT only if the land that is the subject of the application is the subject of a licence, permit, approval, or other authorization granted by the Natural Resources Conservation Board (NRCB), Alberta Energy Regulator (AER), or the Alberta Utilities Commission (AUC).[3] In other cases without these provincial connections, the matter must be appealed to the local subdivision and Development Appeal Board (SDAB).[4] For all DA decisions, the DA must state whether an appeal lies to a subdivision and development appeal board or to the LPRT.

Members have identified three core themes in their experiences and interactions with the LPRT during development appeals: high expenses, consistent inconsistencies, and systemic delays. These themes are explored in detail below.

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[2] *Municipal Government Act*, s. 488

[3] Ibid, s. 685(2.1)(a)

[4] Ibid, s. 685(2.1)(b)

The Rural Municipal Experience: Development Hearings at the LPRT

Core Theme 1: Municipal Expenses

Participating in LPRT appeals and other hearings carries a significant cost for municipalities for several reasons, explained in detail in this section.

Firstly, the LPRT lacks enforceable "gatekeeping measures" at the administrative level to prevent vexatious, frivolous, or other ineligible matters from reaching the tribunal. While some mechanisms do exist, they are superseded by the Appellant's ability to contest administration's findings, at which time the matter is generally scheduled for a merit hearing.

Secondly, LPRT hearings are seldom bifurcated into preliminary and merit hearings. Due to the rapid timelines in the MGA and LPRT Rules, most matters are scheduled for merit hearings irrespective of any preliminary issues; this forces municipalities to prepare extensively to argue issues of merit that may never be discussed or that were ultimate irrelevant to the tribunal's analysis.

These two issues, combined with somewhat excessive document submission requirements imposed on municipalities through the LPRT's Rules and governing legislation, lead to significant legal fees and the expenditure of both municipalities and developers' resources, including time and manpower.

Gatekeeping

In this report, "gatekeeping measures" could be described as methods by which the Tribunal could control or limit access to the dispute resolution process for people who should not be making appeals or whose appeals are deficient. 80 subdivision and development appeals were filed with the LPRT in 2023-2024.[5]

Application or Filing Fees

Application fees are another method of controlling who can bring an appeal to the LPRT. Charging a cost up front, even a nominal one, forces the appellant to consider their position and if expending funds on an appeal is worthwhile.

Local Subdivision and Development Appeal Boards (SDABs) are permitted to charge filing fees that vary by municipality; some are relatively affordable, such as the City of Edmonton's $100 filing fee[6], whereas others are relatively expensive, such as St. Albert's $3,837 subdivision appeal fee and $237 development appeal fee.[7] At the LPRT, there are no fees for subdivision or development appeals.

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[5] Ministry of Municipal Affairs (2024). *2023-2024 Municipal Affairs Annual Report*, page 74. Retrieved from: https://open.alberta.ca/dataset/2c12785f-b426-44dc-aea5-f4be2e8f97ec/resource/98ac18ed-79f9-44f3-8a6b-9d68690f54b3/download/ma-annual-report-2023-2024.pdf

[6] Edmonton Tribunals (2025). *Filing a Subdivision or Development Appeal: How to File.* Retrieved from: https://edmontontribunals.ca/subdivision-and-development-appeal-board/filing-subdivision-or-development-appeal

[7] City of St. Albert (January 1, 2025). *Schedule F to Master Rates Bylaw 1/82, Subdivision & Development Appeal Fees*. Retrieved from: https://stalbert.ca/site/assets/files/35951/schedule_f_-_subdivision_and_development_appeal_fees_-_final.pdf

This means that any person may file a subdivision or development appeal with the LPRT for free, even if the person does not have standing, are clearly out of time, or where the matter is clearly out of the LPRT's jurisdiction. In these circumstances, the municipality would be forced to spend time, money, and resources preparing for a hearing that may be totally out of scope.

LPRT Administration

When an appeal is filed, the LPRT Case Manager (CM) vets the appeal, as CMs serve as the first point of contact at the Tribunal; if an appeal is filed out of time or is otherwise deficient, it can be rejected by the CM. However, rules 7.3 and 8.2 of the LPRT's *Subdivision and Development Appeal Procedure Rules* (the *LPRT Rules*) provide that if the appellant disagrees with the CM's directive, the matter must still proceed to a preliminary hearing before a full panel.

In practice, the CM's rejection of an appeal is effectively useless, and serves no purpose to litigants who believe they have strong cases or those who are only seeking to use the LPRT appeal process to delay a development from breaking ground. Based on the 30-day period in which the LPRT must schedule a hearing under s. 686(2) of the MGA, as well as the 15-day timeline for the LPRT to issue a decision under s. 687(2) of the same (which averaged 28 days in 2023-2024), this approach can effectively delay a project by two months.

A person can appeal a subdivision or development matter to the LPRT, refuse to acknowledge the CM's refusal regarding limitations periods or jurisdiction, and then utilize Rule 7.3 to compel the CM to schedule a preliminary hearing before a full panel of the LPRT[8], all without incurring any filing fees or costs. Even where the appellant is completely wrong and their appeal is dismissed, they are unlikely to face penalties or have costs ordered against them. In short, the current LPRT subdivision and development appeal process allows parties to file deficient appeals without any meaningful consequences, leading to inefficiencies, wasted resources, and unnecessary delays

Municipalities have also reported that some appellants exploit this system not out of genuine concern but as a deliberate tactic to delay development. Since self-represented appellants are unlikely to face adverse costs awards and there are no filing fees to dissuade them, the current framework incentivizes appeals for the appellant, prolongs disputes, hinders progress on developments, and wastes scarce municipal resources.

Bifurcated Hearings

The LPRT has the authority to bifurcate hearings into preliminary hearings, where preliminary legal issues can be determined, and merit hearings, where the merits of the appealable issue are argued by both sides with reference to facts and evidence and a determination is made by the tribunal.[9] Further, rules 7.3 and 8.2 provide that where an appellant disagrees with a CM's directive, they may request a preliminary hearing.[10]

When asked, the LPRT stated that any hearing – not just those referenced in Rules 7.3 and 8.2 – could be bifurcated into preliminary and merit hearings, but the parties must request the bifurcation very early in the appeal process. The CM will review the matter and call the parties when they receive it; if none of

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[8] Land and Property Rights Tribunal (2023). *LPRT Subdivision and Development Appeal Procedure Rules* ("LPRT Rules"), Rule 7.3. Retrieved from: https://open.alberta.ca/dataset/e7938a28-0782-4294-8a54-ae0711e75055/resource/940477ee-612d-41d5-9b73-e2f2f488ebee/download/ma-lprt-subdivision-development-appeal-procedure-rules-2023-04.pdf

[9] *Supra* note 2, s. 504

[10] *Supra* note 8, Rule 7.3 and Rule 8.2

the parties request a preliminary hearing at that time, then the CM must book a merit hearing, as the Tribunal has a very short period under s. 686(2) of the *MGA* – within 30 days of receiving notice of the appeal – to hold an appeal hearing.[11] If a request for bifurcation is made too late (for example, once a merit hearing is scheduled), it will be denied to avoid delays. The LPRT told RMA that if every case involved a preliminary hearing, or if requests were made after the notice of hearing was sent out, it would be difficult to adhere to the statutory timelines.

The LPRT also emphasized that the necessity of a preliminary hearing depends on the nature of the issues rather than the preferences of the parties; if the issues to be determined are purely legal, they may be appropriately addressed in a preliminary hearing, but if factual matters are involved, those should be determined in a full merit hearing before a panel rather than a preliminary hearing. As the panel does not have the full picture of an appeal until documents are filed, and as many issues that would preferably be dealt with in a preliminary hearing (i.e., proper notice, limitations periods) are complex and depend on the evaluation of specific facts and evidence, the panel has discretion in managing the process. If the parties disagree on whether a preliminary hearing should be held, the decision ultimately rests with the panel.

From the perspective of the parties, particularly the municipal DAs who face rather onerous document submission requirements in Part E of the *LPRT Rules ,*[12] this poses an issue; it is easy for an appellant to argue that a "purely legal" issue is actually factual in nature (i.e., whether notice was served, whether a condition of a development agreement was satisfied, and so on), that these issues require an evaluation of the facts relevant to the case, and therefore, these matters should be determined by the panel in a full merit hearing. If the LPRT is prioritizing expediency, forcing all parties to come to the first hearing prepared to argue every issue is seen as the easiest way to expedite the pre-hearing process.

Essentially, the responses that RMA received from the LPRT tends to show that the true issue is not that the LPRT is reluctant to grant preliminary hearings, which is what we heard from members of our working group; rather, the LPRT is reluctant to breach the 30-day hearing timeline set by s. 686(2) of the *MGA* by scheduling a preliminary hearing, making a small determination, and then scheduling a merit hearing, which would slow down the expedited hearing process. Thus, many matters simply proceed to a merit hearing straight away because the complexity of the issues and required evaluation of the facts and evidence.

Costs Awards

Costs awards can control who brings an appeal, as a failed appeal could result in an adverse costs award against the appellant, which dissuades them from filing a "bad" appeal in the first place; conversely, a successful appeal could result in a costs award against the respondent, which serves to encourage settlement and the expediency of avoiding the dispute resolution process.

Section 501 of the *MGA* provides that the LPRT may order that the costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations.[13] The *Matters Relating to Assessment Complaints Regulation* sets out the costs that are able to be awarded for

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[11] *Supra* note 2, s. 686(2)

[12] *Supra* note 8, Part E – Prehearing Submission and Disclosure. Retrieved from: https://open.alberta.ca/dataset/e7938a28-0782-4294-8a54-ae0711e75055/resource/940477ee-612d-41d5-9b73-e2f2f488ebee/download/ma-lprt-subdivision-development-appeal-procedure-rules-2023-04.pdf

[13] *Supra* note 2, section 501

complaints to the LPRT in Schedule 3.[14] Further, the *LPRT Rules* state, at Rule 3.1, that where a person fails to comply with the *LPRT Rules* or with an order of the Tribunal, a panel may order the non-complying person to reimburse another person for costs incurred as a result of the non-compliance.[15]

Part J of the *LPRT Rules* outlines how the LPRT determines whether to award costs.[16] Rule 30.1 provides that the tribunal may consider whether the persons against whom costs are to be awarded have abused the LPRT process, acted contrary to an agreed-upon or Tribunal-directed process, has caused unreasonable delays, postponements or expense, or has acted unreasonably or engaged in conduct worthy of an order to reimburse another person for costs incurred as a result of that conduct.[17] Rule 30.2 provides that where the Tribunal does not otherwise direct, requests for costs must be filed no later than 30 days after the date of the Tribunal decision, specify the total sum sought for costs with a description of how the amount is calculated and an itemized list, and specify the reasons why an award of costs is appropriate in the circumstances.[18]

Despite the foregoing rules and legislative provisions that enable the LPRT to award costs against parties, the RMA heard from LPRT staff that costs awards at the LPRT are rare, as they are generally only used in cases where there is clear evidence that a party abused the dispute resolution process (e.g., vexatious litigants). LPRT staff could only recall one instance of costs being granted in recent memory. RMA also heard that local SDABs are not authorized to grant costs awards, and so neither is the LPRT except in exigent circumstances.

As a majority of development appeals proceed to a hearing, this causes municipalities to expend resources preparing for hearings that could have been avoided entirely if there were further gatekeeping measures in place or if the CM had the authority to outright reject an application.

Significant Expenditure of Municipal Resources

Preparing for and making submissions at an LPRT hearing involves the significant expenditure of municipal resources. This is due in large part to the LPRT's underutilized bifurcation procedures discussed above, but also stems from frivolous or otherwise litigious appellants who disagree with the findings of LPRT administration pursuant to Rules 7.3 and 8.2, causing matters that could have otherwise been dealt with by the CM to proceed to a full-panel preliminary or merit hearing.

With that said, the reason municipal resources are strained to such a degree by LPRT processes is due to submission requirements imposed on local DAs in Part E of the *LPRT Rules ,* specifically Rules 10 and 11. While RMA recognizes that ensuring that matters are fairly dealt with is a cornerstone of administrative tribunals and the LPRT would not be able to properly determine the result of an appeal without having all relevant documents and information before them, the municipal DA (which draws on the same coffers as the municipality itself) is required to submit 16 different categories of materials by Rules 10 and 11:

- The subdivision application and all information submitted with it including:
    - a copy of the search for abandoned wells,
    - the tentative plan of subdivision,

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[14] *Matters Relating to Assessment Complaints Regulation*, Schedule 3.

[15] *Supra* note 8, Rule 3.1.

[16] *Ibid*, Part J – Post Hearing Procedures

[17] *Ibid*, Rule 30.1

[18] *Ibid*, Rule 30.2

    - Area map with land use designations,

- Time extension agreements, where applicable,
- The subdivision authority's letter comprising its decision on the subdivision application, together with
    - Recommendations and reports to the subdivision authority including comments from municipal administrations,
    - Minutes of the meeting where the subdivision authority considered the application for subdivision,
    - Any other reports considered by the subdivision authority to make its decision,
- Possible conditions to be applied upon approval,
- Copies of all letters from referral agencies and area and adjacent landowners,
- List of adjacent landowners and referral agencies and their contact information,
- Relevant excerpts from the Land Use Bylaw, Intermunicipal Development Plan, Municipal Development Plan, Area Structure Plan or any other statutory plan, including all provisions relating to a relevant district - Applicable excerpts include, but are not limited to, purpose provisions, discretionary and permitted uses, standards, and policies,
- Any applicable excerpts of plans under the Alberta Land Stewardship Act or other regional plans,
- Any conceptual scheme prepared in support of the application or adopted by bylaw or resolution by the municipality,
- An accurate area map or maps showing land uses, together with aerial and site photographs that give a detailed graphic explanation of the improvements and the physical conditions of the lands that are the subject of the appeal and surrounding lands including easements and rights-of-way registered on the property,
- If any transportation requirements are at issue, any relevant municipal master plan or policy directive addressing:
    - Access
    - Road widening
    - Service roads
    - Road alignments
    - Any other relevant issues
- If reserves are at issue, any relevant policy documents concerning environmental, municipal, or other reserves,
- Copy of the Alberta Environment Flood Hazard Map for the titled area,
- Copy of the Alberta Culture Listing of Historical Resource map for the title area,
- Reasons why the appeal is before the Tribunal instead of the SDAB, and
- Any other information requested by a panel, a case manager, or Tribunal administration that is necessary to expedite the appeal.[19]

With the LPRT's apparent reluctance to bifurcate hearings into preliminary and merit hearings to ensure an expedited process, Rule 10 means that a municipality, rather than preparing for a simple preliminary issue such as an appeal being filed out of time or the matter being outside the LPRT's jurisdiction, must produce and disclose a large amount of records and documents, and their legal counsel must prepare to argue the merits of a complex matter that may ultimately be irrelevant to the LPRT's determination. In

[19] *Ibid*, Rules 10 and 11

those circumstances, this is a waste of municipal resources and the time spent by the LPRT reviewing the copious amount of DA submissions.

Core Theme 2: Consistently Inconsistent

Tribunal Discretion

The *LPRT Act*, Part 12 of the MGA, and the LPRT's own *Rules* appear to provide specific timelines and requirements and outline the Tribunal's powers and responsibilities; however, they also provide the LPRT with broad discretion. Nearly every rule or relevant section includes a clause stating that the Tribunal may take certain steps, may make certain orders, or may choose whether to follow or enforce their own procedural rules. The *LPRT Rules* also permit the LPRT to determine the circumstances in which they deem a certain action to be appropriate and provide the Tribunal with the power to do or consider things on their own initiative. For example, looking at the *LPRT Rules*:

- Rule 9.1(i), the Tribunal may make any order it deems appropriate to establish procedures by which the matter may proceed in a fair and expeditious manner.
- Rules 10.1(p) and 11.1(o): The LPRT or its administration request "any other information … necessary to expedite the appeal."
- Rule 12.1: The Tribunal may, on its own initiative, order the filing of any additional material it deems relevant.
- Rule 12.3: If a panel finds that a party has not had a fair opportunity to review and respond to material submitted to the Tribunal, it may grant an adjournment or make any other order that it deems appropriate to ensure a fair and expedient resolution of the appeal.
- Rule 12.4: The Tribunal will not consider material filed after it has adjourned a hearing following oral submissions. Notwithstanding this Rule, the Tribunal may provide special permission or directions to file such material in circumstances it deems appropriate.
- Rule 14.3: A panel may … give any other direction it deems to be appropriate.
- Rule 18.3(g): The Tribunal may consider the following … as relevant to deciding postponement requests: (g) any other factor the Tribunal deems relevant.
- Rule 24.1: The Tribunal may order that separate proceedings be consolidated either on its own initiative…
- Rule 26.1: The Tribunal may sever a single proceeding…
- Rule 27.1: The Tribunal may admit evidence previously heard … if the Tribunal finds …
- Rule 27.2: When making an Order under this rule, the Tribunal may consider, without limitation…
- Rule 29.6: A panel from which one or more members has withdrawn may … proceed to hear the matters before it … or make arrangements to reschedule a matter …
- Rule 30.1: When determining whether to award costs, the Tribunal may consider …
- Rule 31.5: The Tribunal may exercise its power under s. 504 of the *MGA* in the following circumstances … (d) any other circumstance the Tribunal considers reasonable

When combined with the lack of requirement for the LPRT to follow the traditional rules of evidence,[20] the flexibility within the LPRT's governing legislation provides little procedural consistency between hearing decisions and virtually no certainty to those municipalities and developers involved with the LPRT. Hearings at the LPRT have been described as "the Wild West" due to the varying degrees of

[20] *Land and Property Rights Tribunal Act,* s. 10(1)

procedural fairness afforded to parties and the differing requirements in similar hearings from one panel to the next.

As it stands, every time a panel convenes, the panel needs to decide whether they will or will not do over a dozen different things on a case-by-case basis. Including more restrictive language for certain rules or sections of the LPRT's governing legislation would provide parties to disputes with far more procedural certainty and likely increase the efficiency of the Tribunal's process.

Re-Hearings

The LPRT is enabled by both statute[21] and their own procedural rules[22] to re-hear their previous decisions. RMA heard that each of these re-hearings is characterized as a *de novo* appeal, meaning that new evidence and issues may be raised at the Tribunal, and are typically conducted in writing only. For clarity, re-hearings are limited to the exact same decision issued by the LPRT – otherwise, hearings on subsequent decisions from the DA, even those that are related to the same project, property, or agreement, are new hearings and not re-hearings.

When engaging with RMA, the LPRT stated that re-hearings are utilized because relying on the provincial Court of Appeal as the only recourse for parties is exceedingly slow and expensive, which contradicts the LPRT's priority of expediency. According to LPRT staff, re-hearings are rare, with the Tribunal only conducting two re-hearings since 2021. Through research and engagement with the municipal working group, RMA has identified several potential issues with the LPRT's re-hearing procedures.

It appears that Rules 31.1 to 31.4 and Rule 31.6 provide for a specific procedure in situations where a party makes a request to the LPRT for a re-hearing; however, Rule 31.5 eschews this procedure, instead referencing the exercise of the LPRT's power under s. 504 of the MGA and providing that "the Tribunal may re-hear any matter before making its decision, and may review, rescind or vary any decision made by it."[23]

Section 504 does not reference any requests made by the parties like in Rules 31.1 to 31.4, but rather enables the LPRT to re-hear, rescind, or vary any decision they have made without a request and of their own volition. This is confirmed by Rule 31.5 and the LPRT's holding in *Earl Marshall Trucking Ltd. v County of Stettler No. 6 (Development Authority),* 2023 ABLPRT 537 at paragraph 16; despite the Appellant developer outright stating that they were not requesting a re-hearing, the LPRT held that "it is clear that the LPRT has the authority to revisit its decision pursuant to its enabling legislation".[24] Essentially, the LPRT believed that under s. 504 and Rule 31.5(d), they had the power to re-hear, rescind, or vary any decision they have made, on a *de novo* basis, with or without a party making that request. Ultimately, the LPRT revised several of the development agreement conditions that they had imposed at the previous hearing, and this decision was appealed to the Court of Appeal by the municipality.

In the Court of Appeal's decisions in *County of Stettler No 6 v Earl Marshall Trucking Ltd*, 2023 ABCA 362 and *Stettler (County No 6) v Earl Marshall Trucking Ltd,* 2025 ABCA 96 (the "Stettler Decisions"), the Court did not reject the LPRT's interpretation of their authority under s. 504, holding that s. 504 of the MGA explicitly allows the Tribunal to "rehear any matter" and to "review, rescind or vary any decision

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[21] *Supra* note 2, s. 504

[22] *Supra* note 8, Rule 31

[23] *Supra* note 2, s. 504

[24] *Earl Marshall Trucking Ltd. v County of Stettler No. 6 (Development Authority),* 2023 ABLPRT 537, para 16

made by it";[25] rather, the Court of Appeal focused exclusively on the procedural flaws in how the LPRT exercised their broad s. 504 authority, and somewhat ironically, remitted the matter back to the LPRT for another rehearing.

As stated succinctly by the Court of Appeal in 2025 ABCA 96:

> *[14] In our view, the appellant was denied procedural fairness. The Marshall Companies stated they were not seeking a rehearing of the First Decision, and the LPRT acknowledged that revisiting its original decision was not "on the table". In its Second Decision however, the LPRT not only found the jurisdiction to amend the Prior to Issuance conditions it previously imposed, but did so without notice to either party. Rather than determining whether the initial Prior to Issuance conditions had been met – the issue on appeal - the LPRT effectively converted the appeal into a rehearing of its First Decision and amended the conditions, without providing any opportunity for the appellant to call evidence or be heard on whether the conditions should be amended and to what extent.*
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> *[15] As was the case in Landry, while the LPRT may ultimately have a broad mandate on appeal, procedural fairness compels that notice be given to the parties when the LPRT contemplates addressing aspects of the conditions that were not raised on appeal, including any intent to reassess and amend the conditions imposed in the First Decision. It failed to do so. The LPRT's finding that it had the "benefit of the parties' full submissions on the relevant points at issue" is simply incorrect. Moreover, while the LPRT found that "the Parties have different understandings as to how to interpret the agreed-to wording [of the conditions], which became the focus of this appeal", the LPRT did not merely resolve that difference by setting out its own understanding of that wording but instead reassessed and ultimately changed those conditions.*
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> *[16] The appellant was not alerted to this possibility, quite the opposite. A review of the record and particularly the transcript of the appeal hearing makes plain that the LPRT gave no notice about reconsidering its First Decision, and more importantly, that it might amend the conditions in lieu of determining whether those conditions had already been met. The appellant is "not expected to be mind readers", and the LPRT was required to ensure procedural fairness by not only informing the parties if it was contemplating a reconsideration of the First Decision, but also by allowing the parties a proper opportunity to address the specific issue of amendments to the disputed conditions: Landry at para 37.*[26]

Following on from the issue of broad tribunal discretion discussed above, Rule 31.5(d) states that the Tribunal may exercise its s. 504 powers in "any other circumstance the Tribunal considers reasonable." Enabling the Tribunal to convert an appeal into a re-hearing without a request from a party makes Rule 31.3 effectively useless, risks procedural fairness issues such as lack of notice, provides little to no procedural consistency between decisions, and provides no certainty for developers, municipalities, or affected landowners, due in large part to the *de novo* nature of the appeal and the lack of restrictions on the scope of the Tribunal's s. 504 re-hearing powers.

On top of this and the other issues discussed in the *Stettler* case, the LPRT's re-hearing process may inadvertently extend limitations periods for appellants or bar affected landowners from participating in hearings due to legal issues arising directly from the LPRT's variation of their previous decision.

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[25] *Stettler (County No 6) v Earl Marshall Trucking Ltd*, 2025 ABCA 96, para 14-16; *County of Stettler No 6 v Earl Marshall Trucking Ltd*, 2023 ABCA 362, para 36

[26] *Ibid*

Jurisdictional Issues

In the *Stettler* case, the LPRT held a re-hearing of their own volition and amended the prior to issuance conditions of a development permit years after it was issued. At a high level, this power was not outside the LPRT's jurisdiction, but one area that arguably does fall outside their jurisdiction is the LPRT's variance of the terms of a development agreement. Section 650 of the MGA provides councils with the power to adopt land use bylaws that require development agreements to address construction and payment for infrastructure related to developments. This could include road upgrades, paying for utility connections, or other infrastructure-related terms.

It is arguable that s. 650 provides exclusive authority to municipal councils to determine the terms and scope of development agreements without interference from that municipality's DA. As DAs are subordinate to their municipal councils, and as the LPRT expressly told RMA that Subdivision and Development Appeal Board (SDAB) appeals must go to the Court of Appeal because the LPRT and local SDAB are "parallel boards", the LPRT's jurisdiction on appeal is arguably to act as an SDAB; therefore, the LPRT should not be able to interfere with a development agreement any more than the local SDAB.

The Court of Appeal did not comment on this perspective in the *Stettler* Decisions, as it was ultimately irrelevant in the context of the procedural fairness issues, and the question of whether the LPRT has jurisdiction to amend development agreement conditions remains open.

Core Theme 3: Systemic Delays

Tribunal Efficiency and Timeline Inconsistencies

According to the LPRT, the subdivision and development appeal process follows the timeline set out below:

# of Days	MGA section	MGA description
20	653.1(1)	DA must determine if the subdivision/development application is "complete" within 20 days of receipt.
40	684(1)	DA must render decision within 40 calendar days after determining the subdivision/development application is "complete".
21	686(1)(a)(i)	Appellant has 21 days from the DA's decision to appeal to the LPRT.
30	686(2)	LPRT must hold an appeal hearing within 30 days after receiving notice of the appeal.
5	686(3)	LPRT must give at least 5 days' notice of the hearing to the appellant, DA, and affected landowners under the LUB (though the LPRT often notifies more people than required by the LUB).
15	687(2)	LPRT must give their decision in writing with reasons within 15 days after concluding the hearing.
30	688(2)	Appellants seeking permission to appeal LPRT ruling to the Court of Appeal must file and serve application for leave to appeal within 30 days after the LPRT issues decision. Notice given to LPRT and any other person as directed by Judge.

14	688(2.1)	If Appellant makes written request to LPRT for purposes of leave application, then LPRT must provide the materials within 14 days of the service of the request.
30	688(4)	LPRT must forward transcripts to Court of Appeal within 30 days from the date the Appellant's Leave Application is granted.
Total # of days from LPRT's receipt of notice of appeal to written decision: **50**		

To summarize the key points from this timeline, the LPRT must hold an appeal within 30 days of receiving notice of the appeal, give a minimum of five days' notice of the hearing to the parties and affected landowners, and prepare a decision in writing within 15 days of concluding the hearing.

According to the foregoing analysis, sacrifices are made in the name of expediency to meet the 30-day hearing timeline. However, according to the municipal working group, the LPRT rarely follows the 15-day timeline to give a decision in writing; in some cases, written decisions are delivered up to 90 days after the date of the hearing, as backed up by the Ministry of Municipal Affairs' 2023-2024 annual report[27] (the "Annual Report"). The Annual Report outlined that in 2023-24, the range of days between the hearing date and the decision being issued in subdivision hearings was 18 to 89, with an average of 37 days; for development appeals, the range of days between the hearing and issuing the decision was two to 93, with an average of 28 days.[28] In either case, the average time between the conclusion of a hearing and the decision being issued was approximately double the statutorily required 15-day period.[29]

On this point, the RMA heard from members that at the end of a hearing, the Tribunal "adjourns" hearings instead of "concluding" them, which is the language used in s. 687(2) of the MGA. When RMA engaged with the LPRT, the LPRT confirmed that hearings are "sometimes" adjourned without being closed, and that adjourning a hearing does in fact prevent the 15-day clock from running. They also informed RMA that the time between the hearing's end and its "official" closure depends on the complexity of the matter and the nature of the required information, because the Tribunal may require additional information before rendering their decision, such as additional documents or a witness giving key evidence (an example provided was an expert witness flying in from Europe). Further, the duty to consider the public interest often necessitates additional time and information gathering. They went on to state that in these cases, the LPRT ensures procedural fairness by notifying all parties and providing opportunities for responses before deliberating and officially closing the hearing; delays are fully communicated to the parties involved, and the differences in complexity between a Subdivision and Development Appeal Board (SDAB) hearing and an LPRT hearing significantly impact processing times. Additional factors such as the number of parties involved, panel member capacity, and external influences like postal strikes or the COVID-19 pandemic also contributed to variations in decision timelines. If more than 15 days have passed since the hearing date and no further steps have occurred, the LPRT stated that they send a closing letter to inform parties of the status.

Given the LPRT's average timelines of 37 days for subdivision hearings and 28 days for development hearings,[30] RMA concludes that "sometimes" was an understatement, and that hearings are *typically* adjourned instead of being concluded. Whether the LPRT's rationale above is valid is up for debate, but

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[27] *Supra* note 5, page 72

[28] *Ibid*

[29] *Supra* note 2, s. 687(2)

[30] *Supra* note 5, page 72

with that said, after operating for several years, it is reasonable to expect that the LPRT should be able to get somewhat closer to their statutorily required 15-day period than taking around 100% longer.

This makes it plain and apparent that there is an issue: either the 15-day timeline to issue a written decision is unrealistic due to LPRT capacity, which leads to some Panels intentionally adjourning hearings to meet the 15-day timeline (which was outright denied), or the 30-day timeline to hold a hearing is too short for parties to provide all of the relevant facts and evidence before the date of the hearing. There are likely other potential causes, but in any case, change is more than warranted.

Recommendations

RMA has identified seven recommendations that could improve both municipalities' experiences with the LPRT and the LPRT's own processes and timelines:

Recommendation 1: Automatic Preliminary Hearings

Rules 7.3 and 8.2 regarding LPRT Administration's decisions on applications do not enable the Clerk to actually bar clearly frivolous or out-of-time hearings from proceeding to a hearing. This is fine, as it may be that the limitations period has not expired for some unknown reason, and that issue should be decided by a Panel as opposed to LPRT Administration. However, when an issue is determined by LPRT Administration as *prima facie* "not eligible" to proceed to a merit hearing, it should proceed to an automatic preliminary hearing.

Taking this one step further, all matters should proceed to an automatic preliminary hearing before a single panel member. These preliminary hearings should include initial decisions on legal issues such as jurisdiction or limitations periods and may include alternative dispute resolution requirements. Automatic preliminary hearings could essentially mirror the pre-trial conference model used to great effect in the Court system, and can rely on the existing preliminary actions that a Panel can take as outlined un Rule 9.1, including directing parties to pursue facilitated discussions or mediation; determining whether further disclosure is required; setting timelines for disclosure and protecting confidential information; establishing or rescheduling procedural dates; ruling on compliance with procedural rules and the effect of any defects; determining participation rights; identifying matters properly before the Tribunal and striking out unsupported grounds of appeal; deciding on postponements or withdrawals; and issuing orders that are necessary to ensure the matter proceeds fairly and efficiently.[31]

Recommendation 2: Appeal or Filing Fees

Unlike other quasi-judicial boards and tribunals, the LPRT does not charge any fees to commence appeals. This enables appellants who may have weak or frivolous appeals to use the LPRT process to delay a development with no consequences. Some form of appeal fee would assist in managing the LPRT's hearing load and ensure that frivolous or clearly invalid claims do not tie up a slot on the LPRT's docket or require the attendance of a full panel and all the parties for days on end.

Recommendation 3: Increase the LPRT's Use of Costs Awards

The LPRT's aversion to award costs except in extreme circumstances leads to a system in which litigants face virtually no consequences for impeding development for weeks or months while the LPRT's processes play out.

RMA recommends that if following an automatic preliminary hearing, it is determined that the LPRT's Administration was right to determine a matter as ineligible to be heard, then the unsuccessful applicant should pay costs to the other party and the LPRT for wasting their time and resources. Otherwise, for all other matters, costs should be in the cause and more frequently utilized.

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[31] *Supra* note 8, Rule 9.1

This is not a "punishment," but rather the dis-incentivization of frivolous or late claims, and will increase tribunal efficiency due to having fewer frivolous appeals.

Recommendation 4: Create Stricter Procedural Rules to Enhance Consistency

The *LPRT Rules* and governing legislation are overly flexible and lead to inconsistencies between similar hearings in terms of procedures and outcomes. Therefore, at least some of the legislation and *LPRT Rules* need to be tightened to reduce the flexibility and provide more certainty to all of the parties. For example, specific changes to the *LPRT Rules* could include stricter language around the following:

- Rule 12.3: If a panel finds that a party has not had a fair opportunity to review and respond to material submitted to the Tribunal, it may grant an adjournment or make any other order that it deems appropriate to ensure a fair and expedient resolution of the appeal.
- Rule 12.4: The Tribunal will not consider material filed after it has adjourned a hearing following oral submissions. Notwithstanding this Rule, the Tribunal may provide special permission or directions to file such material in circumstances it deems appropriate.
- Rule 18.3(g): The Tribunal may consider the following … as relevant to deciding postponement requests: (g) any other factor the Tribunal deems relevant.
- Rule 31.5: The Tribunal may exercise its power under s. 504 of the MGA in the following circumstances … (d) any other circumstance the Tribunal considers reasonable

Recommendation 5: Increased Specificity Regarding Circumstances and Procedures for Re-Hearings

According to s. 504 of the MGA, the LPRT can "review, rescind or vary" any decision made by it; as it stands, the 30-day rehearing timeline in Rule 31.3 is functionally irrelevant, because the Court of Appeal's Stettler Decisions effectively determined that the LPRT can exercise their s. 504 powers as they see fit and without application by a party, as long as notice is given, and Rule 31.5 states that the LPRT can exercise its s. 504 powers in "any other circumstance that the Tribunal considers reasonable."

RMA recommends that the MGA and/or the *LPRT Rules* around s. 504 re-hearings be amended to provide for more specificity, such as the situations in which re-hearings can be held. More importantly, amendments should provide more certainty as to the timeline and in what circumstances the LPRT can "review, rescind, or vary" a decision they have previously made.

Recommendation 6: Clarify Jurisdiction of LPRT

Determining whether a specific appeal requires the LPRT, local SDAB, or other Board to review is a challenging task for municipalities and appellants alike, especially in the context of the LPRT's limited jurisdiction to hear appeals of projects that impact provincial jurisdiction.

As the LPRT faces questions of jurisdiction on a semi-regular basis, RMA recommends that clearer language be added to s. 685 of the MGA or other guiding documents to ensure that appeals are filed with the proper boards or tribunals. This would prevent appeals from proceeding to a hearing in the incorrect forum, ensure that parties' time is not wasted, and cause the LPRT to better manage the volume of appeal applications submitted.

Recommendation 7: Stricter and More Realistic Timelines

The LPRT has consistently referenced “expediency” as the reason for many of its practices, but the s. 686(2) requirement to hold a hearing within 30 days of receiving notice of the appeal is unrealistic. By the time a preliminary hearing is occurring, parties should be prepared to list the evidence and witnesses they intend to rely on, and parties should be prepared to argue the full matter at the time of the merit hearing; if parties find themselves submitting documents and evidence late or are scrambling to fly in specialist technical witnesses before the hearing is concluded, it shows that 30 days to prepare for a merit hearing is insufficient and is leading to issues such as late disclosure and procedural fairness issues.

RMA recommends that the timeline in s. 687(2) of the MGA should be extended from 15 days to 30 days. As Recommendation 1 called for automatic preliminary hearings, giving parties 30 days before *preliminary* hearings, and an additional 15 days before *merit* hearings, provides parties with two additional weeks to consolidate their positions, share evidence and arguments with opposing parties, and ensure that witnesses and other requirements are more easily met.

This change should have little to no bearing on the actual (not statutory) timelines the LPRT has been following, and will prevent the unnecessary adjournment of a decision, as all materials will be more easily provided by parties before the deadline and will provide increased certainty to all parties – including the LPRT – ahead of merit hearings.

Conclusion

Municipalities and developers rely on the LPRT to provide a fair, consistent, and timely mechanism for resolving complex land and development disputes. Unfortunately, the LPRT's current processes and practices fall short in several critical areas.

RMA has identified several procedural and structural reforms above that should improve the LPRT's efficiency, reduce the burden facing municipalities, and enhance both certainty and procedural fairness for all parties.

By acting on these recommendations, the Government of Alberta and the LPRT can help ensure that the tribunal fulfills its intended role as an effective and trusted forum for land use and development decision-making in Alberta.