

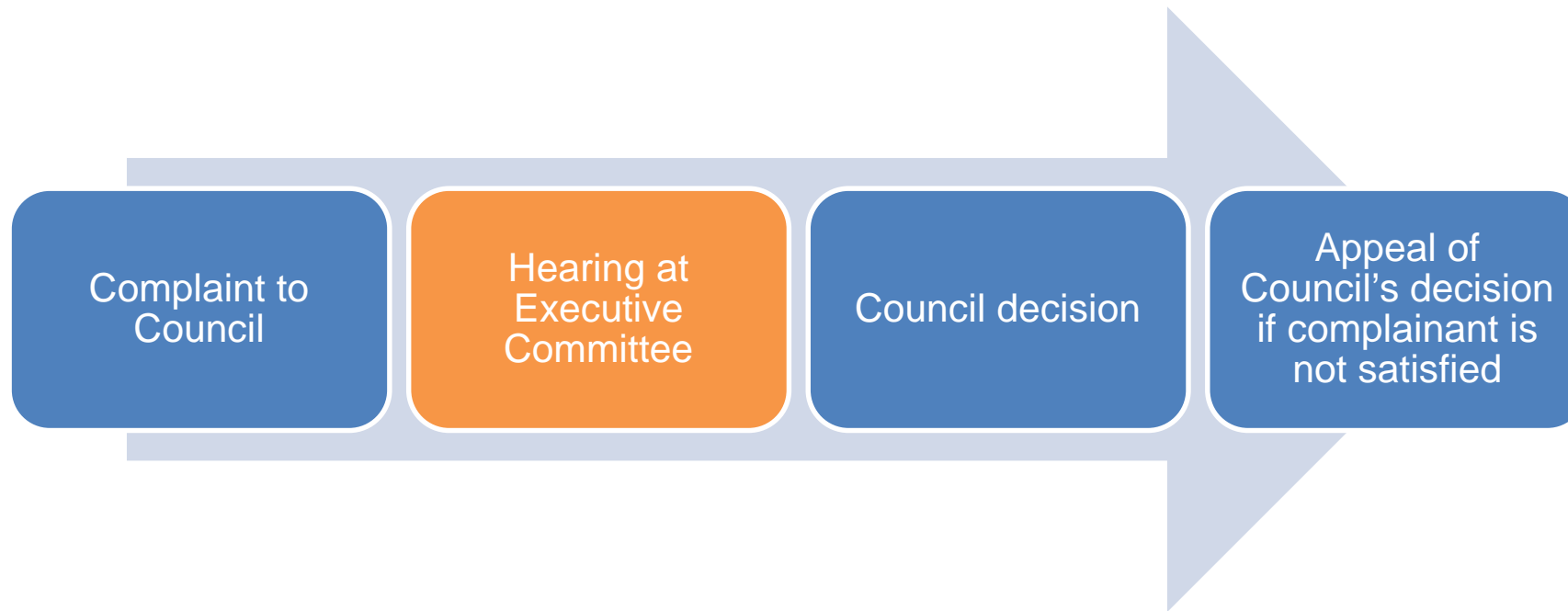
Hearing Procedure: Complaints Under the Development Charges Act and the Education Act

Executive Committee Orientation

July 4, 2019

Overview – DC and EDC Complaints

- The following provides an overview of the hearing procedure at Executive Committee



Development Charges Act, 1997, Section 20

Complaint to council of municipality

20 (1) A person required to pay a development charge, or the person's agent, may complain to the council of the municipality imposing the development charge that,

- (a) the amount of the development charge was incorrectly determined;
- (b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or
- (c) there was an error in the application of the development charge by-law.

Notes:

- Limited grounds for Section 20 complaints
- Section 20 DC complaints are not a forum for challenging the validity of a DC bylaw. The bylaw is subject to mandatory updating every five years, inclusive of stakeholder consultation and appeal opportunities

DCA, 1997, Section 20 (cont.)

Hearing

(4) The council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

Council's powers

(6) After hearing the evidence and submissions of the complainant, the **council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint.**

Statutory Hearing Procedure

- The procedure for hearing of a complaint under Section 20 of the Development Charges Act, 1997 (DCA) is governed generally by City Council's Procedures Bylaw.
- In 2000, Council delegated authority to Policy and Finance Committee, now Executive Committee, to hold hearings under Section 20 of the DCA.
- The Education Act contains provisions similar to the DCA for the hearing of a complaint under Section 257.85 of the Education Act related to Education Development Charges.

Council Procedures Bylaw

Hearings Procedure (Section 24-4.7)

1. Chair introduces the subject matter
 2. Presentation by the complainant (or solicitor/agent)
 3. Five minutes for a member's questions
 4. If other persons present wish to make a public presentation, the committee must hear from them
 5. Members may ask City officials questions on the matter
 6. Committee may immediately consider the matter or defer it to a future committee meeting
 7. Non-committee Members and then Committee Members speak
 8. After debate, the Chair puts the matter to vote
 9. Committee recommendation goes to the next meeting of Council
- Committee can set rules under Section 27-17.9(5) to vary procedure.
 - DC complaints are scheduled as a timed item and the complainant is notified in writing of the time of the hearing.

How Complainants Can Present Evidence

- Members of the public, including any parties to the hearing, can send written comments to the Clerk in person or to the clerks office. Written comments can also be sent by regular mail, email or fax.
- These communications become part of the public record of the meeting
- Parties can make oral submissions at the meeting
- Anyone who has registered with the Clerk may make a presentation at a statutory hearing. This can be done in advance or in person at the meeting.
- The Committee must hear from all persons present at the meeting who wish to make a public presentation.
- The staff report providing staff's written arguments are published with the Executive Committee Agenda five business days before the meeting.

Development Charges Act, 1997, Section 22

Appeal of council's decision

22 (1) A complainant may appeal the decision of the council of the municipality to the Ontario Municipal Board (OMB), now the Local Planning Appeal Tribunal (LPAT), by filing with the clerk of the municipality, on or before the last day for appealing the decision (40 days after the decision), a notice of appeal setting out the reasons for the appeal.

Additional ground

(2) A complainant may also appeal to the OMB / LPAT if the council of the municipality does not deal with the complaint within 60 days after the complaint is made by filing with the clerk of the municipality a notice of appeal.

Thank You