Ontario Municipal Board
Commission des affaires municipales
de l'Ontario

ISSUE DATE: December 01, 2016 **CASE NO(S).:** PL160562

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Astra Capital Properties Incorporated
Appellant:	Bodycote Canada Property Inc.
Subject:	Proposed Official Plan Amendment No. OPA 40
Municipality:	City of Mississauga
OMB Case No.:	PL160562
OMB File No.:	PL160562
OMB Case Name:	Astra Capital Properties Incorporated V. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Astra Capital Properties Incorporated
Appellant:	Bodycote Canada Property Inc.
Subject:	By-law No. 0097-2016
Municipality:	City of Mississauga
OMB Case No.:	PL160562
OMB File No.:	PL160563

Board Rule 107 states:

> **107.** **Effective Date of Board Decision** A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

Pursuant to Board Rule 107, this decision takes effect on the date that it is e-mailed by Board administrative staff to the clerk of the municipality where the property is located.

Heard: November 21, 2016 in Mississauga, Ontario

APPEARANCES:

Parties	**Counsel**
Astra Capital Properties Incorporated	Anna Toumanians
Bodycote Canada Property Inc.	Alexandra Sadvari
City of Mississauga	Michal Minkowski
Participant	
Sheridan Park Association	Robert Doumani

MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN ON NOVEMBER 21, 2016 AND ORDER OF THE BOARD

[1] The matter before the Board consists of appeals by Astra Capital Properties Incorporated ("Astra") and Bodycote Canada Property Inc. ("Bodycote") in connection with City of Mississauga ("City") Proposed Official Plan Amendment No. 40 ("OPA 40") and Zoning By-law No. 0097-2016 ("By-law"). Notice of the pre-hearing was given by the City and the requisite affidavit of service filed (Exhibit 1).

[2] At the outset of the pre-hearing the Board confirmed that the parties are the appellants and the City. Sheridan Park Association, which acts for several business and scientific interests in the Sheridan Park Corporate Centre ("Corporate Centre"), requested and is afforded participant status in the proceedings addressing the Astra appeal. Andy Margaritis appeared as counsel for Exova Property Holdings and it seeks only to be added to the Board's mailing list.

[3] OPA 40 updates the Corporate Centre Character Area policies to reflect the Sheridan Park Corporate Centre Draft Land Use Master Plan. In short, the proposed policies allow for a broader range of office-related uses and the changes to the Greenlands mapping reflects significant natural areas and hazard lands. The By-law re-zones the Corporate Centre to conform to OPA 40.

[4] The Bodycote appeal of OPA 40 and the By-law is site specific to its property. Bodycote's issues relate to the Greenlands mapping and associated policies. In advance of the pre-hearing the City served and filed a notice of motion (Exhibit 2) seeking an order from the Board narrowing and scoping the Astra appeal so that it is clear that it is site specific. The motion record included the affidavit of Lisa Christie, a qualified land use planner with the City. The basis for the request was set out in the affidavit and the matter proceeded on consent. Accordingly, the Board scopes the Astra appeals to it lands, located at 2213 North Sheridan Way. Flowing from the scoping order, the City seeks and the Board orders that the un-appealed portions of OPA 40 and the By-law are in full force and effect, subject to agreed-upon wording between the City and Astra, as follows:

> The City will not take the position that the Board ought not to approve any specific modifications to the OPA and ZBL as these apply to the Astra properties because such modifications deviate from any approved portion of the OPA and ZBL. However, this does not affect the City's right to assert that the OPA and ZBL should be applied to the Astra property without amendment on the basis that it constitutes good planning.
>
> The partial approval of MOPA No. 40 and ZBLA 0097-2016 shall strictly be without prejudice, and shall not have the effect of limiting the jurisdiction of the Board to consider and approve modifications, deletions or additions to the sections, tables, definitions, maps, schedules and associated text, on a site specific basis. (Exhibit 3)

[5] The City filed a draft Procedural Order ("PO") (Exhibit 4) designed to govern the organization and conduct of the hearing. Given the appeals of Bodycote and Astra are distinct and relate to different policies, two separate POs are issued as Schedule 1 and 2 to this decision. With respect to the timing of the Astra appeal there remains outstanding a related matter that is before a different panel of the Board. That matter is an appeal by the City of a decision taken by the Committee of Adjustment. That hearing will continue in March 2017 which should permit sufficient time for a decision to issue in advance of the Astra hearing, scheduled below.

[5] The Bodycote appeal is scheduled for a five day hearing, commencing at **10 a.m. on Monday, June 26, 2017 at:**

Municipal Hearing Room
Mississauga City Hall
300 City Centre Drive
Mississauga, Ontario

[6] The Astra appeal is scheduled for a five day hearing commencing at **10 a.m. on Monday, July 10, 2017 at the same venue.**

[7] There shall be no further notice of either hearing. I am not seized.

"J. de P. Seaborn"

J. de P. SEABORN
VICE CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

SCHEDULE 1

OMB Case No. PL160562

ONTARIO MUNICIPAL BOARD

PROCEEDING COMMENCED UNDER subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant:	Astra Capital Properties Incorporated
Appellant:	Bodycote Canada Property Inc.
Subject:	Proposed Official Plan Amendment No. OPA 40
Municipality:	City of Mississauga
OMB Case No.:	PL160562
OMB File No.:	PL160562
OMB Case Name:	Astra Capital Properties Incorporated v. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant:	Astra Capital Properties Incorporated
Appellant:	Bodycote Canada Property Inc.
Subject:	By-law No. 0097-2016
Municipality:	City of Mississauga
OMB Case No.:	PL160562
OMB File No.:	PL160563

PROCEDURAL ORDER

With respect to the appeals by Bodycote Canada Property Inc., the Board orders that:

[1] The Board may vary or add to this Order at any time either on request or as it sees fit. It may amend this Order by an oral ruling or by another written Order.

Organization of the Hearing

[2] The hearing will begin on June 26, 2017 at 10:00 a.m. at City of Mississauga City Hall, 300 City Centre Drive, Mississauga, Ontario, L5B 3C1, 2nd Floor, in the Municipal Hearing Room. All parties and participants shall attend the first day of the hearing.

[3] The length of the hearing will be 5 days. The length of the hearing may be shortened as issues are resolved or settlement is achieved.

[4] The parties and participants identified at the prehearing conference are listed in Attachment 1 to this Order.

[5] The Issues are set out in the Issues List attached as Attachment 2. There will be no changes to this list unless the Board permits it. A party who asks for changes may have costs awarded against it.

[6] The order of evidence is listed in Attachment 3 to this Order. The Board may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument.

Requirements Before the Hearing

[7] All parties and participants (or their representatives) shall provide a mailing address, email address, and telephone number to the Board. Any such person who retains a representative (legal counsel or agent) subsequent to the prehearing conference must advise the other parties and the Board of the representative's name, mailing address, email address and phone number.

[8] A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties a list of the witnesses. This list must be delivered on or before April 21, 2017. For expert witnesses, a party is to include a copy of the curriculum vitae and the area of expertise in which the witness is proposed to be qualified.

[9] An expert witness shall prepare an expert witness statement that shall include: an acknowledgement of expert's duty form, the area(s) of expertise, any reports prepared by the expert, and any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 11. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony.

[10] Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence and his or her area of expertise, as in section 11.

[11] On or before May 12, 2017, the parties shall provide copies of their witness and expert witness statements to the other parties.

[12] Parties may provide to all other parties a written response to any written evidence within 14 days after the evidence is received.

[13] A person wishing to change written evidence, including witness statements, must

make a written motion to the Board in accordance with the Board's Rules [34 to 38].

[14] A party who provides the written evidence of a witness to the other parties must have that witness attend the hearing to give oral evidence, unless the Board and the parties are notified at least 7 days before the hearing that the written evidence is not part of their record.

[15] On or before June 12, 2017, the parties shall provide copies of their visual evidence to all of the other parties. If a model is proposed to be used the Board must be notified before the hearing. All parties must have a reasonable opportunity to view it before the hearing.

[16] Documents may be delivered in person, by courier, by facsimile, registered or certified mail or by email or otherwise as the Board may direct. The delivery of documents by fax and email shall be governed by the Board's Rules [26 - 31] on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

[17] On or before June 16, 2017, the parties shall provide to all of the other parties two copies of document books prepared by their expert witnesses.

[18] No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

This Member is [not] seized.

So orders the Board.

ATTACHMENT 1

LIST OF PARTIES AND PARTICIPANTS

PARTIES:

1. Corporation of the City of Mississauga
   4th Floor
   300 City Centre Drive
   Mississauga, Ontario
   L5B 3C1

   Attention: Michal E. Minkowski, Legal Counsel
   Tel: 905-615-3200 ext. 3280
   Email: Michael.Minkowski@mississaga.ca

2. Bodycote Canada Property Inc.
   c/o Gowlings WLG (Canada) LLP
   100 King Street West
   Suite 1600
   Toronto, Ontario
   M5X 1G5

   Attention: Alexandra Sadvari
   Tel: 416-814-5695
   Email: Alexandra.Sadvari@gowlingwlg.com

PARTICIPANTS:

N/A

ATTACHMENT 2

ISSUES LIST

1. Is the location and extent of the boundaries for the Greenlands designation and Natural Hazards overlay in Official Plan Amendment No. 40, and proposed parallel zoning changes in Zoning By-law 0097-2016 applicable to the subject lands, consistent with the Provincial Policy Statement and in conformity with the Growth Plan?

2. Is the location and extent of the boundaries for the Greenlands designation and Natural Hazards overlay in Official Plan Amendment No. 40, and proposed parallel zoning changes in Zoning By-law 0097-2016 applicable to the subject lands, consistent with and in conformity with the Region of Peel Official Plan and the underlying rationale for the identification of Greenlands and Natural Hazards in the Region of Peel Official Plan?

3. Is the location and extent of the boundaries for the Greenlands designation and Natural Hazards overlay in Official Plan Amendment No. 40, and proposed parallel zoning changes in Zoning By-law 0097-2016 applicable to the subject lands, consistent with the policies in the Mississauga Official Plan?

4. Is the location and extent of the boundaries for the Greenlands designation and Natural Hazard overlay and flood regulatory area in Official Plan Amendment No. 40, and proposed parallel zoning changes in Zoning By-law 0097-2016 applicable to the subject lands, consistent with good planning principles?

5. Is the location and extent of the boundaries for the Greenlands designation and Natural Hazard overlay set out in the Schedules to Official Plan Amendment No. 40 as well as in parallel zoning changes in Zoning By-law 0097-2016 applicable to the subject lands, appropriate and consistent with the best scientific evidence?

6. Was Official Plan Amendment No. 40 adopted prematurely without a completed Environmental Impact Study and special site designation for the subject lands in place?

7. Is it appropriate in policy 15.5.5.3 of Official Plan Amendment No. 40 to restrict the use of lands having a Greenlands designation to pedestrian/cycling use only and to exclude automobile-related uses?

ATTACHMENT 3

ORDER OF EVIDENCE

1. **Presentation of Overview of Policy Context (how policies under appeal were developed And basis for those policies):**

   - No opinion evidence
   - No cross-examination of City witness

2. **In Chief:**

   Bodycote Canada Property Inc.

3. **In Response:**

   City of Mississauga

4. **In Reply:**

   Bodycote Canada Property Inc.

ATTACHMENT 4

Purpose of the Procedural Order and Meaning of Terms

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not familiar with the hearing process you should prepare by obtaining the Guide to the Ontario Municipal Board, and the Board's Rules, from the Board Information Office, 15th Floor, 655 Bay Street, Toronto, MSG 1E5, 416-212-6349, or from the Board website at www.omb.gov.on.ca.

The parties should discuss the draft Procedural Order before the prehearing conference and identify the issues and the process they propose the Board order following the prehearing. The Board will hear submissions about the content of the Procedural Order at the prehearing.

Meaning of terms used in the Procedural Order:

***Party** is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person will become the party and assume the responsibilities of a party as set out in the Procedural Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.*

***Participant** is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. At the hearing, a participant may be asked questions by the parties about their statements. Participants do not normally receive notice of a mediation or conference calls on procedural issues and cannot ask for costs, or review of a decision as parties can.*

***Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing. If a model forms part of the evidence, photographs of the model shall also be filed.*

Witness Statements:

*A **witness statement** or a **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' or participant's position on those issues; and a list of reports that the witness or participant will rely on at the hearing.*

*An **expert witness statement** should include his or her (1) name and address, (2) qualifications, acknowledgement of the expert's duty, and specific area(s) of expertise, (3) a list of the issues to be addressed, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing.*

The Procedural Order will set out when and how witness statements are to be exchanged.

Additional Information

***Summons:** A party may ask the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure.) An affidavit may be requested indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.*

***The order of examination of witnesses:** is usually direct examination, cross-examination and re-examination in the following way: direct examination by the party presenting the witness; direct examination by any party of similar interest, in the manner determined by the Board; cross-examination by parties of opposite interest; re-examination by the party presenting the witness; or another order of examination mutually agreed among the parties or directed by the Board.*

***Role of Participants:** Participants are identified at the start of a prehearing or at the start of a hearing. Participant statements should be filed with the Board and the parties in accordance with the direction set out in the Board's Procedural Order. If a participant does not attend the hearing and only files a written statement, the Board may not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file the material and do not attend.*

OCTOBER 20, 2014

SCHEDULE 2

OMB Case No. PL160562

ONTARIO MUNICIPAL BOARD

PROCEEDING COMMENCED UNDER subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant:	Astra Capital Properties Incorporated
Appellant:	Bodycote Canada Property Inc.
Subject:	Proposed Official Plan Amendment No. OPA 40
Municipality:	City of Mississauga
OMB Case No.:	PL160562
OMB File No.:	PL160562
OMB Case Name:	Astra Capital Properties Incorporated v. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant:	Astra Capital Properties Incorporated
Appellant:	Bodycote Canada Property Inc.
Subject:	By-law No. 0097-2016
Municipality:	City of Mississauga
OMB Case No.:	PL160562
OMB File No.:	PL160563

PROCEDURAL ORDER

With respect to the appeals by Astra Capital Properties Incorporated, the Board orders that:

[1] The Board may vary or add to this Order at any time either on request or as it sees fit. It may amend this Order by an oral ruling or by another written Order.

Organization of the Hearing

[2] The hearing will begin on July 10, 2017 at 10:00 a.m. at City of Mississauga City Hall, 300 City Centre Drive, Mississauga, Ontario, L5B 3C1, 2nd Floor, in the Municipal Hearing Room. All parties and participants shall attend the first day of the hearing.

[3] The length of the hearing will be five days. The length of the hearing may be shortened as issues are resolved or settlement is achieved.

[4] The parties and participants identified at the prehearing conference are listed in Attachment 1 to this Order.

[5] The Issues are set out in the Issues List attached as Attachment 2. There will be no changes to this list unless the Board permits it. A party who asks for changes may have costs awarded against it.

[6] The order of evidence is listed in Attachment 3 to this Order. The Board may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument.

Requirements Before the Hearing

[7] All parties and participants (or their representatives) shall provide a mailing address, email address, and telephone number to the Board. Any such person who retains a representative (legal counsel or agent) subsequent to the prehearing conference must advise the other parties and the Board of the representative's name, mailing address, email address and phone number.

[8] A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties a list of the witnesses. This list must be delivered on or before April 10, 2017. For expert witnesses, a party is to include a copy of the curriculum vitae and the area of expertise in which the witness is proposed to be qualified.

[9] An expert witness shall prepare an expert witness statement that shall include: an acknowledgement of expert's duty form, the area(s) of expertise, any reports prepared by the expert, and any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 12. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony.

[10] A participant must provide to the Board and the parties a participant statement on or before May 29, 2017 or the participant may not give oral evidence at the hearing.

[11] Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence and his or her area of expertise, as in section 12.

[12] On or before May 29, 2017, the parties shall provide copies of their witness and expert witness statements to the other parties.

[13] On or before July 3, 2017, the parties shall provide copies of their visual evidence to all of the other parties. If a model is proposed to be used the Board must be notified before the hearing. All parties must have a reasonable opportunity to view it before the hearing.

[14] Parties may provide to all other parties a written response to any written evidence within 21 days after the evidence is received (i.e. on or before June 19, 2017).

[15] A person wishing to change written evidence, including witness statements, must make a written motion to the Board in accordance with the Board's Rules [34 to 38].

[16] A party who provides the written evidence of a witness to the other parties must have that witness attend the hearing to give oral evidence, unless the Board and the parties are notified at least 7 days before the hearing that the written evidence is not part of their record.

[17] Documents may be delivered in person, by courier, by facsimile, registered or certified mail or by email or otherwise as the Board may direct. The delivery of documents by fax and email shall be governed by the Board's Rules [26 - 31] on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

[18] No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

This Member is [not] seized.

So orders the Board.

ATTACHMENT 1

LIST OF PARTIES AND PARTICIPANTS

PARTIES:

1. Corporation of the City of Mississauga
   4th Floor
   300 City Centre Drive
   Mississauga, Ontario
   L5B 3C1

   Attention: Michal E. Minkowski, Legal Counsel
   Tel: 905-615-3200 ext. 3280
   Email: Michael.Minkowski@mississaga.ca

2. Astra Capital Properties Incorporated
   c/o Turkstra Mazza Associates
   15 Bold Street
   Hamilton, Ontario
   L8P 1T3
   Tel: 905-529-3476

   Attention: Scott Snider
   Email: ssnider@tmalaw.ca

   Attention: Anna Toumanians
   Email: atoumanians@tmalaw.ca

PARTICIPANTS:

1. Sheridan Park Association
   c/o Aird & Berlis LLP
   Brookfield Place, 181 Bay Street
   Suite 1800, Box 754
   Toronto, Ontario
   M5J 2T9

   Attention: Robert G. Doumani
   Tel: 416.865.3060
   Email: rdoumani@airdberlis.com

ATTACHMENT 2

ISSUES LIST

City Issues:

1. Is the deletion of wholesaling and warehouse/distribution facility as permitted uses through Zoning By-law Amendment 0097-2016, as applicable to the subject lands, consistent with the Provincial Policy Statement and in conformity with the Growth Plan?

2. Is the deletion of wholesaling and warehouse/distribution facility as permitted uses through Zoning By-law Amendment 0097-2016, as applicable to the subject lands, consistent with and in conformity with the Region of Peel Official Plan?

3. Is the deletion of wholesaling and warehouse/distribution facility as permitted uses through Zoning By-law Amendment 0097-2016, as applicable to the subject lands, consistent with, among others, the City Structure and employment area policies of Mississauga Official Plan?

4. Is the continuation of the prior prohibition on the accessory retail sales of automobiles in E2 zones through Zoning By-law Amendment 0097-2016, applicable to the subject lands, consistent with the Provincial Policy Statement and in conformity with the Growth Plan?

5. Is the continuation of the prior prohibition on the accessory retail sales of automobiles in E2 zones through Zoning By-law Amendment 0097-2016, consistent with and in conformity with the Region of Peel Official Plan?

6. Is the continuation of the prior prohibition on the accessory retail sales of automobiles in Zoning By-law Amendment 0097-2016, as applicable to the subject lands, consistent with good planning principles?

7. Having regard for the Region of Peel Official Plan and Mississauga Official Plan, is it consistent with good planning for Official Plan Amendment No. 40 and Zoning By-law Amendment 0097-2016 not to permit wholesaling and ancillary retail sales and leasing of automobiles (up to 15%), on the subject lands?

Astra Issues:

8. Should the Astra site be subject to a site specific exemption for site specific policies in MOPA No. 40 that expressly authorize wholesaling, warehouse/distribution facility and accessory uses?

9. Is the proposed Zoning By-law amendment a downzoning of the Astra site? If yes, has the City of Mississauga justified the proposed downzoning of the Astra

site? In particular, has the City justified the definition of wholesaling and warehouse/distribution facility uses?

10. Should ZBLA 0097-2016 authorize the accessory retail sales, leasing and/or rental and accessory retail display of motor vehicles?

ATTACHMENT 3

ORDER OF EVIDENCE

1. **Presentation of Overview of Policy Context (how policies under appeal were developed And basis for those policies):**

   - No opinion evidence
   - No cross-examination of City witness

2. **In Chief:**

   Astra Capital Properties Incorporated

3. **In Response:**

   City of Mississauga

4. **In Reply:**

   Astra Capital Properties Incorporated

ATTACHMENT 4

Purpose of the Procedural Order and Meaning of Terms

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The parties should discuss the draft Procedural Order before the prehearing conference and identify the issues and the process they propose the Board order following the prehearing. The Board will hear submissions about the content of the Procedural Order at the prehearing.

Meaning of terms used in the Procedural Order:

***Party** is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person will become the party and assume the responsibilities of a party as set out in the Procedural Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.*

***Participant** is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. At the hearing, a participant may be asked questions by the parties about their statements. Participants do not normally receive notice of a mediation or conference calls on procedural issues and cannot ask for costs, or review of a decision as parties can.*

***Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing. If a model forms part of the evidence, photographs of the model shall also be filed.*

Witness Statements:

*A **witness statement** or a **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' or participant's position on those issues; and a list of reports that the witness or participant will rely on at the hearing.*

*An **expert witness statement** should include his or her (1) name and address, (2) qualifications, acknowledgement of the expert's duty, and specific area(s) of expertise, (3) a list of the issues to be addressed, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing.*

The Procedural Order will set out when and how witness statements are to be exchanged.

Additional Information

***Summons:** A party may ask the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure.) An affidavit may be requested indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.*

***The order of examination of witnesses:** is usually direct examination, cross-examination and re-examination in the following way: direct examination by the party presenting the witness; direct examination by any party of similar interest, in the manner determined by the Board; cross-examination by parties of opposite interest; re-examination by the party presenting the witness; or another order of examination mutually agreed among the parties or directed by the Board.*

***Role of Participants:** Participants are identified at the start of a prehearing or at the start of a hearing. Participant statements should be filed with the Board and the parties in accordance with the direction set out in the Board's Procedural Order. If a participant does not attend the hearing and only files a written statement, the Board may not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file the material and do not attend.*

OCTOBER 20, 2014