

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** January 08, 2021

**CASE NO(S):** PL200044

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

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

Appellant:	Frank De Luca
Subject:	By-law No. BL2019-131
Municipality:	City of Niagara Falls
LPAT Case No.:	PL200044
LPAT File No.:	PL200044
LPAT Case Name:	De Luca v. Niagara Falls (City)

**Heard:** December 2, 2020 and December 17, 2020 by video hearing

**APPEARANCES:**

**Parties**

**Counsel/Representative\***

Frank De Luca	self-represented*
City of Niagara Falls	T. Halinski
Habitat for Humanity Niagara	T. Richardson

**MEMORANDUM OF ORAL DECISION DELIVERED BY HUGH S. WILKINS ON  
DECEMBER 2, 2020 AND DECEMBER 17, 2020 AND ORDER OF THE TRIBUNAL**

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[1] This Decision arises from Case Management Conferences (“CMCs”) that were

held for the appeal brought by Frank De Luca (“Appellant”) regarding the passage by the City of Niagara Falls (“City”) of a zoning by-law amendment relating to the lands located at 7154 Adam Avenue and 6680 Hawkins Street (“subject lands”). The proposed Zoning By-law Amendment would facilitate a residential development proposed by Habitat for Humanity Niagara (“Applicant”).

[2] The Tribunal held two CMCs. They each were held by video hearing. The first CMC was held on December 2, 2020 and the second was held on December 17, 2020.

[3] At the CMC on December 2, 2020, the Tribunal heard a request for Party status, addressed matters relating to the identification of the issues to be adjudicated, discussed opportunities for settlement, addressed the filing and approval of a draft Procedural Order and Issues List, and set hearing dates. At the CMC on December 17, 2020, the Tribunal heard further submissions regarding the identification of the issues and provided directions to the Parties.

### **REQUEST FOR PARTY STATUS**

[4] At the CMC on December 2, 2020, the Applicant requested Party status. It stated that it owns the subject lands and is the applicant for the proposed Zoning By-law Amendment. It stated that it made presentations at the statutory public meeting and would call witnesses to respond to each of the issues raised. The City supported the Applicant’s request for status. The Appellant opposed the request. He stated that he did not see any advantage to making the Applicant a Party. The Tribunal found that, given the Applicant’s knowledge and role in the application process, there were reasonable grounds to add the Applicant as a Party and that its presence is necessary to enable the Tribunal to adjudicate effectively and completely on the issues in the proceeding. The Tribunal granted Party status to the Applicant as requested.

## IDENTIFICATION OF ISSUES

[5] Issues to be adjudicated by the Tribunal on a zoning by-law amendment appeal must be triable and capable of adjudication. They should be genuine planning issues derived from the grounds for appeal set out in the Appellant's Notice of Appeal (or Appellant Form) and relevant to the matter in dispute. They must be within the Tribunal's statutory jurisdiction to adjudicate and capable of support by reference to evidence. This does not call for the Tribunal to assess evidence, but rather to be satisfied that there could be evidence to support the issue. The identification of issues serves to provide Parties with a focus and basis for preparations for a hearing. An issue should be focused and should identify its statutory or policy basis.

[6] At the CMC on December 2, 2020, the Appellant identified general issues that he wished to raise at a hearing. After hearing submissions on the proposed issues, the Tribunal directed that the Appellant revise his proposed Issues List to provide greater specificity regarding the policies, plans and legislative provisions that he wished to address.

[7] On December 16, 2020, the Parties filed a draft Procedural Order; however, the Issues List was still in dispute.

[8] At the CMC on December 17, 2020, the Parties made submissions regarding the Appellant's revisions to his proposed issues. The issues that the Appellant proposed at the CMC were based on matters of provincial interest set out in s. 2 of the *Planning Act*. They were the following:

- a. the adequate provision of a full range of housing, including affordable housing;
- b. the protection of the financial and economic well-being of the Province and its municipalities;
- c. the co-ordination of planning activities of public bodies;
- d. the resolution of planning conflicts involving public and private interests;

- e. the protection of public health and safety; and
- f. the appropriate location of growth and development.

Most of these revised issues are derived from the Appellant's reasons for appeal in his Appellant Form, which included mix of housing, financial and economic, traffic and road safety, density, and compatibility grounds.

[9] The Parties' submissions and the Tribunal's analysis and findings on each of the proposed issues is addressed below. The Tribunal directed the Parties to revise the proposed Issues List based on these findings.

**a. The adequate provision of a full range of housing, including affordable housing**

[10] The Appellant submitted that to address this issue, his planner would speak to the mix of subsidized housing within the proposed development and in the general La Scala area of Niagara Falls. He stated that his planner would demonstrate that the proposed development would not provide for a range of housing options. In response, the Applicant submitted that the range of housing within the proposed development is not a planning issue that has merit.

[11] The Tribunal found that the issue of whether the proposed Zoning By-law Amendment will facilitate the provision of a range of housing is a genuine planning issue that may be relevant to the determination of whether the proposed Amendment should be approved. It is an issue to be considered when determining consistency with the Provincial Policy Statement, 2020 ("PPS") and conformity with the Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and is within the Tribunal's jurisdiction to adjudicate. The Tribunal found that this issue is capable of support by reference to evidence provided that it focuses on whether the proposed Zoning By-law Amendment would facilitate a development that would assist in the provision of a full range of housing in the general area of the subject property.

**b. The protection of the financial and economic well-being of the Province and its municipalities**

[12] The Appellant submitted that this issue would address the past and future subsidization of private developments in the area. His arguments would be based on evidence from a nearby project undertaken by the Applicant and its financial implications on the City. He said he would raise issues of anti-assistance bonusing, injurious affection, damages that a neighbouring property would be seeking, reduced property values as a result of the proposed development, the loss of privacy caused by the proposed development, and the construction noise and mess that it would create. The Applicant and the City submitted that the issue of subsidies and related financial implications are not relevant planning issues. They submitted that issues of anti-assistance bonusing and injurious affection are outside of the Tribunal's jurisdiction in a zoning by-law amendment appeal. They also questioned whether the issue of property values is appropriate.

[13] The Tribunal found that the issue of the protection of the financial and economic well-being of the Province and its municipalities is not one that is capable of support by evidence given the absence of proposed evidence on significant financial implications for the City or Province caused by the proposed development. However, the Tribunal found that issues relating to a loss of privacy and/or to noise or relating to other impacts to neighbouring properties caused by the proposed project are genuine planning issues relating to conformity with the City's Official Plan and may be relevant to the determination of whether the proposed Zoning By-law Amendment should be approved. Such issues are capable of support by reference to evidence and are within the Tribunal's jurisdiction to adjudicate.

**c. The co-ordination of planning activities of public bodies**

[14] The Appellant submitted that this issue would address the chain of events that occurred prior to this proceeding, contraventions of the planning process, confidentiality issues, and irregularities related to a previous Tribunal hearing on the severance of the subject property from adjacent lands. The Applicant submitted the process before City

Council was proper and transparent and that the Tribunal does not have jurisdiction to address the previous Tribunal proceeding. The City submitted that the chain of events prior to the hearing has nothing to do with the legislative tests that must be met in this appeal and that these issues are outside of the Tribunal's jurisdiction.

[15] The Tribunal stated that it will have regard to the City Council's decision regarding the proposed Zoning By-law Amendment and the information upon which that decision was based; however, general procedural issues and confidentiality issues related to the process before City Council and the re-opening of previous Tribunal decisions are not proper planning issues in a Zoning By-law Amendment appeal. They do not directly relate to the determination of the proposed Zoning By-law Amendment's consistency with the PPS, conformity with provincial plans or applicable official plans, or good planning. The Tribunal found that these are not genuine planning issues for adjudication in this proceeding.

**d. The resolution of planning conflicts involving public and private interests**

[16] The Appellant submitted that this issue would address planning conflicts with neighbouring properties and the impacts that the sale of the property has caused to the residents of the neighbourhood. He stated that he would present evidence that a neighbouring property would no longer be in compliance with parking requirements and he possibly would rely on an Ombudsman's Report on the handling of the parking issue. The Applicant questioned whether the Appellant has the evidence to address this issue and the City questioned the relevance of an Ombudsman's report.

[17] The Tribunal found that the issue of the impacts of the proposed Zoning By-law Amendment is a genuine planning issue related to conformity with the City's Official Plan, which is relevant and is capable of support by reference to evidence. Impacts related to other matters, including the sale of property, are not genuine planning issues to be considered in the determination of whether the proposed Zoning By-law Amendment is consistent with the PPS, conforms with provincial plans or applicable official plans, or represents good planning. The Tribunal notes that the relevance of the Ombudsman's

report and other documents would be determined during the course of the proceeding.

**e. The protection of public health and safety**

[18] The Appellant submitted that he would present evidence on the introduction of a road to a secondary intersection, road safety concerns, and issues related to the access route to the proposed development. The Applicant argued that there is no new public road being proposed and questioned the framing of this issue.

[19] The Tribunal found that road and traffic safety issues are genuine planning issues related to conformity with the City's Official Plan. They may be relevant, are capable of support by reference to evidence, and are within the Tribunal's jurisdiction to adjudicate.

**f. The appropriate location of growth and development**

[20] The Appellant submitted that he would present evidence that the proposed Zoning By-law Amendment would facilitate a development that does not fit in with the neighbourhood and the entire south Niagara Falls area.

[21] The Tribunal found that this is a genuine planning issue related to conformity with the City's Official Plan that may be relevant, is capable of support by reference to evidence, and is within the Tribunal's jurisdiction to adjudicate.

[22] The Tribunal directed the Parties to revise the proposed Issues List based on the Tribunal's findings. On December 21, 2020, the Parties filed revised Issues Lists, which the Tribunal has consolidated and revised for consistency with its findings.

[23] The Tribunal approves the revised Procedural Order and Issues List as attached to this Order and Decision as Attachment 1.

**SETTLEMENT OPPORTUNITIES**

[24] At the CMC held on December 2, 2020, each of the Parties expressed an interest

in pursuing settlement and stated that it is amenable to considering mediation. The Tribunal encouraged the Parties to engage in settlement discussions and to promptly request Tribunal assisted mediation, if they determine that that mediation would be a constructive pathway forward.

## **SETTING OF HEARING DATES**

[25] At the CMC held on December 2, 2020, the Parties requested that the Tribunal set hearing dates. They identified the witnesses that they intend to call and suggested that three days would be required to complete the hearing. The Tribunal agreed and set hearing dates for three days in April 2021.

## **TELEVISION BROADCAST OF THE HEARING**

[26] At the CMC held on December 17, 2020, the Appellant requested that the Tribunal permit a local television station to broadcast the hearing to ensure public access and transparency. Subsequent to the CMC, the Applicant stated its opposition to this request noting that the hearing is scheduled to be held by video hearing which is open to the public to observe and the broadcasting of the hearing on television could result in the intimidation of witnesses and grandstanding by Parties.

[27] Rules 22.5 to 22.7 of the Tribunal's Rules of Practice and Procedure address the recording of hearing events. They state:

22.5 No person shall take or attempt to take a photograph, motion picture, video recording, or other recording capable of producing audio or visual representations by electronic means, or otherwise, at any proceedings of the Tribunal otherwise open to the public, unless the presiding Tribunal Member authorizes the recording and the following conditions have to be satisfied by the person making the request:

- (a) the Tribunal Member determines that the proceedings will not be disrupted or delayed if approval is given;
- (b) the Tribunal Member determines that the approval will not result in any prejudice to any party to the proceedings;
- (c) the equipment must be of a type approved by the Tribunal and be placed in locations approved by the presiding Tribunal Member so as to be unobtrusive; and
- (d) a photograph or visual recording may only take place with the permission of



the Member and in such a manner that will not disrupt or interrupt the proceedings.

22.6 The Tribunal Member shall afford the parties to the proceeding an opportunity to make submissions to the Tribunal of any of the items set out in Rule 22.5 and respond to those submissions. The Tribunal may impose conditions to any approval necessary to ensure the items in Rule 22.5 are satisfactorily addressed.

22.7 The Tribunal may withdraw permission to record temporarily or permanently if the conditions are not met, if any of the factors in Rule 22.5 become relevant, or if the Tribunal in the circumstances cannot conduct a full and fair hearing.

[28] In accordance with Rule 22.6, the Tribunal directs that the Appellant may make submissions to the Tribunal by no later than January 15, 2021 on any of the items set out in Rule 22.5 and the Applicant and City may respond to those submissions by no later than January 22, 2021.

## ORDER

[29] The Tribunal orders that Habitat for Humanity Niagara is a Party in this proceeding.

[30] The Tribunal approves the Procedural Order and Issues List attached as Attachment 1 to this Order and Decision.

[31] The Tribunal directs that the Appellant may file submissions with the Tribunal's Case Coordinator by no later than **Friday, January 15, 2021** on any of the items set out in Rule 22.5 and the Applicant and City may respond to those submissions by no later than **Friday, January 22, 2021**.

[32] The Tribunal orders that the hearing of the appeals will commence by video hearing on **Wednesday, April 7, 2021 commencing at 10 a.m.** Three days have been set aside for the hearing.

[33] Parties and Participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/256382477>

**Access code: 256-382-477**

[34] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](https://app.gotomeeting.com/home.html) a web application is available:

<https://app.gotomeeting.com/home.html>

[35] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **Toll-Free 1 888 455 1389 or +1 (647) 497-9391**. The **access code is 256-382-477**.

[36] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[37] There will be no further notice.

[38] This Member is not seized.

*"Hugh S. Wilkins"*

HUGH S. WILKINS  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.olt.gov.on.ca](http://www.olt.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Ontario Land Tribunals

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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Local Planning Appeal Tribunal

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## ATTACHMENT 1

**CASE NO(S): PL200044**

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

Appellant:	Frank De Luca
Subject:	By-law No. BL2019-131
Municipality:	City of Niagara Falls
LPAT Case No.:	PL200044
LPAT File No.:	PL200044
LPAT Case Name:	De Luca v. Niagara Falls (City)

### PROCEDURAL ORDER

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

### Organization of the Hearing

2. The video hearing will begin on April 7, 2021 at 10 a.m.
3. The parties' initial estimation for the length of the hearing is three (3) days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. The parties and participants identified at the case management conference are set out in Schedule 1 (see the sample procedural order for the meaning of these terms).
5. The issues are set out in the Issues List attached as Schedule 2. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.

6. The order of evidence shall be as set out in Schedule 3 to this Order. The Tribunal 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. The length of written argument, if any, may be limited either on the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.
7. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
8. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's Video Hearing Guide, available on the Tribunal's website (<https://olt.gov.on.ca/tribunals/lpat/>).

### **Requirements Before the Hearing**

9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before February 10, 2021 and in accordance with paragraph 24 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.
10. Expert witnesses in the same field shall have a meeting on or before March 8, 2021 and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting the parties must prepare and file a Statement of Agreed Facts and Issues with the LPAT case co-ordinator on or before March 22, 2021.
11. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in paragraph [15] below. 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 Tribunal may refuse to hear the expert's testimony.
12. 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 as in paragraph [15] below. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph [15] below.
13. On or before February 26, 2021, the parties shall provide copies of their witness and expert witness statements to the other parties and to the LPAT case co-ordinator and in accordance with paragraph 23 below.

14. On or before February 26, 2021, a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 23 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
15. On or before March 26, 2021, the parties shall provide copies of their visual evidence to all of the other parties in accordance with section 23 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
16. Parties may provide to all other parties and the LPAT case co-ordinator a written response to any written evidence within fourteen (14) days after the evidence is received and in accordance with section 23 below.
17. The parties shall cooperate to prepare a joint document book which shall be shared with the LPAT case co-ordinator on or before March 26, 2021.
18. Any documents which may be used by a party in cross examination of an opposing party's witness shall be password protected and only be accessible to the Tribunal and the other parties if it is introduced as evidence at the hearing, pursuant to the directions provided by the LPAT case co-ordinator, on or before April 2, 2021.
19. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. *See Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.*
20. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.
21. The parties shall prepare and file a preliminary [hearing plan](#) with the Tribunal on or before March 26, 2021 with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The parties shall prepare and file a final hearing plan prior to the further case management conference outlined in section 5 above. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.
22. All filing shall be electronic and in hard copy. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents email shall be governed by the Rule 7.

**23.** No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

**This Member is not seized.**

**So orders the Tribunal.**

## Attachment to Sample Procedural Order

### Meaning of terms used in the Procedural Order:

**Party** is an individual or corporation permitted by the Tribunal 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 must accept the other responsibilities of a party as set out in the 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.

**NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the case management conference (CMC), must ask the Tribunal to permit this.

A **participant** is an individual, group or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Subsection 33.2 of the *Local Planning Appeal Tribunal Act* states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal. A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.

A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.

**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.

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

An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (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.

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 the participant wishes to address and the submission of the participant on those issues; and a list of reports, if any, which the participant wishes to refer to in their statement.

## **Additional Information**

**Summons:** *A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons. This request must be made before the time that the list of witnesses is provided to the Tribunal and the parties. (See Rule 13 on the summons procedure.) If the Tribunal requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Tribunal 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 Tribunal;*
- *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 Tribunal.*



## **SCHEDULE 1**

1. Frank De Luca
2. City of Niagara Falls
3. Habitat for Humanity Niagara

## **SCHEDULE 2**

### **ISSUES LIST**

1. Does the proposed Zoning By-law Amendment facilitate a development that would assist in the provision of a full range of housing, including affordable housing, the proper mix, and type of housing, in the general area?
2. Does the proposed Zoning By-law Amendment facilitate a development that would adversely impact adjacent properties, including noise impacts and a loss of privacy?
3. Does the proposed Zoning By-law Amendment facilitate a development that does not protect public health and safety due to road and traffic safety concerns?
4. Does the proposed Zoning By-law Amendment facilitate a development that is in an appropriate location for growth and development and does it fit the neighbourhood and the south Niagara Falls area?

## **SCHEDULE 3**

### **ORDER OF EVIDENCE**

1. Habitat for Humanity Niagara
2. City of Niagara Falls
3. Frank De Luca
4. Habitat for Humanity Niagara or City of Niagara Falls, in reply

# Sample Procedural Order for Video Hearings

## Purpose of the Procedural Order

Case management conferences are scheduled by the Tribunal to organize the hearing. This sample procedural order is provided to identify who may participate in the hearing, the issues in dispute, and the matters that are required to be carried out before the hearing. The attachment to this sample procedural order explains the meaning of a number of terms in the sample procedural order, such as a party or a participant.

The Tribunal recommends that the appellant, municipality, the applicant (if applicable), or those who wish to seek party status in this proceeding, meet, remotely if necessary, to discuss this sample procedural order before the date of the case management conference and try to identify the issues and process they want the Tribunal to order following the conference. The Tribunal will hear submissions on the content of this procedural order at the case management conference and issue a procedural order at a later date.

If you are not represented by a lawyer, you should prepare by reviewing the Tribunal's Video Hearings Guide, and the Tribunal's *Rules of Practice and Procedure* ("Rules"), particularly Rule 20, which are available on the Tribunal's website (<https://olt.gov.on.ca/tribunals/lpat/>).