



Ontario

Ministry of
Consumer and
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Property
Rights
Division

Legal
and

Survey
Standards
Branch

BULLETIN NO. 83020

DATE: July 22, 1983

TO:
All Land Registrars

Planning Act, 1983

Land Registration Procedures

The Planning Act, 1983 received Royal Assent January 27, 1983 and comes into force August 1, 1983. Although this Act repeals the former Planning Act, any matter or proceeding as defined that has been commenced under the former Act before the day this Act comes into force shall be continued and finally disposed of under the former Act.

Whereas the Planning Act has been completely reorganized, there are relatively few amendments which affect land registration procedures.

1. Official Plans

Official plans will no longer be lodged in the land registry office. Subsection 20(1) of the Act provides that two certified copies of the official plan will be lodged with the office of the Minister of Municipal Affairs and Housing and one certified copy in the office of the clerk of each municipality specified by the said Minister.

Land registrars are requested to contact the various municipalities and ask if they would like their official plans to be returned to them or, in the alternative, to authorize their destruction. If a municipality does not want the return of their official plans or does not authorize their destruction, then arrangements should be made to send the official plans to the Record Centre at Mississauga (Cooksville).

2. Subdivision of Land

Part IV of the revised Planning Act deals with subdivision of land. Attached hereto is a reproduction of section 49 (formerly section 29) which provides for subdivision and part-lot control.

No person shall deal with part of his land for a period of twenty-one years or more unless he has received consent to the severance of land or such severance falls within the statutory exceptions. The Planning Act, 1983

not only incorporates all of the previous statutory exceptions but also enlarges the scope of some of them and adds new exceptions. The following is a list of the changes to the statutory exceptions where consent for a severance is not required:

- 1) Land being retained is the whole of one or more lots or blocks within one or more registered plans of subdivision. (Clauses 49(3)(b) and 49(5)(a)).
- 2) Land is acquired or disposed of by Ontario Hydro. (Clauses 49(3)(c) and 49(5)(b)).
- 3) Clauses 49(3)(d) and 49(5)(c) change the former clauses 29(3)(d) and 29(3)(c) respectively by substituting the phrase "acquired for the construction of a transmission line" to "acquired for the purpose of a transmission line".
- 4) Land is being acquired for certain approved purposes as defined in clauses 49(3)(e) and 49(5)(d) of the Planning Act, 1983 by a conservation authority and there is a declaration by an officer of the conservation authority that the land is being acquired for such purpose.
- 5) Land that is being conveyed, or otherwise dealt with is the remaining part of a lot or block, the other part of which was acquired by a body that has vested in it the right to acquire land by expropriation (clause 49(5)(e)).

Subsection 49(6) provides that where consent has been given to a severance of a parcel of land, the whole of the remaining part may be conveyed or otherwise dealt with before the conveyance of or other dealing with the parcel of land for which consent was given provided the remaining part is dealt with before the consent lapses. The Planning Act affidavit attached to the instrument dealing with the remaining part of the land must state that a consent is not required because subsection 49(6) of the Planning Act, 1983 applies.

Subsection 49(15) has been amended to clarify that simultaneous conveyances involving the same parties acting in their same respective capacities do not require planning approval, e.g. where both a deed and a transfer are required to complete one transaction.

Subsection 49(9) provides that a lease of part of a building or structure for any number of years is not prohibited by subdivision or part-lot control.

3. SEVERANCE CONSENT

The basic authority to grant consent to divide land without a plan of subdivision is assigned in subsection 49(1). Section 53 of the Planning Act, 1983 provides for various delegations of the basic authority to grant severance consents. However, the certificate evidencing consent is given by the clerk of the municipality for the council which gave the consent or the Minister of Municipal Affairs and Housing, as applicable. But where the authority to give consent has been delegated under section 53 to a land division committee or to a committee of adjustment, the certificate shall be given by the secretary-treasurer of the appropriate committee. The land registrars are directed to accept all certificates provided they are given by a clerk of a municipality, the Minister of Municipal Affairs and Housing or the secretary-treasurer of a land division committee or committee of adjustment.

Land registrars should note that subsection 52(22) provides that if a transaction is not carried out, a consent for severance lapses at the expiration of two years after the date of the certificate which evidences the consent. The only qualification to this rule is that the consent may provide for an early lapsing of the consent. When an instrument is presented for registration with an apparently outdated consent and the only evidence of compliance with the Planning Act, 1983 is the certificate, the instrument (transfer, deed, charge, mortgage, etc.) must be refused unless one of the parties to the transaction provides a statutory declaration that the transaction was carried out before expiration of the consent or that consent is not required and giving reasons therefor. A certificate evidencing severance consent is registrable even after the expiration date.

4. INSTRUMENTS WHICH MAY BE REGISTERED IN THE LAND REGISTRY OFFICE

The following list sets out the various instruments which are authorized by the Planning Act, 1983 to be registered in the proper land registry office:

- (a) Subsections 28(7) & (8) (old subsections 22 (9) & (10)). A certificate signed by the clerk of the municipality setting out the amount and interest rate of a loan to the registered or assessed owners of land within a community improvement project area, together with a registrable description shall be registered in the proper land registry office. Upon repayment, a certificate signed by the clerk of the municipality showing such repayment shall be registered and thereupon, the lien or charge upon the land is discharged. The loan is to pay for the whole or part of the cost of rehabilitating the land and buildings to conform to the community improvement plan.

- (b) Subsection 28(10) NEW. An agreement between the municipality and a purchaser from the municipality of land in a community improvement project area stipulating that such purchaser shall keep and maintain the land and building in conformity with the community improvement plan until a by-law is in force may be registered;
- (c) Subsection 31(7) & (10) (old section 43(7) & (10)). Subject to the condition set out in section 31, a municipality may pass a by-law prescribing standards for maintenance and repair and occupancy on property. If there are violations of such a by-law upon compliance with section 31, an order may be made by the municipality that if the repairs are not effected within the time specified, the municipality may do so at the expense of the owner. Such an order may be registered in the proper land registry office and subsequent persons acquiring an interest in the land are bound by it. A certificate stating that the requirements have been met operates as a discharge and shall be forthwith registered in the proper registry office.
- (d) Section 32 (old section 44). Where a municipality passes a by-law pursuant to section 31 setting standards of maintenance, repair and occupancy, loans may be given to the registered or assessed owners for the whole or any part of the cost of the repairs required to be done or of the clearing, grading and levelling of the lands or such terms and conditions as the council may prescribe. A certificate signed by the clerk of the municipality setting out the amount of the loan and interest to pay for the aforementioned items, together with a legal description of the land sufficient for registration shall be registered. A certificate showing repayment shall be similarly registered and thereupon the loan or charge is discharged.
- (e) Subsection 33(8) (old subsection 45(8)). In a demolition control area, the municipality may issue a demolition permit on condition that the applicant complete a new building not later than a specified date and on condition of failure to complete the new building, the clerk of the municipality shall

be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies but not to exceed \$20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued. Such sum until payment is a lien or charge upon the land. Where the sum of money is added to the tax roll, a certificate signed by the clerk of the municipality in respect of such sum may be registered against the land. A certificate showing payment may be similarly registered and is a discharge of the lien or charge upon the land.

- (f) Subsection 36(4). This subsection provides that an agreement pursuant to subsection 36(3) may be registered. Such agreements stipulate the facilities, services or other matters a property owner is prepared to provide in return for an increase in the height or density of a development.
- (g) Section 39. This section permits the municipality and the owner or occupant of a building to enter into an agreement exempting the owner or occupant from the requirement of providing or maintaining parking facilities. Such agreements must provide for the payment of money to the municipality and may be registered. When all money payable under the agreement has been paid, or the agreement has been terminated, at the request of the owner or occupant of the land, the municipality must give a certificate in registrable form setting out that the money has been paid or that the agreement has been terminated and the certificate may be registered.
- (h) Subsection 40(1) (Similar to old subsection 40(7)). This subsection provides that agreements pursuant to clause 40(7) (a) and clause 40(8) (b), which are site plan agreements and agreements for access to and from land and maintenance thereof, may be registered.
- (i) Clause 46(6) (b) and subsection 46(7) (similar to old section 35). The Minister of Municipal Affairs and Housing may by order exercise any of the powers given to a municipality related to land use control and the designation that plans of subdivisions are not deemed to be registered plans of subdivision. A duplicate or a certified copy of an order under clause 46(6) (b), where the land affected is situate in territory without municipal organization shall be lodged in the proper land registry office. A duplicate or a certified copy of an order under subsection 46(7) may be registered in the proper land registry office.
- (j) Subsections 49(4) & (24) (old subsections 29(4), (10) and (21)). These subsections provide that by-laws designating plans of subdivision not to be plans of subdivision for the purposes of section 49 and that by-laws designating lands not to be subject to part-lot control, must be registered.

- (k) Subsection 50(6) (old subsection 36(6)). Every municipality and the Minister of Municipal Affairs and Housing may enter into subdivision agreements imposed as a condition to the approval of a plan of subdivision and any such agreements may be registered.
- (l) Subsection 50(2) & (22) (old subsection 36(15)). This subsection provides for the registration of a plan of subdivision after the approval of the Minister of Municipal Affairs and Housing. If the plan is not registered within 30 days (formerly one month), the Minister may withdraw his approval. In addition to any requirements under the Land Titles Act or the Registry Act, the person tendering the plan of subdivision for registration shall deposit with the land registrar, a duplicate or, when required by the Minister, two duplicates of the plan of a type approved by the Minister and the land registrar shall endorse thereon... a certificate showing the number of the plan and the date of registration and shall deliver such copies to the Minister. The plans are forwarded from the approving authority directly to the Land Registry Office for registration.
- (m) Subsection 52(2) (old subsection 36(25)). If the council or the Minister of Municipal Affairs and Housing, as the case may be, is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the area then on the application of the owner of the land, severance consent may be granted and an agreement similar to a subdivision agreement is registrable.

6. Previous Bulletins

- 75075 This bulletin continues to be applicable. The section reference should be changed from section 29 to section 49 and from section 29a to section 56.
- 77007 This bulletin continues to be applicable. The section reference should be changed from subsections 2 and 4 of section 29 of The Planning Act to subsection 29(3) and (5) of The Planning Act, 1983.
- 78033 This bulletin continues to be applicable. The word "construction" which is the first word on the fourth line of the bulletin should be changed to "purpose".

79004 This bulletin deals with The Planning Amendment Act 1978 and the Metric Conversion Law Amendment Act. Many of the provisions will be still applicable but the section references have been changed.

Reference in Bulletin <u>79004</u>	New Reference
Subsection 29(4 <u>b</u>)	Similar to subsection 49(12)
Subsection 29 (4 <u>c</u>)	Similar to subsection 49(13)
Subsection 29 (4 <u>d</u>)	Similar to subsection 49(14)
Subsection 29 (4 <u>f</u>)	Similar to subsection 29(19)
Subsection 29(9)	Similar to subsection 49(23)
Clause 32(5 <u>a</u>)(b)	Similar to clause 46(6)(b)
Section 33 <u>a</u> . No longer applicable.	See Bulletin 81027
Subsection 44 <u>b</u> (2)	Similar to section 4
80007, 80008 and 80009	These Bulletins will no longer be applicable. New regulations will be made delegating the Minister's authority.
80025	This Bulletin continues to be applicable.
81019	This Bulletin will continue to be applicable but the reference to the Planning Act should be changed as follows: section 29 becomes section 49. subsection 29(5e) becomes subsection 49(18). subsection 29(3) becomes subsection 29(4).
81027	This bulletin will continue to be valid but the section reference changes from subsection 29(5 <u>g</u>) to subsection 49(20).
83005 83006 82023	These bulletins will no longer be applicable.

PART VI

SUBDIVISION OF LAND

Interpre-
tation

49.—(1) In this section and in section 52 “consent” means,

- (a) where the land is situate within a regional municipality or is situate within The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford, a consent given by the regional council, the Metropolitan Council, the District Council or the County Council, as the case may be;
- (b) where the land is situate within a town, village or township that forms part of a county for municipal purposes, a consent given by the council of the county;
- (c) where the land is situate within a local municipality that is within a county, but that does not form part of the county for municipal purposes other than land situate within the Township of Pelee, in the County of Essex, a consent given by the council of the local municipality;
- (d) where the land is situate within a city that is within a territorial district, other than a city within a regional

or district municipality, a consent given by the council of the city; or

- (e) where the land is situate in a territorial district but is not within a regional or district municipality or is not within a city, or where land is situate in the Township of Pelee, in the County of Essex, a consent given by the Minister,

and a reference herein and in section 52 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4, 5 and 53.

(2) For the purposes of this section, land shall be deemed and shall always have been deemed not to abut land that is being conveyed or otherwise dealt with if it abuts such land on a horizontal plane only. Proviso

(3) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless, Subdivision control

- (a) the land is described in accordance with and is within a registered plan of subdivision;
- (b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than land that is the whole of one or more lots or blocks within one or more registered plans of subdivision;
- (c) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;
- (d) the land or any use of or right therein is being acquired for the purpose of a transmission line as defined in the *Ontario Energy Board Act* and in respect of which the person acquiring the land or any

R.S.O. 1980.
c. 332

use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;

- (e) the land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under section 24 of the *Conservation Authorities Act* and in respect of which an officer of the conservation authority acquiring the land or any use of or right therein has made a declaration that it is being acquired for any of such purposes, which shall be conclusive evidence that it is being acquired for such purpose; or
- (f) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

R.S.O. 1980,
c. 85

Designation
of plans of
subdivision
not deemed
registered

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3).

Part-lot
control

(5) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed, or transfer, or grant, assign or exercise a power of appointment in respect of a part of any lot or block of the land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless,

- (a) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than

land that is the whole of one or more lots or blocks within one or more registered plans of subdivision;

- (b) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;
- (c) the land or any use of or right therein is being acquired for the purpose of a transmission line or utility line, both as defined in the *Ontario Energy Board Act*, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose; R.S.O. 1980,
c. 332
- (d) the land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under section 24 of the *Conservation Authorities Act* and in respect of which an officer of the conservation authority acquiring the land or any use of or right therein has made a declaration that it is being acquired for any of such purposes, which shall be conclusive evidence that it is being acquired for such purpose; R.S.O. 1980,
c. 85
- (e) the land that is being conveyed, or otherwise dealt with is the remaining part of a lot or block, the other part of which was acquired by a body that has vested in it the right to acquire land by expropriation; or
- (f) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

(6) Despite subsections (3) and (5), where land is the remaining part of a parcel of land, the other part or parts of which parcel have been the subject of a consent given under clause (3) (f) or (5) (f), the whole of the remaining part may be conveyed or otherwise dealt with before the other part or parts are conveyed or otherwise dealt with, provided that the remaining part is conveyed or otherwise dealt with before the consent mentioned above lapses under subsection 52 (22). Conveyance
of remaining
part

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Designation
of lands not
subject to
part-lot
control

(7) Despite subsection (5), the council of a local municipality may by by-law provide that subsection (5) does not apply to land that is within such registered plan or plans of subdivision or part or parts thereof as is or are designated in the by-law, and, where the by-law is approved by the Minister, subsection (5) ceases to apply to such land, but the by-law, without requiring the approval of the Minister, may be repealed, or may be amended to delete part of the lands described therein, and when the requirements of subsection (24) have been complied with, subsection (5) thereupon applies to the lands affected by the repeal or amendment.

Exception

(8) Nothing in subsections (3) and (5) prohibits, and subsections (3) and (5) shall be deemed never to have prohibited, the giving back of a mortgage or charge by a purchaser of land to the vendor of the land as part or all of the consideration for the conveyance of the land, provided that the mortgage or charge applies to all of the land described in the conveyance.

Part of
building or
structure

(9) Nothing in subsections (3) and (5) prohibits the entering into of an agreement that has the effect of granting the use of or right in a part of a building or structure for any period of years.

Agreement
under
R.S.O. 1980,
c. 126, s. 2

(10) This section does not apply to an agreement entered into under section 2 of the *Drainage Act*.

Application
to ARDA

(11) This section does not apply so as to prevent the Agricultural Rehabilitation and Development Directorate of Ontario from conveying or leasing land where the land that is being conveyed or leased comprises all of the land that was acquired by the Directorate under one registered deed or transfer.

Exception to
application of
subss. (3, 5)

(12) Where a parcel of land is conveyed by way of a deed or transfer with a consent given under section 52, subsections (3) and (5) of this section do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land unless the council or the Minister, as the case may be, in giving the consent, stipulates either that subsection (3) or subsection (5) shall apply to any such subsequent conveyance or transaction.

Reference to
stipulation

(13) Where the council or the Minister stipulates in accordance with subsection (12), the certificate provided for under subsection 52 (21) shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been given without the stipulation.

(14) Where land is within a registered plan of subdivision or within a registered description under the *Condominium Act* or where land is conveyed with a consent given under section 52 or a predecessor thereof, any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that occurred prior to the registration of the plan of subdivision or description or prior to the conveyance, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in the land, but this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the 15th day of December, 1978.

Effect of
contra-
vention of
s. 49, etc.,
before plan
registered,
etc.
R.S.O. 1980,
c. 84

(15) Where a person conveys land or grants, assigns or exercises a power of appointment in respect of land, or mortgages or charges land, or enters into an agreement of sale and purchase of land, or enters into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more by way of simultaneous conveyances of abutting lands or by way of other simultaneous dealings with abutting lands, the person so conveying or otherwise dealing with the lands shall be deemed for the purposes of subsections (3) and (5) to retain, as the case may be, the fee or the equity of redemption in, or the power or right to grant, assign or exercise a power of appointment in respect of, land abutting the land that is being conveyed or otherwise dealt with but this subsection does not apply to simultaneous conveyances or other simultaneous dealings involving the same parties acting in their same respective capacities.

Simultaneous
conveyances,
etc., of
abutting
lands

(16) Where a person gives a partial discharge of a mortgage on land or gives a partial cessation of a charge on land, the person giving the partial discharge or partial cessation shall be deemed to hold the fee in the lands mentioned in the mortgage or charge and to retain, after the giving of the partial discharge or partial cessation, the fee in the balance of the lands, and for the purposes of this section shall be deemed to convey by way of deed or transfer the land mentioned in the partial discharge or partial cessation.

Partial
discharges,
etc., effect of

(17) Subsection (16) does not apply to a partial discharge of mortgage or partial cessation of charge where the land described in the partial discharge or partial cessation,

Saving

- (a) is the same land in respect of which a consent to convey has previously been given;
- (b) includes only the whole of one or more lots or blocks within a registered plan of subdivision, unless such plan of subdivision has been designated under subsection (4); or
- (c) is owned by Her Majesty in right of Canada or Her Majesty in right of Ontario, Ontario Hydro or by any municipality.

Foreclosure or exercise of power of sale, when approval of Minister required

(18) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without the approval of the Minister unless all of the land subject to such mortgage or charge is included in the foreclosure or exercise of the power of sale, as the case may be, but this subsection does not apply where the land foreclosed or in respect of which the power of sale is exercised comprises only,

- (a) the whole of one or more lots or blocks within one or more registered plans of subdivision; or
- (b) one or more parcels of land that do not abut any other parcel of land that is subject to the same mortgage or charge.

Release of interest by joint tenant or tenant in common

(19) Where a joint tenant or tenant in common of land releases or conveys his interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either by himself or together with any other person, he shall be deemed, for the purposes of subsections (3) and (5), to convey such land by way of deed or transfer and to retain the fee in the rebutting land.

Order made under R.S.O. 1980, c. 369

(20) No order made under the *Partition Act* for the partition of land shall have any effect in law unless,

- (a) irrespective of the order, each part of the land described in the order could be conveyed without contravening this section; or
- (b) a consent is given to the order.

Conveyance, etc., contrary to section not to create or convey interest in land

(21) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condi-

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tion contained therein that such agreement is to be effective only if the provisions of this section are complied with.

(22) A certified copy or duplicate of every by-law passed under subsection (4) shall be lodged by the clerk of the municipality in the office of the Minister.

Copy of by-law to be lodged with Minister

(23) A by-law passed under subsection (4) is not effective until the requirements of subsection (24) have been complied with.

When by-law effective

(24) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper land registry office.

Registration of by-law

(25) No notice or hearing is required prior to the passing of a by-law under subsection (4), but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person.

Notice

(26) The council shall hear in person or by his agent any person to whom a notice was sent under subsection (25), who within twenty days of the mailing of the notice to him gives notice to the clerk of the municipality that he desires to make representations respecting the amendment or repeal of the by-law.

Hearing by council