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Ex-lobbyist for the development industry appointed to Ontario's land-use tribunal

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The LPAT has been a focus for the Ford government, which last year scrapped the previous Liberal government's changes that scaled back the tribunal's powers and gave municipalities more say over land-use planning.

FRED LUM/THE GLOBE AND MAIL

The Ontario government has named a former chief lobbyist for Toronto's real estate development industry to the province's powerful land-use tribunal, while stripping it of four adjudicators with environmental backgrounds.

The Local Planning Appeal Tribunal (LPAT), formerly known as the Ontario Municipal Board, hears appeals over local development decisions across the province, deciding, for example, how tall condominium towers can be and whether farmland can be turned into subdivisions.

In December, the government appointed Bryan Tuckey, who served as president and CEO of the Building Industry and Land Development Association (BILD) from 2012 to 2017, as a part-time LPAT adjudicator. Mr. Tuckey, also a former chief planner of York Region, was a vocal critic of elements of the previous Liberal government's anti-sprawl policies while at the helm of BILD, whose members include the largest home builders and developers in the Greater Toronto Area.

Meanwhile, the PC government has also declined in recent months to renew the appointments of four LPAT adjudicators with environmental backgrounds. The group includes three who also sat on the province's Environmental Review Tribunal (ERT), which hears appeals on environmental matters, including wind and solar projects.

Those not reappointed to the LPAT with environmental CVs were: Justin Duncan, a former staff lawyer for activist group Ecojustice who once sought a federal NDP nomination in Toronto; Marcia Valiante, a former University of Windsor environmental law professor; Hugh Wilkins, a lawyer who worked for the World Wildlife Fund and Ecojustice, and Paula Boutis, an environmental lawyer.

All had expected to stay on before the government declined their reappointments, in some cases with little notice. The departures came as the government said it needed more adjudicators to deal with a backlog of housing units before the LPAT – a backlog that the government has blamed for worsening the province's housing crunch.

Mr. Duncan, now a lawyer for the city of Winnipeg, said he is concerned that the two tribunals will lack a wide cross-section of people with different views: "Anybody who had ever been a public-interest environmental lawyer or consultant or worked with an environmental group was shown the door."

Toronto City Councillor Josh Matlow, a vocal critic of the LPAT and the Ford government's other moves to reduce burdens on developers, said the appointments should be a concern to everyone in Ontario.

"Ford is choosing people who will put developers' financial interests ... over the interests of communities and the environment," Mr. Matlow said.

A spokeswoman for Tribunals Ontario, which oversees the LPAT, said Mr. Tuckey declined to comment for this story. When he appeared before the legislature's standing committee on government agencies in December, Mr. Tuckey noted that his time advocating for developers ended in 2017.

Even as head of BILD, he said, he was bound by the rules of the planning profession and "was a planner first and acted in the public interest." He also noted his decades of public service as a planner, in York Region and North York, and said he would "unbiased and professional."

The LPAT has been a focus for the Ford government, which last year scrapped the previous Liberal government's changes that scaled back the tribunal's powers and gave municipalities more say over land-use planning. The development industry welcomed the PC government's reversals, saying it would reduce the power of local councillors to block projects.

Prospective LPAT adjudicators apply through the government's Public Appointments Secretariat. Appointments are recommended by Attorney-General Doug Downey and approved by cabinet. The LPAT has more than 30 members, and includes lawyers, planners and former municipal politicians. Full-time adjudicators start at \$110,000 a year, while part-time adjudicators earn at least \$427 a day.

Legislation brought in by the Liberals in 2009 said the appointment process should be merit-based, and that the criteria for candidates must include both "experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal" and "aptitude for impartial adjudication."

Jenessa Crognali, a spokeswoman for Mr. Downey, said the appointments are made in consultation with the LPAT and Tribunals Ontario, and that all candidates go through a competitive interview process.

She said the government has appointed 18 new members and reappointed six members in the past seven months alone. As a result, she said, the tribunal is resolving cases at a faster rate

and has since reduced the LPAT's backlog of cases by almost 20 per cent.

But among those new members are also at least two LPAT adjudicators with PC Party ties.

In June, the government named David Brown, a planning consultant who is also a three-time failed former PC candidate – most recently in 2014 in Hamilton-Stoney Creek – to the tribunal.

And in September, the government appointed Steven Cooke, a former school trustee and one-term town councillor in Clarington, Ont., to the LPAT. He lost his bid for re-election to Clarington Council in 2018. Previously, he sought the PC nomination in Durham in 2014. Mr. Cooke has also served as the local riding association's vice-president and worked as an aide to then-provincial PC cabinet minister Jim Flaherty and Conservative federal finance minister Joe Oliver.

Mr. Brown did not respond to an e-mail requesting comment. A spokeswoman with Tribunals Ontario said Mr. Brown declined to comment. Mr. Cooke, reached at his home in Bowmanville and asked about his party connections, said his post is "supposed to be apolitical." His four years on Clarington's council and eight years as a school trustee, he said, are an asset in making decisions on the LPAT.

The Ford government has faced steady criticism for appointments handed to people with party links or relationships with the Premier's inner circle. Most prominent among them was the government's attempt to hire Toronto Police Superintendent Ron Taverner, a personal friend of the Premier, as commissioner of the Ontario Provincial Police.

NDP MPP Taras Natyshak, the opposition's ethics critic, said the latest appointments are more of the same – and threaten to undermine public confidence in the LPAT.

"It's a disturbing pattern and it shows that Doug Ford has not learned his lesson," Mr. Natyshak said.

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Phillip Crawley, Publisher