



## STAFF REPORT ACTION REQUIRED

### OPERATION OF THE COMMITTEE OF ADJUSTMENT

<b>Date:</b>	October 16, 2007
<b>To:</b>	Planning and Growth Management Committee
<b>From:</b>	Chief Planner and Executive Director, City Planning Division
<b>Wards:</b>	All
<b>Reference</b>	PG9.11 – New Business

#### SUMMARY

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This report addresses the motions considered by Planning and Growth Management Committee, at its meeting on October 2, 2007 (PG9.11) respecting recent policy changes pertaining to the operation of the Committee of Adjustment. More specifically, the report addresses standardizing Public Notices, the writing of staff reports, implementation of recommendations adopted in the Report on Improving the Planning Process, posting electronic distribution of Committee of Adjustment agendas, and the possibility of application fee increases to sustain communication strategy and notification requirements.

The Committee of Adjustment (C of A) for the City of Toronto has been through numerous changes since amalgamation, particularly as it relates to its structural organization, harmonization practices, member composition and staffing. Given the high volume of up to 4,000 applications processed per year between four Community Council districts, it is imperative that Committee of Adjustment staff continue its challenging efforts toward achieving harmonization of its business processes and practices city-wide. It is in the interest of all stakeholders that our customer service delivery of Committee of Adjustment in the four districts be efficient, effective, open and consistent.

#### RECOMMENDATIONS

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**The City Planning Division recommends that:**

The Committee of Adjustment staff continue the implementation of the harmonization program as outlined in this report.

## **Financial Impact**

This report has no financial implications.

## **COMMENTS**

### **1. Harmonized Practices**

At its meeting of May 23, 24, and 25, 2006, Toronto City Council adopted our recommendation that for the 2006-2010 term of the Committee of Adjustment, the Managers/Deputy Secretary-Treasurers continue on-going improvement initiatives regarding harmonized documents and practices by enhancing existing public information material and building a more effective Committee web site.

#### **(a) Posting the Agenda on the City Web site**

The recent decision to suspend the posting of the Toronto & East York C of A Agenda on the web was the result of a review of web management practices and legislative requirements governing the Committee of Adjustment. The review revealed that the Toronto & East York District practice was not harmonized, was incomplete, and initiated prior to establishing quality control measures and web management protocols. The information posted on the web was not an agenda, but a part of the complete agenda package. It only included part of the Public Notices, e.g. purpose and requested variances scheduled for a specific hearing. The C of A staff have had informal exchanges with some stakeholders as to what type of information is the most helpful to post on the C of A web.

In the interim, each C of A office will post the agenda listing for each hearing outlining the date, time, location, owner, property, and Ward for each application. Furthermore, as more in-depth review of C of A web management practices is underway e.g. electronic links to other reports and decisions, and once web protocols have been established, information that reflects Committee of Adjustment agenda activity in each District will become available.

#### **(b) Electronic Distribution of Agendas to Committee Members**

Electronic distribution of the Committee of Adjustment Agenda to Committee of Adjustment members has not been a practice in the City of Toronto, with the exception of the distribution of a partial agenda in Toronto & East York District. One of the main reasons is because C of A stakeholders, including some Committee members, are not equally advanced when it comes to technology. Applicants are not required to provide application materials electronically, many applicants are small property owners and homeowners and rely on simplified methods of application, and the majority of

stakeholders who chose to become involved in the process do not rely on electronic communication to express their views. The second reason is that C of A currently is not equipped with the scanning and resource capability to support electronic distribution of a full Committee Agenda to all members on a bi-weekly basis, given the high volumes of applications received in the City of Toronto.

The current practice citywide is as follows: at least one week prior to each public hearing, Committee of Adjustment members receive a paper copy of the Public Hearing Agenda for which they are to preside. This Agenda is an evolving working document, containing photocopies of all materials filed with each application for their independent review, site inspections, and consideration. Correspondence received after the agenda is produced, is distributed to members and becomes part of the agenda. An additional copy of the full agenda has always been made available for public viewing in each Committee office as are all the original application files.

### **(c) Distribution of Agendas to other Panels in the District**

The two panels per district model for the Toronto and Easy York and North York districts was implemented in March 2007, with the appointment of the 2006-2010 Committee of Adjustment members. Panel A and Panel B members in both districts have been receiving Agenda documents as described previously and, until recently, have not expressed an interest in receiving other Panel Agendas.

Arrangements will be made for those individual Committee members who wish to receive this information by contacting the respective Manager/ Deputy Secretary-Treasurer.

### **(d) Electronic Distribution of the Agenda to Community Leaders**

The Planning Act regulates minimum notification requirements and to whom notice is to be sent. In addition, our practice includes notice to commenting agencies that have an interest, City Councillors and other parties who have filed a written request to be notified. For this reason community leaders (Councillors and Ratepayer/Community Association Representatives) in all districts now receive, up to 15 days prior to each public hearing, electronic copies of all Notices of Public Hearing and relevant plans for applications within their Ward as well as a Public Hearing agenda list. This change provides improved notification to these stakeholders and ensures that Notice is provided in accordance with the *Planning Act* and citywide Committee of Adjustment practices.

Circulating the abbreviated agenda document electronically or otherwise does not constitute Notice under the Planning Act and cannot be relied upon for such purposes.

## **2. Issues Listed in the Communication from Councillor Vaughan (October 3, 2007)**

### **(a) Chair Reports**

The first Chair report, Committee of Adjustment Training Standards, April 5, 2006, was adopted by City Council on May 23, 24, 25, 2006, (Ref.: 06-PT #3(2)). The 2006-2010 Committee of Adjustment took office in April 2007 and will be reporting annually on initiatives that have been or will be taken to improve consent and minor variance processes and ensure accountable decision making.

### **(b) Decisions**

Committee of Adjustment decisions are available and have always been available for viewing in each of the Committee offices. Electronic copies of decisions can be provided to a Panel member if requested. The C of A Management Team is currently investigating how to post C of A decisions on the web.

### **(c) Decision Tracking**

City Planning uses the Integrated Business Management System (IBMS) to electronically record all development applications, including C of A, decisions and subsequent appeals. Tracking and monitoring C of A decisions and subsequent Ontario Municipal Board decisions would be useful in assessing the quality of decisions rendered by the recently appointed C of A Panels, by comparing the outcomes. Staff propose that this appeal information be included in the annual Chairs Report.

In addition, Ontario Municipal Board decisions are currently presented to the respective C of A Panels for their review and information.

## **3. Changing Application Fees to sustain the communication strategy and notification requirements.**

The Development Application Review Project team will be reporting to the Executive Committee in November regarding application fees for all development applications, including cost recovery for all divisions involved in development review, pursuant to a previous direction from Council.

#### **4. Further Reports requested by Planning and Growth Management Committee**

##### **(a) Standardize Public Notices**

Since January 2000, the Committee of Adjustment has been using a standardized Notice of Public Hearing document. The range of information provided on a public notice goes beyond the requirements of the *Planning Act* and has been well received by stakeholders. The document template lists the date, time and location of a hearing, together with additional information for the public on how to obtain more detail on a file, review submitted drawings, providing written concerns/comments to a Committee Panel, the basis on which the Committee makes a decision and limited information on appealing a decision.

The substance of a Public Notice, prepared by Committee of Adjustment staff on individual files, includes the purpose of the application and the requested variances/consent. Staff is therefore required to attend specific in-house training courses which improve writing skills using clear and precise language. The intent is to remove unnecessary “legalese” in the notices, given the inherent technical nature and wording of

Zoning By-laws. The Committee of Adjustment has experienced a high turn-over of or lack of staff, during the past several years, however it is committed to its on-going staff training and coaching efforts, in order to ensure that public notices are easily understood by all interested parties.

##### **(b) Staff Reports**

Each application is now given a critical review from a planning perspective by Committee of Adjustment and Community Planning staff. Site inspections are conducted and each development proposal is assessed with respect to the intent of the zoning by-law, the intent of the Official Plan, whether it is considered desirable for the neighbourhood, if similar variances/consents have been granted in the vicinity, whether it offends other city-wide policies or if specific conditions should be imposed.

This practice of conducting a thorough planning evaluation of development proposals has, in many cases, resulted in changes to the requested variances to more closely conform to zoning by-law requirements. The extent of the variance is usually reduced, if not eliminated, thereby becoming more acceptable from a planning point of view. Staff also strongly encourages owners/applicants to approach the surrounding neighbours, if possible, to further explain their development concept. As a result, staff is seeing improved variance requests and negotiated solutions on changes which address immediate neighbourhood concerns.

Based on a thorough planning review and subsequent discussions with an applicant, staff continues to write reports to a Committee Panel on those development proposals which, in their opinion, do not meet the four tests or affects other city-wide policies/interests or require more explanation/information, or to provide that certain conditions be imposed. This has been a city-wide practice since amalgamation. Given the complexity of certain applications, it is in the City's interest, that the appointed Committee of Adjustment members be well-informed and given professional planning advice before rendering a decision. The practice of staff reporting to Committee when necessary must, and will, be continued in the above circumstances.

All Committee decisions can be appealed to the Ontario Municipal Board, if any interested party considers it unacceptable. This includes the City of Toronto. Decisions, however, are of interest to many stakeholders in the process, and depending on their position as an owner, builder, neighbour, municipal division such as Community Planning, Urban Forestry, Transportation Services or the Toronto and Region Conservation Authority for example, could result in an appeal to the Ontario Municipal Board.

In those cases where a staff report has been written recommending refusal of an application and the Committee approves it or the owner appeals the refusal, planning staff are given instruction by City Council to attend the Board with the City Solicitor, in defence of the Zoning By-law and/or Official Plan. In those cases where no staff report was written due to a lack of identified City planning interest, and if an application is refused, the owner must obtain his/her own professional planning advice to support the proposal. In the past where reports were written with no recommendation, planning staff were exposed to subpoenas from applicants to attend the Board in defence of their applications. Given the extremely high volume of applications received in the City of Toronto, limited staff resources and the Planning Act requirements of hearing applications within 30 days, it is crucial that staff attend the Board only on specific applications which require our professional planning advice in support of City policy and regulations. Appeals resulting from neighbour disputes often do not, and should not, require our attendance at the Board.

The combination of earlier planning staff intervention and negotiation for improved applications, together with more consultation with neighbours and better training for the Committee members, should result in more informed and balanced decisions, possibly reducing the number of appeals to the Ontario Municipal Board.

## **5. Improving the Planning Process**

In response to a report from the Sub-Committee for Improving the Planning Process, City Council at its meeting in May 2006, adopted the recommendation that City Planning work with the C of A to improve communication material, the content of public notices and decisions, on-site signage, notification procedures and the development of protocols for the various responsibilities of the Committee.

City Planning staff reported to Planning and Transportation Committee with recommendations, adopted by City Council also in May 2006, addressing training standards and all of the above matters. In accordance with the report, during the past year, harmonization efforts were directed toward standardizing application submission requirements and other public documents, such as public notices, revised public notice, notice of decisions, minutes and agenda listings. These documents are now harmonized and in use in the four districts; generated and tracked by the Integrated Business Management System (IBMS). In addition, staff have harmonized standard wording on conditions imposed by the Committee.

In order to ensure continued harmonization efforts are implemented in our business processes, a C of A Staff Manual, outlining standardized new practices, documents and policy development initiatives, was prepared and distributed to all staff in 2006.

With respect to the development of protocols for the various responsibilities of Committee of Adjustment, staff developed a C of A Members Manual as part of the training program. The current 2006-2010, C of A members each received a manual at the Inaugural meeting together with presentations from planning and legal division staff. The Manual comprises the necessary documentation and information to prepare each member to fulfill their role, together with Conflict of Interest and Lobbyist policies. It provides the foundation on which to build good decision-making skills, hearing and weighing all evidence, and rendering informed decisions.

The past year also focused on responding to recommendations adopted by Council in the report from the Auditor General, which contribute to the City's goal of providing an open, fair and transparent C of A process. Efforts have therefore been directed toward obtaining harmonization between the new six Committee Panels, with respect to how they conduct their hearings during this next term and protocols regarding their conduct. On November 23, 2007, staff are conducting a full day training session for all Committee of Adjustment members which will address topics on the role of members, protocols for addressing emerging issues and needs, Official Plan updates, conducting hearings, access to information for members and other Committee of Adjustment matters.

With respect to communication material and as previously reported to P&T Committee, staff are exploring various topics of interest which may be posted on the City's website, in addition to the readily available brochures and pamphlets. Opportunity exists to enhance the use of the web site as a means of increasing public awareness on all aspects of the C of A work program. Staff therefore propose to continue their efforts to improve all communication material for the benefit of all stakeholders.

## **CONTACT**

Thomas C. Keefe  
Director, Community Planning, North District

Tel.: 416-395-7170  
Fax: 416-395-7149  
E-mail: [tkeefe@toronto.ca](mailto:tkeefe@toronto.ca)

## **SIGNATURE**

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Ted Tyndorf, Chief Planner and Executive Director  
City Planning Division