

SUPPLEMENTARY CHAIR'S REPORT

April 16, 2009

To: The Deputy City Manager
And to: Licensing and Standards Committee

From: Carol Shirtliff-Hinds BA, LL.B
Chair, Toronto Licensing Tribunal

This supplementary Chair's report is being provided in order to update you on the brochure item raised in the original report dated February 18, 2009. At our business meeting on February 5, 2009 a request was made of staff that the brochures that had been developed (a copy was provided in our original chair's report to you) be placed in the MLS licensing office. The brochures which were endorsed by the City of Toronto were placed on a table in the foyer. It subsequently came to our attention that the City was advised to remove the brochures upon the advice of counsel to MLS.

We have a number of concerns with the removal of the brochures:

- a) The brochures were developed in accordance with our mandate to provide information to potential applicants;
- b) The brochure uses the same language as found in s. 5.1.2 of the Relationship Framework to refer to the appeal process before the Tribunal;
- c) The brochure was developed in accordance with the new spirit of making a hearing before the Tribunal fair to all applicants. See the attached article of Judge Brownstone who wrote a handbook for family litigants who appear before him while still a sitting member of the judiciary.

There is the potential for a conflict of interest in that counsel for MLS regularly appear before the Tribunal. This same counsel then advised the City to remove the brochures that are of benefit to the applicants. An applicant before the Tribunal could understandably be concerned that they are not on the same footing as counsel for MLS before the tribunal.

A bigger overall concern for the Tribunal however is the access to Justice. The brochures were prepared and endorsed by the City of Toronto for the purpose of helping prospective applicants understand the procedure before the Tribunal, a procedure that many find intimidating. It was hoped that the brochures would lead to

greater public awareness and understanding which would have the effect of having a more efficient process before the Tribunal.

It should be emphasized that at every step of the way in designing this brochure all the stakeholders were invited to provide their comments as documented in the Toronto Licensing Tribunal Minutes of November 13, 2008. A copy of which is attached. Counsel for MLS was present for one of the business meetings of this Tribunal when the brochure was being discussed. At that meeting counsel decided not to make any representations.

This supplementary Chair's report is being provided to advise you in a timely manner of an issue that has arisen that affects the distribution of a brochure designed to assist the public. I remain available for a meeting should you wish to contact me.

Yours truly,

Carol Shirtliff-Hinds
Chair, Toronto Licencing Tribunal

Attachments: s.5.1.2 of the Relationship Framework
Toronto Licensing Tribunal Minutes of November 13, 2008.
Article regarding Mr. Justice Brownstone dated February 27, 2009