

THE CITY OF TORONTO

Court Services

Minutes of the Toronto Licensing Tribunal

Business Meeting No. 6

Thursday, November 13, 2008

The Toronto Licensing Tribunal met on Thursday, November 13, 2008, in the Council Chamber, East York Civic Centre, Toronto, commencing at 9:35 a.m.

Attendance:

Members were present for some or all of the time period indicated.

Chair: Carol Shirtliff-Hinds
Members: Moira Calderwood
Carole Cushnie
D. Joel Dick
Lionel Miskin
Ed Shiller
Marlene Thomas

Staff: Joanne Hamill, Sr. Corp. Manager & Policy Consultant, City Manager's Office
Terry Howes, Manager, Court Operations – East, Court Services
Bruce Robertson, Director, Licensing Services, Municipal Licensing & Standards
Rosanne Giulietti, Solicitor, City Legal

There were no Declarations of Interest under the *Municipal Conflict of Interest Act*.

Confirmation of Minutes

ON MOTION by Ed Shiller, seconded by Carol Cushnie, the Tribunal unanimously confirmed the Minutes of its meeting held on April 3, 2008.

1. Chair's update

The Chair welcomed Lionel Miskin who has been appointed as a member of the Tribunal to replace Angelo Amenta, who resigned recently.

The Chair advised that Tribunal hearings will be held in Committee Room A, third floor, East York Civic Centre, from January 2009 to August 2009, as Local 416 will be using the Council Chamber for its negotiations with the City.

2. Update – Code of Conduct Briefing for Adjudicative Boards and Municipal Conflict of Interest Act.

The Tribunal had before it:

- (a) Code of Conduct Briefing for Adjudicative Boards (September 30, 2008) from the Office of the Integrity Commissioner.
- (b) City of Toronto Act, 2006 (Excerpt: Part V).
- (c) Toronto City Council decision document – Meeting 23 on July 15, 16 and 17, 2008 (Excerpt: EX22.6) .

The Chair updated members with respect to the presentation and discussions during her attendance at the Code of Conduct Briefing for Adjudicative Boards and Municipal Conflict of Interest Act held by the City of Toronto on September 30, 2008.

3. Brochure update

Discussion was held with respect to the brochure which has been drafted by the Communications Working Committee.

ON MOTION by Ed Shiller, seconded by Marlene Thomas, the Tribunal unanimously invited comments and suggestions regarding the Toronto Licensing Tribunal brochure and that any such comments and suggestions be submitted to the Tribunal by December 1, 2008.

ON MOTION by Moira Calderwood, seconded by Joel Dick, the Tribunal unanimously [~~requested~~] directed [amended at the February 5, 2009 business meeting] the Chair to seek an independent legal opinion on the question of whether the Toronto Licensing Tribunal exceeds its mandate by issuing an informational brochure, rather than having the brochure issued by Toronto Court Services.

4. Re-examination of Schedule K to Chapter 545 of the Toronto Municipal Code

The Tribunal had before it a copy of an extract of the Toronto Municipal Code - Licensing - Appendix K to Chapter 545 – Business Licensing Thresholds.

ON MOTION by Ed Shiller, seconded by Marlene Thomas, the Tribunal unanimously noted its concern that the thresholds listed in Appendix K of Section 545 of the Toronto Municipal Code are vague and would prefer that specific provisions of the *Criminal Code of Canada* be listed; and

The Tribunal Chair include in the annual report, a request that City Council consider for clarification, Appendix K of Section 545 of the Toronto Municipal Code.

5. Re-examination of Relationship Framework

The Tribunal had before it an extract of the Consolidated Relationship Framework for the Toronto Licensing Tribunal (as amended by Council in June 2005 and September 2006).

Discussion was held with respect to the role of the Chair and the handling of administrative matters and procedural policies.

The following motion by Marlene Thomas, seconded by Ed Shiller, was unanimously adopted.

WHEREAS Section 7.2 (h) of the Consolidated Relationship Framework Agreement for the Toronto Licensing Tribunal, as amended by Council in June, 2005 and September, 2006 (the Framework Agreement) provides that:

The key duties of the Chair are outlined below and include:

(h) From time to time, retaining outside legal advice regarding issues that arise in conjunction with specific hearings...

AND WHEREAS Section 11.1 of the Framework Agreement provides that:

The Chair of the Toronto Licensing Tribunal shall convene a business meeting of all members at least twice a year to review the operation of the Tribunal in conjunction with the Tribunal administrator, to make decisions on administrative matters and procedural policies and the content of the annual report, to discuss emerging issues relating to Tribunal hearings and any other matter pertinent to the effective operation of the Tribunal.

AND WHEREAS Section 13.2 of the Framework Agreement provides that:

The Chair may retain the appropriate counsel or consultant to advise, from time to time, as needed, on:

- (i) Legal matters relating to specific hearings;
- (ii) The development of internal operational policies such as a Practice Direction or Code of Conduct;
- (iii) The preparation of communications materials;

If the funds required to pay the consultant are available to the Licensing Tribunal **and the consultant be paid from funds designated for the Licensing Tribunal that have been budgeted for that purpose** (emphasis in the original).

AND WHEREAS Section 545-3 I 2(e) of the **TORONTO MUNICIPAL CODE** provides that:

The duties of the Chair shall include, but are not limited to:

- (e) Retaining and co-ordinating the work of outside consultants that have been retained to give the Toronto Licensing Tribunal legal or other professional advice under Subsection K (1).

BE IT MOVED THAT the Chair include in the annual report a request that City Council consider for clarification the question of whether the Chair has the authority to request legal funds from staff to retain outside counsel without having to convene a business meeting of the Tribunal to confer such authority.

6. Written Reasons for Decisions on the website

The Tribunal members were advised that their decisions have been removed from the City's website as there are concerns with respect to people's privacy.

The Chair advised the members that Toronto Court Services has requested the Corporate Access and Privacy office to conduct a Privacy Impact Assessment of the administrative practices that are followed by the Tribunal.

ON MOTION by Joel Dick, seconded by Lionel Miskin, the Tribunal unanimously moved that Toronto Court Services request the Privacy Impact Assessment team to meet with the Chair of the Toronto Licensing Tribunal in the course of their impact assessment.

7. Written Reasons for Decisions on internal servers

Members briefly discussed the need to have written reasons for decisions available on the internal servers so these are accessible.

8. Update on pro-bono lawyers

Joel Dick advised members of his discussions with Pro Bono Students Canada with assisting applicants and licencees with their hearings before the Tribunal.

9. Tribunal Members – deductions made from payments to members

Tribunal staff advised members that the payroll department has confirmed that no EI or CPP deductions are being made from their payments and any deductions made earlier in the year have been reimbursed with the payment for pay period five made during July 2008.

10. Any other business

Ed Shiller brought up the issue of taking an “Oath of Office”.

Terry Howes advised he requested comments from the Legal Division after the last business meeting, but he has not had any response from them.

Marlene Thomas requested a discussion with respect to applicants/licencees who do not show up for the scheduled Tribunal hearings numerous times – should the matter be “dismissed”, “considered abandoned” or a “hearing” take place “ex parte”??

It was agreed that there should be a “hearing”, especially if this is requested by the City.

Members brought up the issue of ongoing training relating to licensing matters from Municipal Licensing and Standards.

ON MOTION by Moira Calderwood, seconded by Carole Cushnie, the Tribunal unanimously requested Municipal Licensing and Standards to organize ongoing seminars for the Toronto Licensing Tribunal members to receive ongoing training relating to licensing matters.

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The Administrator advised that the City of Toronto will not be granting the Family Day holiday in 2009 and the Rules of Procedure should be amended accordingly.

The Tribunal agreed to the amendment suggested by the Administrator.

There being no other business, the Tribunal adjourned its meeting at 12:25 p.m.

Carol Shirtliff-Hinds, Chair