



STAFF REPORT ACTION REQUIRED

Implementation of Procedural Rules for the Sign Variance Committee concerning Adjournments of Hearings

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| Date: | September 10, 2010 |
| To: | Sign Variance Committee |
| From: | City Solicitor |
| Wards: | All |
| Reference Number: | |

SUMMARY

The purpose of this report is to respond to a request from the Sign Variance Committee (the "Committee") that the City Solicitor report with respect to the procedures for the granting of adjournments.

RECOMMENDATIONS

The City Solicitor recommends that:

1. The Committee amend Sign Variance Committee By-law No. 1, Rules of Procedure for the Sign Variance Committee, substantially in accordance with the amendments set out in Appendix A to this report, to provide for the consideration of adjournment requests.

FINANCIAL IMPACT

The adoption of the recommendations in this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

At its meeting of May 31, 2010, the Committee considered a report of the City Clerk recommending the adoption of a by-law adopting Rules of Procedure for the meetings of

the Committee (Item SB1.3). The Committee adopted a procedural by-law as attached to the City Clerks' report.

<http://www.toronto.ca/legdocs/mmis/2010/sb/bgrd/backgroundfile-30607.pdf>

At its meeting of July 27, 2010, the Committee adopted a motion requesting the City Solicitor to report back to the Committee with respect to the procedural rules of the Committee concerning adjournments and deferrals (Item SB2.3). This report is submitted in response to the aforementioned motion.

<http://www.toronto.ca/legdocs/mmis/2010/sb/decisions/2010-07-27-sb02-dd.htm>

COMMENTS

Article VI, of Chapter 694, Signs, General, of the City of Toronto Municipal Code, establishes the Committee for the purpose of hearing applications for variances from Chapter 694 with respect to third party signs, and hearing appeals from decisions made by the Chief Building Official regarding applications for variances from Chapter 694 with respect to first party signs. The procedural by-law adopted by the Committee establishing the Committee's Rules of Procedure (the "Rules") states that the Committee will conduct itself in accordance with the *Statutory Powers Procedure Act*.

Consistent with its powers under the *Statutory Powers Procedure Act*, the Committee's current Rules provide the Committee with the general authority to adjourn a hearing or to defer a matter to a future meeting of the Committee. Currently, subsections 11.9 and 12.7 of the Rules provide specific processes for the Committee to defer a hearing to a future meeting of Committee. However, the Rules do not contain provisions which establish a specific process for adjourning a hearing. Amending the current Rules to provide for a more formalized process to deal with adjournment requests, would provide parties to a hearing with additional clarity respecting the issue of adjournments.

In considering whether to grant an adjournment, the Committee will need to balance the interests of the parties, the Committee and the public at large. It is noted that City staff currently coordinate with the party seeking the hearing (the "Proponent") to ensure the date of the hearing before the Committee is appropriate to permit the Proponent to submit the information required to support their position. Proponents would generally schedule a hearing on the expectation that it would proceed on the scheduled date. However, unforeseen circumstances may arise which would prompt the Proponent to request an adjournment. The suggested amendments to the Rules contained in Appendix A to this report will provide the Committee with specific provisions to address the issue of adjournments.

Adjournments of hearings should only be granted where the Committee is satisfied that the adjournment is required upon a review of the relevant considerations underlying the request. Each request should be considered on its own merits. In determining whether an adjournment is required, relevant considerations for the Committee would generally include matters such as:

- (a) the purpose for the requested adjournment;
- (b) the harm which may result if the adjournment is not granted;
- (c) the harm to other parties, such as the burden of delay and additional expense, which may arise from granting the adjournment;
- (d) any ability to mitigate the harm to any party which may arise from granting or refusing a request for an adjournment;
- (e) whether the party seeking the adjournment undertook reasonable efforts to avoid the need for the adjournment;
- (f) the reasonableness of the position of the other parties to the hearing with respect to the adjournment request;
- (g) whether the party seeking the adjournment provided advance notice of the intention to seek an adjournment; and
- (h) whether the matter has been adjourned in the past, or if this is the first request for an adjournment.

It is proposed that the Committee should be able to grant an adjournment on its own motion, or in response to a request of a party, where the Committee is satisfied that an adjournment is required to ensure that the matters in issue are determined in a just manner.

CONCLUSION

Currently, the Committee's Rules of Procedure generally provide the Committee with the authority to grant adjournments where it believes they are appropriate to ensure the just resolution of the matter to be considered. Appendix A to this report therefore provides suggested amendments to Sign Variance Committee By-law No. 1, Rules of Procedure for the Sign Variance Committee, to provide more detailed provisions respecting the process for determining adjournment requests.

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Appendix A – Suggested Amendments to Rules of Procedure for Sign Variance Committee

Appendix A

CITY OF TORONTO SIGN VARIANCE COMMITTEE

BY-LAW No. 2

Amendments to the Rules of Procedure for the Sign Variance Committee, concerning Adjourning Hearings

BACKGROUND

- A. As set out in Article VI, subsection 694-32, of Chapter 694, Signs, General, of the City of Toronto Municipal Code, a Sign Variance Committee is established for the City of Toronto.
- B. The Sign Variance Committee will conduct itself in accordance with the *Statutory Powers Procedure Act*.
- C. Section 21 of the *Statutory Powers Procedure Act* establishes that a Hearing may be adjourned from time to time on the motion of the Sign Variance Committee, or where it is shown to the satisfaction of the Sign Variance Committee that the adjournment is required to permit an adequate hearing to be held.
- D. The Sign Variance Committee has adopted By-law No. 1, Rules of Procedure for the Sign Variance Committee, for the calling, place and proceedings of meetings.
- E. The Sign Variance Committee wishes to amend the Rules to address the process for considering a request for an adjournment.

The Sign Variance Committee of the City of Toronto enacts as follows:

- 1. Subsection 11.1 of By-law No. 1, of the Sign Variance Committee is deleted and the following substituted therefore:
 - "11.1 Introductory matters and requests for Adjournments.
 - a. The Committee Chair requests Interested Parties to an Appeal to identify themselves and, if they have not already done so, to register their name with the Deputy Secretary.
 - b. After all Interested Parties have had an opportunity to identify themselves and register their name with the Deputy Secretary,

the Committee will hear from any Party to an Appeal who wishes to make a request for an adjournment of the Hearing.

- c. Committee Members, through the Committee Chair, may question the Party seeking the adjournment on the reasons for the request and the particulars of the requested adjournment.
- d. After the position of the Party seeking the adjournment has been received by the Committee, any other Party may address the Committee concerning the request for an adjournment and the Committee may, through the Committee Chair, question that Party on the Party's position concerning the requested adjournment.
- e. After hearing from all Parties to the Appeal who wish to speak to the issue of adjournment, the Committee may grant or deny the requested adjournment or may grant an adjournment on such terms as the Committee believes appropriate to ensure that the matters in issue are determined in a just manner.
- f. If the Committee decides to adjourn the Hearing, the Committee Chair will announce the date and time of the meeting to which the Hearing has been adjourned, along with any conditions with respect to the adjournment, and no further notice will be given."

- 2. Subsection 12.1 of By-law No. 1 of the Sign Variance Committee is deleted and the following substituted therefore:

"12.1 Introductory matters and requests for Adjournments.

- a. The Committee Chair requests Interested Parties to an Application for a Variance from Chapter 694, to identify themselves and, if they have not already done so, to register their name with the Deputy Secretary.
- b. After all Interested Parties have had an opportunity to identify themselves and register their name with the Deputy Secretary, the Committee will hear from any Party to an Application who wishes to make a request for an adjournment of the Hearing.
- c. Committee Members, through the Committee Chair, may question the Party seeking the adjournment on the reasons for the request and the particulars of the requested adjournment.

- d. After the position of the Party seeking the adjournment has been received by the Committee, any other Party may address the Committee concerning the request for an adjournment and the Committee may, through the Committee Chair, question that Party on the Party's position concerning the requested adjournment.
 - e. After hearing from all Parties to the Application who wish to speak to the issue of adjournment, the Committee may grant or deny the requested adjournment or may grant an adjournment on such terms as the Committee believes appropriate to ensure that the matters in issue are determined in a just manner.
 - f. If the Committee decides to adjourn the Hearing, the Committee Chair will announce the date and time of the meeting to which the Hearing has been adjourned, along with any conditions with respect to the adjournment, and no further notice will be given."; and
3. Section 13 of By-law No. 1 of the Sign Variance Committee is deleted and the following substituted therefore:

"13. Adjournments on the Committee's own motion and Exceptions from procedures.

- a. The Committee may, on its own motion, adjourn a Hearing where the Committee is satisfied that the adjournment is appropriate to ensure that the matters in issue are determined in a just manner.
- b. If the Committee decides to adjourn the Hearing, the Committee Chair will announce the date and time of the meeting to which the Hearing has been adjourned, along with any conditions with respect to the adjournment, and no further notice will be given.
- c. The Committee may grant all necessary exceptions from the procedures in Sections 11 and 12, as it considers appropriate to ensure that the matters in issue are determined in a just manner."