



## STAFF REPORT ACTION REQUIRED

### Implementing a Local Appeal Body for Toronto - Public Consultation Comments and Guiding Principles

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| <b>Date:</b>             | May 6, 2014  |
| <b>To:</b>               | Planning and Growth Management Committee                     |
| <b>From:</b>             | Chief Planner and Executive Director, City Planning Division |
| <b>Wards:</b>            | All Wards  |
| <b>Reference Number:</b> | P:\2014\Cluster B\PLN\PGMC\PG14046                           |

#### **SUMMARY**

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This report summarizes the results of the public consultations on implementing a Local Appeal Body (LAB) for the City of Toronto to hear appeals of minor variance and consent applications. The report also provides principles, informed by the consultation, to guide LAB implementation in the event Council decides to implement a LAB.

#### **RECOMMENDATIONS**

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**The Chief Planner and Executive Director, City Planning recommends that:**

1. City Council consider the findings of the citywide public consultation on implementing a Local Appeal Body (LAB) for the City of Toronto, as described in this report, in evaluating opportunities, concerns and next steps associated with implementing a LAB.
2. City Council approve the eight guiding principles for implementing the LAB contained in this report.
3. In the event City Council decides to move forward with implementing a LAB, the City Manager be requested to include for consideration, as part of the 2015 Budget process, the estimated start up and ongoing operating costs of a LAB, taking into account the findings of the public consultation, the eight guiding

principles outlined in this report, and any other pertinent reports and actions taken by the City on this matter.

4. City Council request the Minister of Municipal Affairs and Housing to respond to Council's previous requests for Provincial funding assistance in implementing a LAB.

## **Financial Impact**

There are no immediate financial implications associated with the recommendations of this report. However, there will be financial impacts in future years, if Council chooses to proceed with establishing and operating a LAB for Committee of Adjustment (C of A) decisions, including different financial implications associated with Council choosing either the full or partial cost recovery option as this relates to LAB application fees.

Preliminary direct cost assumptions to establish and operate a LAB, included in *Guiding Principle Seven - Costs of Implementing and Maintaining a LAB* of this report, estimate one-time start-up costs of establishing a LAB to be in the order of \$905,000. Ongoing operating costs are estimated to be \$2 million per year in 2015 dollars. Operating costs include \$365,000 for LAB member remuneration; \$846,000 for dedicated support staff salaries and benefits; \$633,000 for office operating expenses, including rent, and \$184,000 in contingency costs. The estimates provided above are for direct costs only and do not include estimates for the indirect and ongoing capital costs that would be required to support a LAB.

Assuming the receipt of 300 appeal applications per year, to achieve the full cost recovery of direct operating costs associated with delivering this service, an application fee of \$6,700 per application will be required. However, Council could also choose to adopt LAB application fees that reflect partial cost recovery, (being a mix of user fees and property tax revenues), or fees that are solely covered through property tax revenues.

If Council chooses to proceed with implementing a LAB, cost estimates would need to be reviewed, finalized and considered as part of the 2015 (or future year) operating budget process.

The Deputy City Manager and Chief Financial Officer have reviewed this Report and agree with the financial impact information.

## **DECISION HISTORY**

On December 4, 2013, the Planning and Growth Management Committee, adopted the following:

1. Requested the Chief Planner and Executive Director, City Planning to initiate a public consultation process on the implementation of a Local Appeal Panel for the City of Toronto as permitted under Section 115 of the City of Toronto Act.
2. Requested the Chief Planner and Executive Director, City Planning to report back to the April 10, 2014 meeting of Planning and Growth Management Committee on the results of the public consultation and with recommendations on implementation.  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG29.19>

Earlier actions and reports regarding the matter of establishing a LAB are found in:

Planning and Transportation Committee Report 5, "Provincial Planning Reform Initiatives: Consultation Papers on OMB Reform, Planning Act Reform and Implementation Tools and Provincial Policy Statement Draft Policies" adopted without amendment by Toronto City Council on July 20, 21 and 22, 2004.  
<http://www.toronto.ca/legdocs/2004/agendas/council/cc040720/plt5rpt/cl014.pdf>

Planning and Transportation Committee Report 2, "Bill 51, Planning and Conservation Land Statute Law Amendment Act, 2005 and the Land Use Provisions of Bill 53, Stronger City of Toronto for a Stronger Ontario Act, 2005" received by Toronto City Council on May 23, 24 & 25, 2006.  
<http://www.toronto.ca/legdocs/2006/agendas/council/cc060523/plt001a.pdf>

"Establishing a Local Appeal Body for Committee of Adjustment Decisions" report received by Planning and Growth Management Committee on October 14, 2008.  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2008.PG19.11>

"Response to the Provincial Review of Land Use Planning and Appeal System" report, adopted by Toronto City Council with amendments on December 16, 2013.  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG29.16>

## **ISSUE BACKGROUND**

On December 12, 2005, the Province introduced Bill 51, *Planning and Conservation Land Statute Law Amendment Act, 2005*, as part of its ongoing efforts to reform land use planning in Ontario and redefine its relationship with Ontario municipalities. The Bill also contained a number of key reforms to the Ontario Municipal Board (OMB). Bill 51 took effect January 1, 2007.

On May 23, 2006, City Council adopted a report from the Chief Planner advising Council of the contents and implications of Bill 51 and Bill 53, *Stronger City of Toronto for a Stronger Ontario Act, 2005*, as they pertained to land use planning matters, including the

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shifting role and scope of the OMB. Included as part of Council's recommendations was the recommendation that there be a LAB option for the City for disputed Committee of Adjustment decisions.

Council also received an information report, dated April 12, 2006, from the Chief Planner, which provided a high level overview of anticipated cost implications associated with operating a LAB for local land use planning matters. The report was based on assumptions informed by:

- Legislative parameters set by the Province;
- Governance models for quasi-judicial bodies and administrative tribunals;
- Budgetary requirements, practices, function and workloads of the City's Committees of Adjustment, the Municipal Licensing Tribunal and other local boards;
- Ontario Municipal Board practices, procedures and budget; and
- Average number (and type) of Committee of Adjustment minor variance and consent decisions appealed per year.

The City of Toronto's powers to establish a LAB are found in the *City of Toronto Act, 2006*, and its related regulations. This legislation gave the City of Toronto the authority to establish a LAB to deal with appeals of minor variances and consents.

#### Section 115 of the *City of Toronto Act, 2006*

Section 115 allows the City, by by-law, to appoint one appeal body for local land use planning matters, composed of such persons as the City considers advisable, subject to certain by-laws being constituted and prescribed terms and qualifications being adopted, including eligibility criteria and restrictions. The prescribed terms are set out in *Ontario Regulation 552/06*. Section 115 states that, at minimum, the City cannot appoint anyone to the appeal body who is a City employee, a member of City Council, a member of the Committee of Adjustment or a member of a "prescribed" class (as determined by Council). These restrictions were put in place to avoid the perception of conflict.

Council, by way of the Planning and Growth Management Committee, have been engaged, since the introduction of the authority to create a LAB, in considering an appropriate structure for a LAB as well as the associated cost and staffing implications, as noted above in the "Decision History" section of this Report.

On December 16, 2013, in response to the current Provincial review of Ontario's Land Use Planning and Appeal System, City Council adopted a number of recommendations including:

- Re-confirming its position with the Minister of Municipal Affairs and Housing to amend the *Planning Act*, the *Heritage Act* and the *City of Toronto Act* to abolish OMB jurisdiction over Zoning By-law Amendments, Official Plan Amendments,

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- Site Plans, Subdivision and Condominium Plan Approvals and Community Improvement Plans and appeals under the *Heritage Act*;
- Re-confirming its position to the Provincial Government that the OMB be structured with a panel comprised of residents of Toronto, which would have exclusive jurisdiction over appeals arising from Toronto;
  - Providing the City with ongoing funding, and other means of support by the Province, to establish and maintain a LAB; and
  - Amending Section 69(1) of the *Planning Act* to permit the city to establish a C of A minor variance and consent application fee structure that would include the costs involved in operating a LAB.

As no public consultation had taken place with regard to the specific matter of implementing a LAB to hear appeals of Committee of Adjustment decisions, at its meeting of December 4, 2013, Planning and Growth Management Committee requested that the Chief Planner initiate a public consultation process on the implementation of a LAB and report back to the Committee on the results of the public consultation and with recommendations on implementation.

This report summarizes the results of public consultation on implementing a LAB to hear appeals of minor variance and consent applications. The report also provides principles, informed by the consultation, to guide LAB implementation in the event that Council recommends moving forward with implementation.

## **COMMENTS**

### **Consultation Process**

The objective of the consultation was to actively engage the public in a discussion on the opportunities, issues and challenges associated with creating a LAB.

#### Public Meetings

In February, March and April, of 2014, City Planning staff conducted public consultations on the establishment of a Local Appeal Body. Approximately 250 people attended the community consultation meetings. The meetings were held in six locations across the City. In addition, City Planning staff met with the Toronto Chapter of the Building Industry and Land Development Association (BILD). Comments were received from a number of parties including the Toronto Chapter of BILD; the Ontario Association of Architects (OAA); the Mimico Lakeshore Network; the Moore Park Resident's Association; and comments and suggestions from over 30 individuals.

## E-Consultation

A dedicated web site was created. There were over 1,600 visits to this webpage from February to the first half of April, 2013. The web site will continue to be updated until this matter has been decided by Council. The web site, found at <http://www.toronto.ca/localappealbody>, contains a summary of comments received at each of the six community meetings; a summary of written comments received with respect to LAB implementation; letters received with respect to LAB implementation; and a review of the number of C of A appeals by approval and OMB disposition type.

The community consultation meetings consisted of an overview presentation followed by an open session where participants were given the opportunity to ask questions of staff and provide their opinions. Each presentation included a review of the legislative parameters set by the Province; a statistical overview of the average number and type of Committee of Adjustment minor variance and consent decisions appealed per year; good governance considerations for quasi-judicial bodies; potential structure for the LAB; and estimated costs for establishing and maintaining a LAB, along with cost recovery options and implications.

To elicit opinions as to the challenges and opportunities associated with implementing a LAB, a series of questions were posed:

- Why have a LAB?
  - To reduce the OMB's influence over Toronto's planning matters?
  - To make the appeal process more accessible and/or user friendly and/or less expensive for appellants and participants to the appeal process?
  - To have decisions from the local appeal panel that are more responsive to Toronto's neighbourhood planning context?
  
- Are you of the opinion that a LAB could:
  - Engage the public better than its OMB counterpart?
  - Operate with complete transparency and impartiality and with no perception of conflict?
  - Contribute to improving the planning approvals process in Toronto and provide for better planning outcomes in affected neighbourhoods?
  - Be free from any outside interference in its decision making? If so, what steps would need to be taken to ensure this?
  
- Who should pay for the cost of establishing and operating the LAB? Applicants only? Taxpayers at large? A mix of the two?

- What concerns/matters with the current C of A approvals and/or appeals process would you like the City to resolve prior to moving forward with establishing and maintaining a LAB?
- Would you like to see the City implement a LAB? Yes? No? Yes with conditions?

## Consultation Overview

During the consultations, staff heard a range of perspectives and concerns. While there was some interest expressed in establishing a LAB from members of the public, the prevailing position was that establishing a LAB should only be supported if certain considerations and/or assurances were in place to keep the appeal application fees at an affordable level; provide a rigorous and transparent appointments process that was free of partisan political interference; investigate ways of making the hearing process more accessible for and more inclusive of non-professional participants; and ensure that all written decisions were comprehensible and consistent in terms of quality and content.

In the absence of such assurances, some participants questioned the value of replacing the OMB with a LAB, with some participants commenting that City resources would be better directed at continuing to improve the C of A minor variance and consent decision-making process.

The sections below provide an overview of opinions articulated with respect to supporting or opposing a LAB:

**Support for a LAB:** The following represent comments provided to staff in support of a LAB:

- The formation of the City's own LAB is an essential component to bringing some order and fairness to what has become a thoroughly discredited OMB process;
- The establishment of a LAB is justifiable if it serves as a first step towards removing the City of Toronto from the jurisdictional influence of the OMB; and
- Having LAB members who are residents of Toronto and who understand the specific land-use and local planning context issues facing the City and its neighbourhoods, will result in better decision making.

**Conditional Support for a LAB:** The following represent comments provided to staff in support of a LAB if the following conditions were met:

- There was a way to ensure that the LAB was comprised of qualified members knowledgeable about Toronto's unique issues and communities;
- There were assurances that appointed members would have the appropriate credentials and comprehensive understanding of Ontario's existing planning law framework to be able to make informed unbiased land use planning decisions;

- Remuneration is sufficient to attract the most qualified candidates;
- Members were mandated to undertake site visits and have all necessary materials, including pertinent municipal documents, at hand, to fully prepare for a hearing;
- Members were independent and free of political influence or lobbying;
- Recruitment was free of political favouritism and patronage;
- Hearings were open and accessible to the public;
- Detailed written decisions were produced which included an analysis of how the application complied with or failed the four minor variance tests in the *Planning Act*; being:
  - i. Is the application minor?
  - ii. Is the application desirable for the appropriate development of the lands in question?
  - iii. Does the application conform to the general intent of the Zoning By-law?
  - iv. Does the application conform to the general intent of the Official Plan?
- Common and consistently applied interpretation of what could be deemed a minor variance within the context of the City, was understood by all the LAB members;
- LAB practices and procedures could be made less formal and adversarial than current OMB practices;
- LAB practices and procedures could reduce the amount of time and costs usually associated with the OMB and put measures in place to level the playing field and decrease the perception of unequal access (due in part to the lack of resources) to the appeal process, between developers and residents or ratepayer groups;
- The costs associated with the operation of a LAB did not impose an additional burden on taxpayers at large;
- The fees associated with filing an appeal would be maintained at an affordable level to ensure access to the appeals process for all Torontonians;
- The LAB would put a greater emphasis on front-end mediation; and
- The City would evaluate and enhance the C of A decision making process prior to, or in conjunction with, implementing a LAB.

**Opposition to a LAB:** The following represent comments provided to staff opposing LAB implementation:

- The OMB is an impartial, evidence-based, quasi-judicial administrative tribunal that is responsible for handling appeals of all land use planning disputes, and is further removed from local political pressures;
- If the premise is that the LAB will be a knowledgeable and impartial body that undertakes hearings "de novo" and makes decisions on the merits of an application, then there is no assurance that it would be making "better decisions" just because members are residents of Toronto;



- A LAB would be subject to intense local pressure on contentious appeals and accordingly an outside body like the OMB would be needed to ensure fairness and independence from local influences;
- The creation of a LAB is a form of Provincial downloading;
- The implementation of a LAB is not an appropriate use of taxpayers' money especially if it would create a panel that would not necessarily improve upon OMB decisions and during a time of fiscal restraint where monies are needed to deliver other more essential municipal services;
- If Council's motivation for the creation of the LAB is to gain greater local control over decision making and the first step towards limiting the role of the OMB in the City, then this rationale is counter to the principle of maintaining the necessary impartiality required of a quasi-judicial tribunal;
- If structural and procedural changes are introduced into the operational and decision making processes of the C of A, resulting in better, more rigorous or iron-clad decision-making, appeals could dwindle and there would be no need for a LAB;
- If legislative changes were made to the *Planning Act* which required the OMB to give more weight to the City's Official Plan policies and by-laws, there would be no need for a LAB;
- If the term "minor" was better defined and applied, there would be no need for a LAB;
- Other than LAB members being from Toronto, if natural justice is to be maintained, there should be no difference in decision outcomes between a LAB and the OMB. The implementation of a LAB, as per the current legislation and regulation, will be a duplication of an existing regime; and
- The OMB can maintain a much clearer perspective on rights of individuals and can be more independent and immune from political influence.

In addition to the comments provided above, the public gave a number of specific suggestions with respect to the appointment of LAB members. Participants noted that the appointment process must be fair, objective, and transparent.

**Appointment of LAB Members** - There was agreement from participants that the appointment process must be fair, objective, and transparent and that the appointments process should be free of political favouritism and patronage.

Participants were advised that Council could not appoint anyone to the LAB who was a City employee, a member of City Council, a member of the Committee of Adjustment or a member of a "prescribed" class (as determined by Council). The selection of LAB members would be subject to the City's Public Appointments Policy which governs

appointments to City agencies, boards, commissions and corporations and nominations to external special purpose bodies, and their appointments would be made by Council on the recommendations of the Civic Appointments Committee.

Guiding Principle One - Appointment of LAB Members

*LAB members will be recruited using a fair and impartial recruitment process where the most qualified candidates are appointed by City Council.*

If Council decides to move forward with LAB implementation, consideration should be given to pre-qualifying candidates in a rigorous and consistent manner to determine their:

- Decision-making, communication, and mediation skill levels in facilitating an open and fair hearing process;
- Adjudication, and /or mediation and conflict resolution and public speaking and organizational skill levels in being able to chair public hearings and maintain order in conflict situations;
- Ability to write clear and concise decisions; and
- Understanding of the importance of operating independently and at arm's length from City Council, its Committees, Members of Council and city staff, including legal staff.

In considering the nomination and appointment process with respect to the LAB, transparency will be critical. Under the Public Appointments Policy, Section 6.4, "as part of the appointment process, applicants must identify and disclose any actual or potential conflicts of interest they may have - being engaged in a business over which the quasi-judicial board has jurisdiction". Disclosure of potential or perceived conflicts doesn't automatically make an applicant ineligible for appointment, however the nominating panel is required to assess any potential or perceived conflicts in determining whether the applicant should be considered further. Further consideration could be given to providing LAB members with training with respect to potential or perceived conflicts. This could be addressed by training with the City's Ombudsman and the Office of the Lobbyist Registrar, and the signing of conflict of interest and lobbyist disclosure forms.

The City recognizes the importance of engaging as many residents as possible and infusing new perspectives from time to time, the limit on length of service for any citizen member has generally been 2 consecutive (four year) terms on the same board. However, given the level of complexity and expertise required to effectively adjudicate appeals of applications dealing with local land use matters, staff advise that there could be merit to Council extending the limit on length of service for LAB members to 3 consecutive terms. This matter would, however, require further examination by the City Manager's Office. (By way of comparison, the OMB has no limits on the length of service of its 22 full-time (and one part-time) members).

**Qualifications of LAB Members** - During public consultation, the main themes that were repeated by participants regarding the qualifications of LAB Members were:

- Some participants came away from their specific experiences at the OMB feeling that their non-Toronto based hearing officer, did not express any knowledge of the issues and development pressures facing the City in general and their neighbourhood in particular, in formulating a decision;
- LAB members should have a comprehensive understanding of the *Planning Act*, *City of Toronto Act*, the Official Plan, Zoning By-laws, and general knowledge of the type of land-use planning issues faced by the City and local neighbourhoods, especially as these pertain to C of A decisions that do not adequately take into account "density and height" creep; and
- Some participants questioned the ability of the City to find residents who would not be perceived to have conflicts of interests since many potentially qualified applicants would probably have worked on behalf of the development industry, special lobby groups or as executive members of residents associations in Toronto.

Staff advised that an assessment of the qualifications for LAB Members would be informed by the City's Public Appointments Policy and a companion document entitled Board-Specific Processes and Requirements for Public Appointments. It would be Council that approved the qualifications relevant to the responsibilities of the LAB. These qualifications would describe the specific skill set and experience desired for the LAB. Unlike the OMB where Members are selected at the Provincial level through the Public Appointments Secretariat, the City would have a greater say in determining the qualification requirements of LAB Members, by having Council set the qualifications, skill set and level of commitment necessary to effectively adjudicate planning issues within Toronto.

#### Guiding Principle Two - Qualifications of LAB Members

*The members will have reputable adjudicative experience, familiarity with land use planning and planning law, demonstrated ability to make sound, balanced decisions, and will be free of conflicts of interest.*

Section 115 of the *City of Toronto Act, 2006*, states that at minimum the City cannot appoint anyone to the LAB who is a City employee, a member of City Council, a member of the Committee of Adjustment or a member of a "prescribed" class (as determined by Council).

Council may choose to restrict LAB members to being Toronto residents, land-owners and/or business owners or employees only. Council may also choose to appoint new

members for an initial probationary period only, during which time they would be obligated to obtain, at the City's expense, a Certificate in Adjudication for Administrative Agencies, Boards & Tribunals offered by the Society of Ontario Arbitrators and Regulators (SOARS) and membership in SOARS and where, at least one LAB member, at all times, would commit to receiving accreditation in mediation or alternative dispute resolution through organizations such as the ADR Institute of Ontario.

**LAB Member Remuneration** - Participants commented that the remuneration model highlighted at the meetings by staff would be inadequate to get qualified professionals to serve on the LAB. Concerns were also raised that due to the suggested modest level of remuneration, LAB Members would not be able/willing to undertake the analysis, site visits and other background work participants believed was necessary to properly prepare for and successfully conduct hearings. A related concern was that the low level of remuneration and the part-time status of LAB members, would not discourage appointees from continuing to work in areas of endeavour, such as land-use planning, law or development, thereby creating opportunities for perceptions of bias, particularly if appointees were chosen at the local level only.

For the purposes of the consultations by staff, remuneration for LAB members was based on a per diem rate of \$350 for five Members. The per diem rate was based on the rate received by C of A panel members. The per diem included pre-hearings, mediation sessions, hearings, administrative/business meetings and mandatory training days. LAB Members would also receive an additional \$300 per each written decision released after the hearing. An annual retainer of \$3,000 would cover off expenses such as mileage, parking and emergency child care. Hearing preparation and site visits would be the responsibility of each LAB Member and not included as part of any per diem remuneration. The LAB Chair, given this member's added duties, would receive an additional annual retainer of \$30,000.

#### Guiding Principle Three - LAB Member Remuneration

*LAB members will be remunerated at a level that ensures they are able to effectively perform their role and function to achieve fair and balanced hearing decisions.*

Staff presented a possible LAB member remuneration model at the public meetings based, in part, upon an earlier review of the City's citizen remuneration and expense reimbursement policies and the current rates for part-time citizens serving on City Agencies, Boards, Commissions and Corporations, as well as rates for citizens serving on Provincial agencies, boards and commissions, including the OMB.

Based on the public's input and reaction to the remuneration figures presented at the public meetings, City Planning staff have revised their remuneration model by:

- Increasing LAB Member remuneration to a \$400 per diem rate, in order to attract more qualified candidates. (By way of comparison, a \$398 per diem rate is equivalent to the remuneration rate for part-time Provincially appointed tribunal Members, while a \$500 per diem rate is equivalent to the remuneration rate for Toronto Community Housing Corporation, Toronto Parking Authority and Waterfront Toronto Board members); and
- Adding a sixth LAB Member to better accommodate more opportunities for mediation or alternative dispute resolution (ADR).

Based on this updated model, the following remuneration for LAB Members is suggested:

- An annual remuneration of \$55,800 for each Member based on a \$400 per diem for 70 hearing days, 17 business meetings and/or mandatory training days; 60 days for decision writing at \$300 per written decision and \$3,000 for expenses;
- The Chair’s additional \$30,000 remuneration in compensation for additional duties (such as overseeing the case load and hearing process; enforcing LAB rules and procedures and codes of conduct; preparing the annual report, etc.), for a total of \$85,800; with
- Total annual remuneration for the LAB Members, including the Chair, of \$364,800.

In choosing to move forward with implementing a LAB, Council has the option of further refining or re-evaluating the remuneration model above or moving to a new model that would see LAB Members hired on a full time basis instead. The option of hiring LAB members on a full time basis would move away from the City's practice of appointing members for local boards on a part-time basis only and as such, would require additional study on the part of the City Manager's Office.

**Oversight and Accountability of LAB Members** – At the public meetings, the public indicated that they needed assurances that the City could maintain a fulsome level of oversight over the LAB and be able to hold members accountable for their actions. Participants were particularly concerned that there be oversight and accountability once they were made aware that under Section 145(3) (f) of the *City of Toronto Act*, the general authority of the City to change or dissolve a local board would not apply to the LAB. Some participants felt that it would be impossible for the City appointed LAB members to be isolated from political input. Others thought that accountability could be improved by having mandatory recordings or transcripts of LAB hearings in place.

#### Guiding Principle Four - Oversight and Accountability of LAB Members

*The LAB will operate as an independent decision making body free from influence by outside parties. It will be subject to the City's Code of Conduct for Members of Adjudicative Boards and will conduct itself in accordance with the Statutory Powers Procedures Act, the Municipal Conflict of Interest Act and the Municipal Freedom of Information and Protection of Privacy Act.*

Staff noted at the public meetings that as an adjudicative board, the LAB would need to maintain an arms-length relationship with the City's C of A and its support staff, as well as City Planning Division and Legal Services staff, who provide advice to C of A support staff and represent Council at appeal hearings of C of A decisions.

The City's Integrity Commissioner would have a role in the oversight of LAB Members by having authority under the *City of Toronto Act, 2006* and Chapter 3 of the Toronto Municipal Code, to perform, in an independent manner, the functions assigned by City Council with respect to the application of the City's Codes of Conduct and related policies. This would include investigating complaints about the conduct of LAB members to determine whether or not there had been a violation of the Code and recommending actions for Council to take to remedy the complaints.

It should be noted that Members would have to be appointed for a fixed term and could only be removed for cause before the end of that term. Given the need to preserve independence, courts have set a high standard for the dismissal of any members of a quasi-judicial body.

If City Council decides to move forward with implementing a LAB, Council would need to determine if there is a need for any additional oversight and specific accountability standards for the LAB and its members.

**LAB Practices and Procedures** - There was concern expressed at the meetings that LAB's practices and rules would be too similar to the OMB. As such, the LAB would not improve the appeals decision-making process and continue to be biased in favour of larger developers who could afford the costs of undertaking appeals.

Notwithstanding the fact that enabling legislation provides that it would be up to the LAB to adopt its procedural rules (covering prescribed points) and not for the City to impose rules of procedure, the following suggestions were provided with regard to LAB practices and procedures during the consultation process:

- LAB Members be required to visit any sites that were the subject of an appeal, in order to properly evaluate neighbourhood context;

- LAB hearing officers provide comprehensive written decisions which clearly articulate how all four minor variance tests identified in the *Planning Act* are met or have failed;
- The LAB follow a less structured and less adversarial approach to hearing cases by restricting hearings attendance only to the parties or their agents and that neither side be allowed to bring lawyers or professional planners (*this would require a legislative amendment*);
- The LAB look at ways of reducing costs for resident participation, and create a more balanced playing field;
- The LAB not be allowed to conduct hearings de novo or allow the introduction of new evidence (*this would require a legislative amendment*); and
- The LAB place a greater emphasis on mediation by requiring that there be mandatory mediation (*this would require a legislative amendment*).

#### Guiding Principle Five - LAB Practices and Procedures

*The LAB will determine its own hearing practices and procedures in accordance with relevant legislation such as the Statutory Powers Procedure Act and the City of Toronto Act.*

The *Statutory Powers Procedure Act* defines rules and procedures for various tribunal proceedings such as hearings and motions and generally provides a generic procedural statute for most administrative tribunals in Ontario. It provides a minimum standard for procedural compliance by administrative tribunals. Generally this requirement is intended to ensure that the LAB does not affect the substantive rights of appellants under the *City of Toronto* and the *Planning Act*.

The LAB is not required to adopt the OMB's rules of practice and procedure, however Ontario *Regulation 552/06*, which was issued under section 115(7) of the *City of Toronto Act, 2006*, does require that certain matters be addressed in the LAB rules of practice and procedure and these matters are consistent with the content of the OMB's rules of practice and procedures: The *Regulation* states that the LAB (not the City) must establish rules of practice and procedure to govern its proceedings, which rules deal with, at minimum, the following matters: Application of rules; representatives and notice to representatives; timing of proceedings; how proceedings are commenced; notice; documents, exhibits, filing and service; discovery; motions and forms; settlement before hearing; compelling attendance of witnesses by summons; consolidated hearings; adjournments; mediation; prehearing conferences; the manner in which hearings are held; quorum and panels; effect of expiry of member's term during hearing; vacancies on the appeal body; and decisions and orders, making its rules of practice and procedure available to the public.

The LAB has the same powers and duties as the OMB. One of the OMB's duties is to "hold a hearing" with only two exceptions: all appeals are withdrawn before the hearing

or a motion is granted to dismiss the appeal or make whatever decision the C of A could have made: The task of the LAB would be the same as the task before the C of A, and that includes findings of fact and law, considering and applying planning principles debated in testimony by professional witnesses and affected persons and reaching an overall, final evaluation and decision. It would be difficult to see how this task could be undertaken without a hearing *de novo*, as has been suggested by some participants during the course of the public consultation.

The common law on administrative tribunals makes it clear a "hearing" normally includes the rights of parties to put in evidence, test an opponent's evidence by cross-examination and make final submissions. Since the Board has had a long history of hearing land-use planning appeals and refining their rules, it would be advisable that in implementing the LAB, these rules be reviewed to better determine how they could be used or modified.

With respect to participants' questions regarding mediation, staff explained that the LAB could provide for mediation as an option, as well as other simplified prehearing procedures. A tribunal has authority under Section 25.1 of the *Statutory Powers Procedures Act* to make rules regarding alternative dispute resolution (ADR) for the purpose of resolving proceedings or issues within them. ADR could include "mediation, conciliation, negotiation or any other means of facilitating the resolution of issues in dispute". As indicated previously, while Council does not have the authority to impose procedures for the LAB, the Civic Appointments Committee could, during the candidates' interviews, ask for their views on mediation and hearing procedures, taking preferred responses into account on this matter, when selecting candidates.

**LAB Structure and Relationship with the City** - Participants asked whether LAB panels could be set-up geographically and LAB Members assigned to hear appeals in specific districts of the City only or whether panels could be established based on the zoned land use type of the appeal (that is, appeals stemming from decisions regarding low density residential uses versus those regarding mixed-use, commercial or employment uses). Participants also enquired as to whether the LAB could determine how many of its members could be assigned to a hearing dealing with a specific type of appeal. For instance, could a one member panel deal with appeals stemming from decisions applying to low density residential areas, versus three members being assigned to hear appeals pertaining to higher density, mix-use, commercial and employment uses.

Staff advised that matters pertaining to setting up panels geographically or by land use type of appeal or varying the number of hearing officers by land use type, would fall within the purview of the LAB itself. Each approach could carry some inherent risks including concerns with:



- Members being associated with particular geographic areas only;
- Potential decline in the consistency and level of overall LAB decision-making capacity;
- Increased operating costs in having 3 person hearings and in having de-centralized hearings in terms of availability of additional dedicated support staff, workspace and meeting room requirements; and
- Less flexibility in responding administratively and procedurally to fluctuations in the number of appeals traditionally associated with particular geographic locations and/or land use type of appeals.

Guiding Principle Six - LAB Structure and Relationship with the City

*The LAB will be structured to provide efficient and timely due process with administrative support from the City.*

In order for the LAB to be independent from the City, the LAB would require dedicated support staff, an operating budget, workspace, meeting rooms and independent legal counsel. Maintaining a centralized administrative model but de-centralizing the LAB hearing function by area or by type, would need to be reviewed in the context of providing a LAB delivery model that allowed for optimum cost-effective and timely service while maintaining consistency and transparency in decision-making. As previously mentioned, while City staff could provide the LAB with some advice on this account, the decision to choose a particular delivery model, within the budgetary approach adopted by Council, would be up to the LAB members to determine.

While the LAB could be constituted and appointed by by-law at the pleasure of Council, it would need to make its decisions independently, unfettered by Council. This capacity for independent decision-making is especially important because unique in the creation of the LAB is the fact that Council would continue to appoint C of A members, but also undertake to appoint the LAB members. Council would also continue to be able to appeal C of A decisions and instruct the City's legal staff to argue its position before the LAB. The LAB would need to maintain an arms-length relationship with City staff. There are likely to be operating expense efficiencies and opportunities for more consistent and professional service from the LAB attributed to having a relationship agreement with the City. In this regard, Council has already approved a number of relationship frameworks clarifying the relationship between the City and specific agencies or boards. Each framework sets out City Council's delegation of authority, expectations and requirements for the respective board. In the case of the LAB, this relationship would be formed with City Divisions that have carriage of governance issues (the City Manager's Office) and with performing the types of functions associated with quasi-judicial tribunals and their support staff, such as Court Services.

The budget for the local appeal body could be prepared and submitted for Council approval by city staff. City staff could consult the LAB Chair during the preparation of

the appeal body's annual financial statements and report, to ensure that the local appeal body had adequate resources to operate effectively. The LAB support staff and dedicated solicitor could be employees of the City who would be responsible for providing all administrative and legal support to the LAB and making all necessary arrangements for hearings, (but not be a party to the hearings). LAB support staff could work co-operatively with the LAB members, but have a reporting relationship to a City Division identified for this purpose.

The LAB could also operate as a completely separate and independent, self-administered and self-contained entity. Operating as a completely independent entity would place the LAB in the position of being both the hearing body and the overseer of administrative support to itself, a model that other City boards and agencies have now moved away from. As such, this model is not recommended by staff.

**Costs of Implementing and Maintaining a LAB** - Comments with respect to the costs associated with implementing the LAB varied as follows:

- Costs associated with operating the LAB should not impose an additional burden on taxpayers especially when it wasn't clear that "better" decisions would result with the LAB;
- Establishing a LAB did not seem to fit with the perception that the City was saddled with continually looking to improve service efficiencies and demonstrate fiscal restraint;
- Potential monies to be allocated towards a LAB would be better spent improving the City's current C of A process and decision-making capacity;
- In the event that Council did proceed with implementing a LAB, it needed to be done properly, with appropriate funds allocated to it to ensure that the City was well served in the long term;
- Council should ask the Province for money to fund the LAB, given that the OMB has been historically subsidized by taxpayers Province wide and given that the LAB would result in more downloading of costs to the City; and
- Council should support the OMB and its need for additional resources by advocating this need to the Province, rather than re-creating its own LAB at the further expense of the public.

Guiding Principle Seven - *Costs of Implementing and Maintaining a LAB*

*The City will provide adequate start-up and ongoing operating funding to the LAB to ensure that it functions effectively and independently and in a manner that upholds fair due process to all the parties involved in the hearing.*

The Province of Ontario's Environment and Land Tribunals Ontario Annual Report for 2011-2012, indicated that in 2011/12, minor variances and consents made up 58 per cent of the OMB's planning application caseload with the majority of the OMB caseload

Staff report for action on Implementing a Local Appeal Body for Toronto – Public Consultation Comments and Guiding Principles

originating from Toronto (266 files or 30 per cent); Greater Toronto Area (excluding Toronto - 16 per cent) and Ottawa (9 per cent). By undertaking the LAB function the City would be decreasing the OMB's overall planning application caseload of 1527 files in 2011/12 by just over 17 per cent.

The OMB's 2011/2012 salary and benefits, employee benefits, transportation & communications, services, and supplies and equipment costs came to \$ 7,675,664, of which \$1,304,863 could be generally attributed to hearings regarding minor variances and consents for the City of Toronto. Adjusting for yearly inflation, the OMB's hearing costs regarding minor variances and consents for Toronto could likely rise to about \$1.5 million in 2015.

By way of comparison, City Planning staff indicated at the consultation meetings that the annual LAB operating costs would be approximately \$1,750,000 in 2015 dollars. This figure has subsequently been revised by staff to \$2,028,000 (including rent) or \$1,749,411 (without).

Based on feed-back received at the public meetings, staff revised the LAB's annual operating costs to include an additional (sixth) LAB Member; a higher rate of remuneration for the LAB Members; and updated LAB support and legal staff salary and benefits and office operating expenses as follows:

- \$364,800 for LAB member remuneration;
- \$845,646 for dedicated support staff salaries and benefits who would "case" managing the processing and scheduling of all applications from intake to resolution and for dedicated legal counsel;
- \$632,800 for office operating expenses, including rent; and
- \$184,325 in contingency costs.

The estimates provided above are for direct costs only and do not include estimates for the indirect and ongoing capital costs that would be required to support a LAB. Indirect costs could, for instance, include matters related to providing ongoing administrative support services for the LAB members and its dedicated support staff by other Divisions as per the relationship agreement that would be drawn up between the LAB and the City. (see Guiding Principle Six - LAB Structure and Relationship with the City).

In addition to the estimated annual operating costs, the one-time start-up costs of establishing a LAB have also been increased to now be in the order of \$905,265, inclusive of a 10 percent contingency fee.

**Appeal Filing Fees for the LAB** - There was concern that dramatically raising the cost of filing an appeal would be a barrier to local citizens participating in the appeal process. Residents commented that the cost of filing an appeal should be maintained at the same

general level as the current appeal fee of \$125 required by the OMB, to ensure affordable and equitable access to the appeal process for all residents, property owners, and businesses. There was also commentary that OMB hearing costs appear to have grown excessively, making formal participation in such hearings unattainable for individual residents or ratepayer associations. Having a LAB in place that duplicates OMB procedures and results in onerous hearing costs is an issue that cannot be addressed separately from the issue of cost recovery of appeal fees.

As City Planning staff identified the City has a User Fee Policy in place. The fundamental principle of this Policy is that user fees should be utilized to finance those City services and goods that provide a direct benefit(s) to specific users and that user fees should be set to recover the full cost of those services to the extent that there is no conflict with City policy objectives and other legislative requirements. Services that benefit the entire community should be funded by property taxes. While the central principle is to promote equity by recovering the cost of services from those who receive a direct benefit from the service, the User Fee Policy is cognizant of the need to protect citizens who, through an inability to pay, would be denied services. Accordingly, exceptions to full cost recovery have been included in the guiding principles of the Policy by giving Council the authority to subsidize certain fees that would otherwise be completely cost recoverable, through property tax revenues or a combination of user fees and tax revenues.

In order to achieve complete cost recovery, the LAB would have to have application fees in the general range of \$6,700 per application. This fee would be based on the average number of appeals received each year (300) and the estimated annual operating expenses for the LAB (\$2 million) (see Attachment 1 - Preliminary LAB Operating Costs and Revenues). Partial cost recovery could be an option, in the event that Council decided to subsidize a portion of the LAB application fees from the property tax base, as is more fully described under *Guiding Principle Eight* below.

#### Guiding Principle Eight - Appeal Filing Fees for the LAB

*In establishing fees for the LAB, Council will be guided by the legislation which governs the tariff of fees for the LAB and the City's User Fee Policy and by the principles of natural justice.*

It is unclear with regard to which legislation governs the tariff of fees for the LAB - be it Section 69 (1) of the *Planning Act* or Subsections 259(1.1) and (3) of the *City of Toronto Act*. However, both provisions are compatible in their intent. Section 69 (1) of the *Planning Act*, states that Council may establish a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost of processing each specific type of planning application provided for in the tariff. Subsections 259(1.1) and (3) of the *City of Toronto Act* provide

that local boards may impose fees or charges on persons for services or activities provided or done by or on behalf of it and that the costs included in a user fee may include costs incurred for administration, enforcement and the establishment, acquisition and replacement of capital assets. In determining fees, Council is also guided by the City's "User Fee Policy" which seeks to be consistent in establishing and administering the City's user fee program.

Under both legislative scenarios, Council, in establishing its fee schedule for the LAB, cannot look at increasing Committee of Adjustment application fees (which are generally in the range of 3000 applications per year) to subsidize or reduce the cost of LAB application fees (which are generally in the range of 300 applications per year), as was suggested as a possible solution to reducing LAB application fees during the course of public consultation.

### Natural Justice Implications

The Ontario Municipal Board charges \$125 per person per appeal. With a total budget of \$ 7,675,664 in 2011/12 and application fees of \$239,483 collected towards this budget, the OMB function is almost fully subsidized by Ontario taxpayers.

Although Council is within its rights to establish fees to cover the anticipated costs of operating a LAB, which could be substantially higher than those which have been historically in place at the OMB, such fees could have natural justice implications by having an impact on who is or isn't financially able to lodge an appeal.

LAB fees, when viewed through the lens of the City's User Fee Policy, may qualify for full cost recovery. It is within Council's discretion to determine if the LAB appeal cost should be subsidized by property tax revenue or a combination of user fees and tax revenues. If Council determines it wishes to pursue the establishment of a LAB, the City Manager's Office would consider the implications of a full cost recovery model or other alternatives.

In a review of appeal fees for quasi-judicial bodies across Canada, there are either no fees charged or fees set in the range of \$100 to \$410 dollars. For example, there is:

- No fee for filing an appeal to the New Brunswick Assessment and Planning Appeal Board;
- No fee for filing an appeal to the Nova Scotia Utility and Review Board, however the appellant is responsible for the cost of advertising hearing notices twice in a local newspaper;
- \$100 fee for filing an appeal to the City of Calgary's Subdivision and Development Appeals Board; and
- \$410 fee for filing an appeal to the City of Vancouver's to Board of Variance/Parking Variance Board.

If Council chooses to implement a LAB, staff advise that based on feedback received at the public consultation, and issues related to natural justice, appeal fees be set at \$150 per application, at levels similar to those of the OMB. This means that Council would be setting fees at a level that assumed partial cost recovery of fees through general tax revenues. Under this scenario, cost recovery of \$150 per application (per person per appeal) would result in revenues of \$45,000 and cost recovery of 2.2% of the annual direct operating costs of the LAB to provide the service. A fee of \$500 per application would result in revenues of \$75,000 or a 3.7% recovery of direct operating costs.

On a related note, public meeting participants asked whether certain types of C of A applications could simply be exempted from the local appeal body process. The answer is that the City can establish one appeal body for all C of A applications, and doesn't have the legislative authority to exempt any particular C of A application types from its chosen appeals process.

#### Other Issues for Consideration Related to LAB implementation

During public consultation, some participants urged staff to address concerns related to the existing minor variance and consent approvals and decision-making process, that could then have the effect of reducing the number of appeals filed with regard to C of A decisions and the potential need to establish a LAB to adjudicate these appeals, as follows:

#### **Clarifying "minor variance" as part of the current review of the *Planning Act*:**

Participants were encouraged that Council had requested the Province in December of 2013 to amend the *Planning Act* to better define the term "minor" in such a way as to leave less doubt as to its parameters. Many participants felt that redefining what constitutes a minor variance would have the potential of reducing the number of appeals, and that taking this step "would do most of the work rather than going through a long and uncharted process of setting up a LAB".

**Establishing citizen based neighbourhood committees to review and provide advice to C of A Panels with regard to minor variance and consent applications:** some participants suggested that the City could establish citizen based Planning Advisory Committees (PACs), already permitted under Section 8 of the *Planning Act*, which could be comprised of any combination of local councillors, local professionals and/or residents who represent their neighbourhood or ward to review and evaluate all or some types of planning applications, including minor variances and consents. Although Planning Advisory Committees would be solely advisory in nature, imbedding them as part of the minor variance and consent decision-making process was perceived by some participants as a way of mediating and potentially resolving C of A disputes at the front-end of the decision-making process, thereby potentially reducing the number of appeals of C of A decisions and the need to implement a LAB.

**Providing City Planning staff comments for all C of A minor variance and consent applications:** Although staff explained that all C of A applications were reviewed by professional planning staff who provided written comments to the C of A, as appropriate, to protect the public interest, some participants felt that by having planning staff provide written comments for all C of A applications, could have the effect of reducing the number of appeals filed for C of A decisions.

**Improving existing City of Toronto Committee of Adjustment administrative and decision-making capacity:** There was concern on the part of some participants that there is lack of transparency and applied rigour with regard to C of A decisions and that decisions were not always consistent with the four tests applied to assessing a "minor variance", causing an increase in the number of appeals filed. Improving decision-making capacity could, it was suggested, reduce the number of appeals filed.

## **CONCLUSIONS**

This report summarizes the results of recently held public consultation meetings which focused on issues and opportunities related to implementing a LAB for the City of Toronto. The report provides eight principles, informed by the public consultation, to guide LAB implementation in the event that Council recommends proceeding with implementation.

### Public Consultation Comments

Participants in the consultation process fell into three groups: Those who supported implementing the LAB outright; those who supported implementation subject to certain conditions being met and those who were opposed to the LAB. The latter two groups had the majority view. Some participants also felt that improving the C of A, prior to LAB implementation, could potentially reduce the overall number of appeals filed and subsequently the need to establish a LAB. Of the participants who supported a LAB, none wanted the LAB to be a simple replacement for the OMB. Participants provided suggestions for improving the LAB model proposed by staff, a discussion around some of which, has been incorporated into the report's guiding principles. Participants also expressed concern with regard to raising LAB fees beyond the level currently established by the OMB.

### Guiding Principles for Implementation

The report sets out eight guiding principles for Council to follow in implementing a LAB, as described in the report and summarized in Attachment 2. The report also provides Council with preliminary estimates for the LAB's operating costs and application based revenues.

## Estimated Operating Costs and Cost Recovery Options

Estimates of direct costs involved in establishing and operating a LAB, identify one-time start-up costs of establishing a LAB to be in the order of \$905,000. Ongoing operating costs are estimated to be \$2 million per year. The operating costs include \$365,000 for LAB member remuneration; \$846,000 for dedicated support staff salaries and benefits; \$633,000 for office operating expenses, including rent, and \$184,000 in contingency costs. The estimates provided are for direct costs only and do not include estimates for the indirect and ongoing capital costs that would be required to support a LAB. Assuming the receipt of 300 appeal applications per year, full cost recovery of direct operating expenses associated with delivering this service, would result in application fees of \$6,700 per application. Council could however, decide to adopt a LAB application fee structure that reflected partial cost recovery, by being a mix of user fees and property tax revenues.

The estimates provided by staff have been revised to reflect the results of public consultation and the most current evaluation of operating costs and cost recovery options associated with LAB implementation, as summarized in Attachment 1 of this report.

## Governance Considerations for Implementation

The creation of the LAB, and related governance considerations fall within the mandate of the City Manager's Office. As such, the City Manager would be responsible for leading the implementation of the LAB and reporting back to Council on its structure, governance and administrative support. In reporting back, the City Manager should include for consideration as part of the 2015 Budget process, the estimated start up and ongoing operating costs of the LAB, taking into account the findings of the citywide public consultation, the eight guiding principles outlined in this report, and any other pertinent reports and actions taken by the City on this matter.

## Related Matters to Consider

City Planning staff will continue to work with the Province with regard to ongoing legislative reform initiatives, which could have future implications on the number of appeals that would be adjudicated by the LAB, such as a clearer definition of the term "minor" and the four minor variance tests currently referenced in Section 45 (1) of the *Planning Act*.



Staff responsible for the operation of the C of A will also continue with their work program of identifying and implementing measures to improve the C of A, also as a means of potentially reducing the number of appeals filed in response to C of A decisions.

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## SIGNATURE

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## ATTACHMENT

Attachment 1 - Preliminary Estimates for LAB Operating Expenses/Revenues  
Attachment 2 - Guiding Principles to Follow in Implementing a LAB

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## Attachment 1

**Preliminary Estimates for Local Appeal Body (LAB) Expenses/Revenues - 2015 \$s)****Expenses**

|  |                       |
|--|-----------------------|
| <b>Annual Remuneration for Local Appeal Body Members:</b>  | <b>\$</b>             |
| 1 LAB Chair (\$55,800 + \$30,000)  | \$85,800.00           |
| 5 LAB Members (5 x \$55,800)   | \$279,000.00          |
| <b>Sub-Total Remuneration for 6 LAB Members</b>  | <b>\$364,800.00</b>   |
| <i>Note: \$400 for 87 days, plus \$300 for 60 days, plus \$3,000 = \$55,800 per Member / Chair receives additional \$30,000</i>                          |                       |
| <b>Annual Salary &amp; Benefits for LAB Support Staff:</b>   |                       |
| 1 Program Manager (Pay Grade 8)  | \$126,489.00          |
| 4 Application Technicians (Pay Grade 4) (4 x \$69,788)   | \$279,152.00          |
| 2 Support Assistants (Pay Grade 2.5)   | \$113,457.00          |
| 1 Solicitor (Pay Grade 9)  | \$146,765.00          |
| <b>Total Benefits @ 27% for 8 Support Staff</b>  | <b>\$179,783.00</b>   |
| <b>Sub-Total Salary &amp; Benefits for LAB Support Staff</b>   | <b>\$845,646.00</b>   |
| <b>Annual LAB Operating Expenses:</b>  |                       |
| Notice postings & mailings, office supplies, office equipment, IT services, translation services, website development & other on-going business expenses | \$380,000.00          |
| Rent (Downtown Class A Space) (4080 x \$55 sq ft gross)  | \$224,000.00          |
| 6 Parking Spaces (LAB Members/Staff) (6 x \$400 per space x 12)  | \$28,800.00           |
| <b>Sub-Total for LAB Operating Expenses</b>  | <b>\$632,800.00</b>   |
| <i>Note: Estimates are for direct costs only &amp; don't include indirect &amp; ongoing capital costs required to support a LAB</i>                      |                       |
| Contingency-Liability Contribution @ 10% per year  | \$184,325.00          |
| <b>GRAND TOTAL FOR LAB EXPENSES</b>  | <b>\$2,027,571.00</b> |

**Application Fees & Related Revenues**

|  |                    |
|--|--------------------|
| LAB Application Fees (\$150 x 300 Applications Per Year)         | \$45,000.00        |
| Other LAB Fees (certified copies of documents, photocopies, etc) | \$5,000.00         |
| <b>GRAND TOTAL FOR LAB REVENUES</b>                              | <b>\$50,000.00</b> |

**One-Time LAB Start-Up Costs**

|   |                     |
|---|---------------------|
| Leasehold Improvements (4080 x \$125 sq ft)           | \$510,000.00        |
| Furniture, Fixtures and Equipment (4080 x \$50 sq ft) | \$204,000.00        |
| Project Lead - Salary & Benefits (Pay Grade 7.5 )     | \$108,968.00        |
| Contingency @ 10%                                     | \$82,297.00         |
| <b>GRAND TOTAL FOR LAB START-UP COSTS</b>             | <b>\$905,265.00</b> |

Staff report for action on Implementing a Local Appeal Body for Toronto – Public Consultation Comments and Guiding Principles

## Attachment 2

### **Guiding Principles to Follow in Implementing a LAB**

#### **Guiding Principle One - *Appointment of LAB Members***

*LAB members will be recruited using a fair and impartial recruitment process where the most qualified candidates are appointed by City Council.*

#### **Guiding Principle Two - *Qualifications of LAB Members***

*The members will have reputable adjudicative experience, familiarity with land use planning and planning law, demonstrated ability to make sound, balanced decisions, and will be free of conflicts of interest.*

#### **Guiding Principle Three - *LAB Member Remuneration***

*LAB members will be remunerated at a level that ensures they are able to effectively perform their role and function to achieve fair and balanced hearing decisions.*

#### **Guiding Principle Four - *Oversight and Accountability of LAB Members***

*The LAB will operate as an independent decision making body free from influence by outside parties. It will be subject to the City's Code of Conduct for Members of Adjudicative Boards and will conduct itself in accordance with the Statutory Powers Procedures Act, the Municipal Conflict of Interest Act and the Municipal Freedom of Information and Protection of Privacy Act.*

#### **Guiding Principle Five - *LAB Practices and Procedures***

*The LAB will determine its own hearing practices and procedures in accordance with relevant legislation such as the Statutory Powers Procedure Act and the City of Toronto Act.*

#### **Guiding Principle Six - *LAB Structure and Relationship with the City***

*The LAB will be structured to provide efficient and timely due process with administrative support from the City.*

#### **Guiding Principle Seven - *Costs of Implementing and Maintaining a LAB***

*The City will provide adequate start-up and ongoing operating funding to the LAB to ensure that it functions effectively and independently and in a manner that upholds fair due process for all the parties involved in the hearing.*

#### **Guiding Principle Eight - *Appeal Filing Fees for the LAB***

*In establishing fees for the LAB, Council will be guided by the legislation which governs the tariff of fees for the LAB and the City's User Fee Policy and by the principles of natural justice.*

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