

**Committee of Adjustment – Feasibility and Advisability  
of Professional Experience or Education Qualification**

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| <b>Date:</b>                 | February 9, 2015                         |
| <b>To:</b>                   | Planning and Growth Management Committee |
| <b>From:</b>                 | City Manager                             |
| <b>Wards:</b>                | All                                      |
| <b>Reference<br/>Number:</b> |  |

**SUMMARY**

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The purpose of this report is to respond to Planning and Growth Management Committee's request that the City Manager report back on the feasibility and advisability of requiring relevant professional experience or education as a qualification for appointment to the Committee of Adjustment ("Committee").

The current qualifications for the Committee have specific requirements aside from the general qualifications required for all City boards. This includes having knowledge in one or more areas of: law, planning, architecture, government, economic development, community development, land development or citizen advocacy. It is also specified that a minimum of two members of each Committee hearing panel have prior adjudicative experience, administrative public speaking and organizational skills to be able to chair public hearings and maintain order in conflict situations.

A scan of other Ontario cities indicates that most Ontario municipalities do not have any board-specific qualification requirements for their Committees of Adjustment and none require specific professional experience. In addition, the City's other quasi-judicial boards generally do not require specific professional experience as part of their qualification requirements, though most do have board-specific requirements.

Adding a qualification of specific professional experience for appointment to the Committee could limit the prospective applicant pool and appointees and exclude potential candidates who have other types of skills relevant and appropriate to the Committee. This would be inconsistent with the goal of encouraging applications for citizen appointment from candidates with a range of skills and experience that are

valuable to the Committee such as mediation skills, community development and adjudicative knowledge and experience.

The objectives to have a well rounded set of applicants to the Committee, including some members with relevant knowledge or expertise can be achieved through the recruitment and selection process set out in the City's Public Appointments Policy.

## **RECOMMENDATIONS**

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### **The City Manager recommends that:**

1. Planning and Growth Management Committee receive this report for information.

### **Financial Impact**

There are no financial implications resulting from the adoption of this report.

## **DECISION HISTORY**

At its meeting of June 19, 2014, the Planning and Growth Management Committee requested the Chief Planner and Executive Director, City Planning, in consultation with other City staff, as appropriate, to report in the first quarter of 2015 to the Planning and Growth Management Committee on a range of considerations related to the improved functioning of the Committee of Adjustment in relation to minor variances, including feasibility and cost implications.

In considering this item, the Planning and Growth Management Committee requested the City Manager, in consultation with other City staff, as appropriate, report on the feasibility and advisability of requiring relevant professional experience or education as a qualification for appointment to the Committee of Adjustment, with this report also to be brought forward to the Planning and Growth Management Committee in the first quarter of 2015.

The link to this item is found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG34.22>

## **ISSUE BACKGROUND**

The Committee of Adjustment ("Committee") functions as a quasi-judicial body of the City which hears and makes decisions on applications for minor variance and consent under the *Planning Act*. The Committee consists of 28 citizen members appointed to panels arranged according to the four Community Council districts, and hears over 3,000 applications annually on a city-wide basis.

In an effort to improve the Committee's functioning, Planning and Growth Management Committee has requested a review of several aspects of the Committee's operations, as well as a consideration of feasibility and advisability of including a requirement for relevant professional experience or education as a qualification for appointment.

Qualifications for the Committee are part of the Council-approved governance structure for that board. Amendments to the qualifications require Council approval and would be reported through Executive Committee as a governance matter.

## **COMMENTS**

### **1. Public Appointments Policy**

The City's Public Appointments Policy ("Policy") provides a framework for the recruitment and selection of citizen members for the City's many agencies and boards. The Public Appointments Policy is supported through Section 141 of the *City of Toronto Act* which amongst other matters permits City Council to create policies for eligibility to sit on City boards and the manner of selecting board members.

The Policy contains guidelines for consideration in establishing board-specific qualifications. Qualifications should relate to the ability to perform the duties of the board, including any necessary competencies. The qualifications should be clear yet flexible, defining areas of specialization where required, and skills and knowledge requirements should not be more specialized than necessary. The purpose of these policy provisions is to ensure that qualifications are appropriate for the specific board and its overall function and responsibilities, while at the same time allowing sufficient flexibility to attract citizen appointees having a wide range of professional backgrounds, experiences, skills and expertise that can effectively further the board's mandate and reflect diverse perspectives.

### **2. Appointment to the Committee**

Currently, the qualifications for the Committee have specific requirements aside from the general qualifications required for all City boards. The specific requirements state that candidates must collectively have:

- A strong interest in the complexities and challenges of city building
- An understanding of the diverse neighbourhoods and communities across the city
- Have knowledge in one or more areas of: law, planning, architecture, government, economic development, community development, land development or citizen advocacy
- Demonstrate decision-making, communication and mediation skills to facilitate an open and fair hearing process

In seeking appointment, prospective members are asked to describe how their background, skills and experience relate to the qualifications identified for the Committee. Specific professional experience or education is not identified as requirement of the Committee qualifications however information is sought from candidates such as their education and training background and their community and volunteer activities. These factors are considered in the evaluation of candidates.

The role of the Committee is adjudicative in nature. A high degree of judgement and discretion is often needed by Committee members to hear and evaluate applications that come before it, often involving complex situations or contexts and a range of applicant and community interests. It is desirable that the members appointed bring a variety of perspectives.

### **3. Professional Experience or Education Qualifications for other City Quasi-Judicial Bodies**

A review was undertaken to determine if any other quasi-judicial bodies of the City to which citizen members are appointed require professional experience or education as a qualification. Only the Compliance Audit Committee, which makes decisions on applications for compliance audits under the *Municipal Elections Act, 1996*, to which three citizen members are appointed and two alternates are identified, identifies professional experience as an accountant or auditor in a specialized area as one of the qualifications, among others, that members should collectively have. The City's other quasi-judicial bodies do not have any specific professional or educational qualifications.

### **4. Professional Experience or Education Qualifications in other municipal Committees of Adjustment in Ontario**

A review of qualifications for Committees of Adjustment in the ten next largest municipalities in Ontario was undertaken. The only municipality that identified any qualifications specific to the Committee of Adjustment function was the City of Ottawa. In all other cases reviewed, board specific qualifications of any sort - whether relevant professional experience or education or otherwise - were not identified for appointment to the Committee of Adjustment member role or other bodies.

The City of Ottawa asks candidates seeking appointment to describe their knowledge and experience in the areas of planning, municipal development law, architecture, community development, urban design principles, official plans, and zoning by-laws as well as to list any applicable memberships in professional organizations and any community involvement. However Ottawa does not have a specific requirement for relevant professional experience. This is consistent with Toronto's approach to qualifications. This general approach balances the objective of attracting prospective members from diverse professional and community backgrounds with consideration given to subject-specific knowledge as part of the recruitment process.

## **Conclusion**

The identification of specific professional experience or education requirements as a qualification for appointment to the Committee of Adjustment is unnecessarily prescriptive and could have the unintended effect of limiting the prospective applicant pool, and limiting appointees. Requiring specialized professional backgrounds and education in an identified field or fields could exclude potential candidates who have other types of experience relevant and appropriate to the Committee of Adjustment role, such as community/neighbourhood advocacy, volunteer or adjudicative knowledge or

experience. The objectives to have a well rounded set of applicants to the Committee, including some members with relevant knowledge or professional expertise can be achieved through the recruitment and selection process set out in the Public Appointments Policy.

The risk of discouraging prospective candidates with appropriate qualifications and skills, on the basis of only educational or professional experience considerations, would be inconsistent with one of the City's key public appointment objectives of ensuring that the most suitable candidates are selected and appointed as members.

## **CONTACT**

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## **SIGNATURE**

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