



March 22, 2016

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RE: EX 13.1 Follow-Up Report on a Local Appeal Body for Toronto

Dear Mayor Tory and Members of City Council,

FoNTRA supports in principle the introduction of a Local Appeal Body (LAB) to replace the Ontario Municipal Board (OMB) for Committee of Adjustment (CofA) matters as an opportunity to better serve residents of the City when making or opposing appeals regarding CofA decisions.

However FoNTRA has four key concerns about the current proposal:

1. The proposed \$500 appeal fee.

We do not support the proposed appeal fee of \$500. Why should delegation of the process to the City result in a 400 percent increase in the cost to Toronto residents and applicants compared to elsewhere in the province? The cost of the LAB should be considered as a cost of the entire minor variance/severance review process not related only to appeals. As such, if there is a net deficit related to the establishment of the LAB then the application fees for committee of adjustment should be increased, rather than an increase in the LAB appeal fee. The fee increase would act as a significant barrier to access to justice for residents wanting to appeal a Cof A decision.

2. The independence of the LAB

Given the City's existing responsibility for the committee of adjustment, the addition of the LAB responsibility presents the City with major challenges to ensure its independence of City Council. It is unclear whether the proposed selection and recruitment process involving three members of the public will assure the necessary independence. How will the three members of the public be selected?

3. Alternative Processes (Mediation)

The current adversarial process of the Board often gets in the way of residents being able to adequately participate in a hearing. As such we welcome the Mediation Pilot. However, the mediation process must be independent, and managed by suitably qualified professionals.

4. Transparency of LAB Decision-making.

A major issue currently with the OMB is the unevenness and inconsistency of decision-making among Members, leading to low public credibility of the Board. LAB hearings should be recorded, and LAB procedural rules should be subject to public review.

As noted previously the LAB is only part, although appeals are a critical part of the minor variance and consents “system” of minor site-specific amendments to the zoning by-laws. Numerous concerns with this system remain, such as: unfair CofA operational procedures; the need for greater planning attention and support to Neighbourhoods by City Planning; the need for design guidelines for established neighbourhoods, and the need for review of the Zoning By-law.

In addition the City needs to implement the provision in Bill 73 Smart Growth for our Communities Act that enables municipalities to develop additional criteria (in addition to the “four tests”) in regulation as to what is “minor”. Such clarification would be helpful to the LAB and would improve CofA decision-making. As well, Bill 73 requires that the CofA decisions are supported by reasons. This should help focus consideration of appeals by the LAB.

The annual number of applications to the Committee and the number of appeals are huge and costly for the City, the applicants and residents. We hope that the new LAB will help meet the objectives of increased fairness, openness and accessibility.

Yours truly,

Geoff Kettel  
Co-Chair, FoNTRA

Toronto, Ontario

Cathie Macdonald  
Co-Chair, FoNTRA

Toronto, ON

Cc: P. Wallace, J. Keesmaat  
CORRA

**The Federation of North Toronto Residents' Associations (FoNTRA)** is a non-profit, volunteer organization comprised of over 30 member organizations. Its members, all residents' associations, include at least 170,000 Toronto residents within their boundaries. The over 30 residents' associations that make up FoNTRA believe that Ontario and Toronto can and should achieve better development. Its central issue is not *whether* Toronto will grow, but *how*. FoNTRA believes that sustainable urban regions are characterized by environmental balance, fiscal viability, infrastructure investment and social renewal.