

EX13.1.5

LYTTON PARK RESIDENTS' ORGANIZATION INC.  
Box 45031, 2482 Yonge Street  
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March 28, 2016

Marilyn Toft  
Manager, Council and By-Laws  
City of Toronto  
12th floor, West Tower, City Hall  
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Email: clerk@toronto.ca

Dear Mayor Tory and Members of City Council:

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

Lytton Park Residents' Organization (LPRO) supports in principal the introduction of a Local Appeal Body (LAB).

LPRO concurs with the concerns set out in the March 22, 2016 letter from the Federation of North Toronto Residents Associations (FoNTRA) regarding this very important issue.

Our organization has five main concerns about the LAB as follows:

1. We oppose the proposed LAB Appeal Fee of \$500.00. The current appeal fee is \$125.00 and it should remain so. If additional funds are required to fund the LAB, Committee of Adjustment application fees should be increased. An amount greater than the current \$125.00 fee would create a major barrier to residents wishing to appeal a decision; those the city seeks to better serve.
2. The recruitment and selection process for LAB adjudicators must ensure they are fully trained and qualified.
3. The proposed mediation process should be clearly set out and mediators should be independent and professionally trained.
4. We recommend that mechanisms be put in place to ensure transparency in LAB decision-making.
5. In reviewing the presentations and reports we have not seen any mention of how the Province of Ontario plans to provide financial support to the City of Toronto. Once the LAB is in operation, the Province will be able to transfer a large portion of its' OMB caseload to the LAB, resulting in much lower operational costs to the provincial body. Surely this should be reflected in regular financial compensation from the Province.

Although appeals are a critical part of the minor variance and consents “system” of minor site-specific amendments to the zoning by-laws, LPRO has numerous concerns with the Committee of Adjustment (COA) system as outlined in our March 23, 2016 letter (attached).

We also look to the City to support neighbourhoods by establishing design guidelines for established Neighbourhoods.

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 COA decision making. As well, Bill 73 requires that COA decisions be supported by reasons. This should help the LAB understand the COA decision and better focus its consideration on applicable issues.

It is important that a LAB be established in a thoughtful way to best ensure its success and improve upon the fairness, openness and accessibility of the current appeal process. A LAB should be established in tandem with addressing the other challenges and suggested changes noted above.

Sincerely,

Arlena Hebert, President,  
Lytton Park Residents’ Organization Inc.

c.c. Councillor Carmichael-Greb, J. Keesmaat, SAHRA, FoNTRA, CORRA



March 22, 2016

Marilyn Toft

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Toronto, ON M5H 2N2

Email: [clerk@toronto.ca](mailto:clerk@toronto.ca)

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.

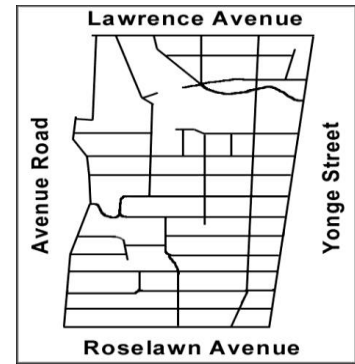
Yours truly,

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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.



March 23, 2016

Councillor Christin Carmichael-Greb

By E-mail: [Councillor\\_CarmichaelGreb@toronto.ca](mailto:Councillor_CarmichaelGreb@toronto.ca)

Dear Councillor Carmichael- Greb,

**SUBJECT: COMMITTEE OF ADJUSTMENT ISSUES**

Ward 16 has 22% of the 11 North York District's Minor Variance applications. North York is experiencing an ever increasing volume of and number of variance requests along with the mistakes that occur when the demand exceeds the means. This was amply demonstrated at the February 18th Hearing which began at 9:30 AM and finished at 12:30 AM, with 65 applications on the agenda. A 15 hour meeting is unfair to staff, your Ward 16 residents and the applicants.

Lytton Park Residents' Organization Inc. ("LPRO") is formally requesting that, as our Ward Councillor, you place a Motion at City Council as soon as possible requesting the Planning Department undertake a thorough review to determine how to improve the Committee of Adjustment's efficiency, customer service, decision making and quality, and to provide a budget for those recommendations. We are aware that staff are doing a review and this list will highlight our areas of special concern. We ask that you request that Staff Report be completed and presented to City Council not later than the fourth quarter of 2016 and that a copy of it be provided to the Ward 16 Resident Associations.

As a member of Planning and Growth Management and our Ward Councillor we submit the following for your attention:

1. Request that staff determine strategies to reduce the number of applications heard at a given Hearing to ensure that meetings do not exceed 8 hours, which would be approximately 25-30 applications per meeting. Currently anywhere from 55-60 applications are on each agenda which is an unsustainable volume of applications. Consideration should be given to 1) scheduling additional public hearings in order to reduce the number of applications to be heard on any given agenda, 2) hiring of additional COA staff to process applications and 3) appoint additional Panel Members and/or rotate in planners and panels from other districts.

2. Increase Planning Department funding immediately so that as a minimum all positions are filled, phone calls and emails are answered in a timely manner, and our professional staff have the time to do their jobs properly and without errors.
3. Require an editor or senior planner to proofread all notices and the supporting documents before they are sent for printing and distribution to capture errors, resolve/replace poor quality documents and missing variances.
4. Improve the manner, form and content of the public notice and the public notice sign. Improve the quality of the Notices so they are readable and Item information (File #, address etc.) is coded on each document.
5. Return to the practice of marking up the variances on the plans delivered with the Notices to assist the public in identifying same on those plans.
6. Ensure that Notices are delivered 20 days before the Hearing, expedite mail out of decisions, and publish how well these timelines are met.
7. Extend the notice area past the 60 metre radius if the subject property is, or is adjacent to, commercial properties to ensure the Notice is received by residents in the area and that Notices are sent to individual condo/apartments/retail stores. (Currently just to property owner).
8. Ensure that public hearing notices and decisions are posted on the city website following established timelines.
9. Improve the training and ongoing professional development of COA Panel Members to reflect the complexities in today's current urban planning and development in order to competently interpret Toronto's planning policies and law. Unlike a by-law which can be rescinded or revised, the built form of approved variances will stand and affect the neighbourhood for at least 50 years. Poor understanding and/or rushed decisions by overwhelmed Panel Members often result in indefensible decisions which not only could have been avoided, but lead to very protracted and expensive appeal procedures for the city, area residents and applicants at the OMB.
10. We now experience uneven and inconsistent levels of decision-making delivered by Panel members who often do not seem to understand their legal role and responsibility under the laws of Ontario – The Planning Act and other relevant statutes, policies and by-laws they are mandated to fully understand, consider and weigh in their deliberation.
11. The Panels are appointed for a period of four years and will make decisions on thousands of applications per district. Unlike what we have been told, members should undergo thorough training on the By-law, the Planning Act and the Official Plan. Focus should be on the "Four Tests" and Sections 45 or Section 51 of The Planning Act and how they must be considered when making a decision.
12. Require the Manager of COA, and other city planning staff who are at the Hearings, to become involved, to intercede, offer guidance and answer questions of the Panel and the public during the Hearings.

13. In the published Decision file posted on the city website, include the list of any applications that have been deferred, along with those Approved or Refused.
14. Make available to the public the audio-visual recordings or audio recordings of Committee of Adjustment Hearings.
15. Discontinue the option of allowing COA Applications to be heard under "Waiver". In all instances Applications be required to go through the City's Zoning Examiner Review so that a correct, all-inclusive list of variances is prepared before the application is considered by the COA;
16. Require a new notice and public hearing for any revision and/or significant change to a COA application;
17. We need you, our Councillor to mediate between applicants, area residents and other parties to help resolve any disputes prior to the COA Hearing and continue to interface throughout the construction phases. All discussion must be transparent and provide clarity in support of and respecting the involvement of the real stakeholders --- the residents of Ward 16.
18. We need you, our Councillor to become involved at the COA if the immediate neighbours and/or the Residents' Association expresses concern.
19. We also require your involvement at the OMB to uphold the position of the city's duly appointed COA should their decision be appealed by an applicant.
20. Provide the support and facilities for resident associations to set up Planning Guidelines for their area by means of the city's template.

In conclusion, we believe the Committee of Adjustment, North York is in crisis. Cutting Planning Department funding and holding staff levels at current levels is unsustainable. Your immediate involvement in COA issues is essential for the health and sustainability of our neighbourhood, the Ward you have been elected to represent.

Sincerely,

Arlena Hebert, President

c.c. Mayor John Tory  
Councillors Kristyn Wong-Tam, Jaye Robinson, David Shiner, John Campbell, Justin J. Di Ciano, John Filion, Josh Colle,  
Chief Planner Jennifer Keesmaat, FoNTRA, CORRA