



March 8, 2016

Jennifer Forkes
10th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2
email: exc@toronto.ca

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

Dear Mayor Tory and Members of the Executive Committee

FoNTRA supports the introduction of a Local Appeal Body 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.

Current issues with the operations of the OMB include: the premium placed on expert evidence and the high costs of hiring such expertise, the barriers created by the formal procedures of the hearings, the lack of understanding of the Toronto context by OMB Members, and their lack of visitation to the subject site. The new process must be evaluated as to whether it improves fairness, openness and accessibility for residents and applicants.

In this context, we make the following comments:

1. Costs to appeal – Despite the recommended reduction to \$500 (from \$100) we do not support any increase from the existing amount that is common to appeals across the province. 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? If there is an operational deficit related to the establishment of the LAB then consideration should be given to increasing the application fees for committee of adjustment rather than an increase in the LAB appeal fee.
2. LAB Accessibility to the public - there needs to be an effort to make the LAB hearings more accessible, for example, by allowing for hearings to be held in the evening to improve accessibility for residents who work during the day.
3. Recruitment and appointment of Members – The Members of the LAB should be qualified in architecture, planning and/or law, or equivalent experience. They should also be a resident of the City in order to be familiar with the City context.
4. Alternative Processes (Mediation) – We welcome the Mediation Pilot. The current adversarial process of the Board often gets in the way of residents being able to adequately participate in a

hearing. The mediation process must be independent and managed by suitably qualified professionals.

5. LAB Fairness and Openness. A major issue currently with the OMB is the unevenness and inconsistency of decision-making among Members, leading to a breakdown in the public credibility of the Board. Hearings should be recorded and LAB procedural rules should be subject to public review.
6. Cost of hiring expert witnesses is a major deterrent to residents making appeals. The LAB should assist residents by providing advice and support on appeal hearings and mediation.
7. As noted previously the LAB is only part, although a visible part of the minor variance and consents “system”. The numerous concerns with this system, 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, remain.
8. In addition the City needs to implement the provision in Bill 73 Smart Growth for our Communities Act for 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 will 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
129 Hanna Road
Toronto, Ontario
M4G 3N6
gkettel@gmail.com

Cathie Macdonald
Co-Chair, FoNTRA
57 Duggan Road
Toronto, ON
M4V 1Y1
cathie.macdonald@sympatico.ca

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.