

Teddington Park Residents Association Inc.

██████████ | Toronto, ON | ██████████

October 3, 2017

Mayor John Tory and Members of Council
Toronto City Hall, 100 Queen Street W
Toronto, ON M5H 2N2

Attention of Ms. Marilyn Toft, Manager Secretariat Support
Sent via email: clerk@toronto.ca

Dear Mayor Tory and Members of Council:

CC32.8: COMMITTEE OF ADJUSTMENT NOTICE PROCEDURES

I noticed this item from the Toronto Ombudsman on Council Agenda late last night and I wish to comment. This matter is currently being held by Councillor Fragedakis.

The Committee of Adjustment (COA) is a quasi-judicial body, not a local body (restricted definition). I am not certain whether the Toronto Ombudsman has jurisdiction over the Committee of Adjustment. However, the current functioning of the “administration” component of the COA is not operating as intended by the Planning Act.

From the Ombudsman Report:

[20] The notice is designed to ensure that potentially affected residents can make their views known about an application. In the case at hand, the complainant alleges that, because he did not receive notice of the application, he was unable to exercise his right to challenge his neighbour's application.

To further address paragraph [20], Notice is the cornerstone of Administrative Law. Without receiving Notice for those entitled to receive Notice and those who have requested that Notice be received will result in a decision-making process that is flawed. The cascade of potential injustices based on failed notice resulting from the nature of the decision and the context of the situation are many, but not only does Notice safeguard participatory rights, Notice also safeguards the decision-makers from making a decision where they may not have jurisdiction to make.

Failed Notice, Notice that is defective may result in an error in law and on a go-forward basis anyone not receiving Notice should be able to ask the Committee of Adjustment to adjourn the hearing for re-Notice. And for those applications that have been decided and appealed on a flawed Notice or flawed Notice process, should also request to have the matter re-Noticed before that Adjudicating body. This would safeguard the intended participatory rights and safeguard the decision-makers

from making decisions without full information and without jurisdiction. And on an ongoing basis if a decision is made on failed Notice resulting in the denial of rights, this is cause for an appeal or reconsideration.

The real issue is the fact that independent operations of the Committee of Adjustment (COA) has been subsumed and operates similar to a “department” within the City. The COA is empowered by Council By-law under the Planning Act. The administration of the COA process should be returned to the COA (including maintaining independent COA files) and the IBMS system that was the COA supporting system should also be reactivated. There has been no authority to change the technology or the underlying system, especially when it worked. A dependable and reliable system also provides safeguards to COA staff as they are required to sign affidavits to attest to the fact that proper Notice was given on appeal.

I have engaged and continue to engage the Committee of Adjustment decision-making in my role as President of Teddington Park Residents Association Inc. (TPRA). From my perspective, a perspective across different time, failed Notice is episodic, periodic affecting individuals and groups differently across different applications.

I am in support of any recommendations that would return the issuing of Notice to the reliable, routine function of the COA that it once was and to have the control of the administration function returned to an independent COA as intended by legislation.

I would appreciate receiving Notice of the monitoring of the COA processes as outlined in the Ombudsman’s Report.

Respectfully,

Eileen Denny, President
Teddington Park Residents Association Inc.
cc. TPRA Board Secretary