

## **Toronto Local Appeal Body - Request for Composition Increase and Appointment of a Vice Chair**

**Date:** July 5, 2018

**To:** Executive Committee

**From:** Director of Court Services

**Wards:** All

### **SUMMARY**

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On May 7, 2018, the Chair of the Toronto Local Appeal Body submitted the tribunal's first annual report. In the report, the Chair made five recommendations to improve the tribunal's service levels and operations. This report recommends that City Council address two of the Chair's recommendations and approve the following:

- An increase in TLAB Member composition from seven (7) to ten (10) part time Members including the Chair,
- An amendment to the terms of reference for the TLAB to provide for a Vice Chair; and
- An amendment to the City's remuneration policy to include an annual stipend of \$15,000 for the Vice Chair.

As noted in the TLAB annual report, at seven part time Members the tribunal is vulnerable to absences, vacations, illness, resignations and conflict of interest. In addition, the demand for TLAB services generated a substantial caseload per Member and scheduling limitations. Staff agree that this has led to longer scheduling and decision timelines than originally anticipated.

An increase in TLAB Member composition from seven (7) to ten (10) part time Members including Chair is expected to alleviate these pressures and allow the tribunal to meet its service standards for the timely issuance of decisions and scheduling of hearings.

The appointment of a Vice Chair by TLAB under the Toronto Municipal Code, Chapter 142, Section 142-3, will allow the Chair to delegate certain responsibilities. As noted in the TLAB annual report, the role of the Chair is multifaceted and essentially full time while maintaining an equal hearing schedule, conducting reviews, preparing business meetings, and reviewing Member draft decisions. Staff agree that appointing a Vice

Chair will allow the tribunal to improve overall operational performance and will require additional funding to be approved for the position. The Vice Chair, at the delegation of certain responsibilities by the Chair, will be required to take on additional workload over and above their adjudication duties as a TLAB member. The approval of additional funding by Council for the Vice Chair position will be reflective of this increase in responsibilities.

## **RECOMMENDATIONS**

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The Director of Court Services recommends that:

1. City Council approve an increase in the TLAB Member composition from seven (7) to ten (10) part time Members including Chair.
2. City Council amend the terms of reference for the TLAB to provide for a Vice Chair:
  - (a) to be appointed by the board from among its members
  - (b) to perform duties as assigned by the Chair in the administration of the rules of practice and procedures that govern TLAB proceedings
3. City Council amend the remuneration policy and adopt the proposed annual stipend of \$15,000 for the Vice Chair, with funding to be reallocated from within the 2018 Approved Operating Budget for Court Services.

## **FINANCIAL IMPACT**

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Increasing the TLAB Member composition from seven (7) to ten (10) part time Members including Chair will have no financial impact. TLAB expenditures, aside from the Chair's stipend, are determined by the volume of appeals received, processed, and adjudicated by the tribunal.

The appointment of a Vice Chair by the board with a remuneration of \$15,000 per annum will be financed by reallocating funding from within the 2018 Approved Budget for Court Services.

The Interim Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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At its meeting held March 31 and April 1, 2016, City Council adopted the Local Appeal Body Governance Structure in Attachment 1 to the report (February 24, 2016) from the City Manager.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX13.1>

At its meeting held December 13, 14, and 15, 2016, City Council appointed seven candidates to the Toronto Local Appeal Body for a term of office commencing December 13, 2016 and ending on December 13, 2020, and until successors are appointed.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.CC23.1>

At its meeting held November 7, 8, and 9, 2017, City Council appointed one new public Member to the Toronto Local Appeal Body for a term of office ending December 13, 2020, and until a successor is appointed.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC34.3>

At its meeting held January 31 and February 1 2018, City Council appointed one new public Member to the Toronto Local Appeal Body for a term of office ending December 13, 2020, and until a successor is appointed.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC36.1>

## COMMENTS

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### **An increase in TLAB Composition and the appointment of a Vice Chair is required to meet service level targets**

#### *Increase in TLAB Composition*

The TLAB's annual report sets service standards for the timely issuance of decisions. The service standard for issuing decisions is 14 days from the date of Hearing or Motion.

In 2017, only 54% of decisions were issued within the 14 day target. During this time period Panel Members were scheduled for 1.7 hearings per week. Staff agree that the substantial caseload per Panel Member is a primary reason for the tribunal's inability to meet established service standards for decision issuance.

TLAB Members have assignments to the end of August 2018. During this time period, each Panel Member is scheduled for 1.8 hearings per week to meet the demand for TLAB services. Given the current Member composition, decision timelines are not expected to improve.

Increasing the TLAB's composition to 10 part time Members as recommended in this report will reduce the caseload for each Member. Staff expect that the reduced caseload per Member will facilitate the achievement of the tribunal's service standards for issuing decisions. It will also mitigate the operational impact of factors such as illness, vacations, and unanticipated absences.

The TLAB's annual report also sets service standards for the timely scheduling of hearings. The service standard for scheduling hearings is 100 days from the Notice of Hearing to the scheduled hearing date.

In 2017, 77% of TLAB hearings were scheduled within the 100 day target. The average time from Notice of Hearing to the scheduled hearing date was 110 days. Increasing the TLAB Member composition to 10 part time Members as recommended in this report will provide staff with more flexibility in scheduling TLAB hearings. Staff expect that increased flexibility will facilitate the achievement of the tribunal's service standard in this area.

The TLAB is committed to providing quick and efficient scheduling of hearings along with timely outcomes. Increasing the TLAB Member composition to 10 part time Members as recommended in this report will assist the TLAB in this regard and allow the tribunal to provide more efficient and effective service to the public.

#### *Appointment of a Vice Chair*

One of the TLAB Chair's mandate is to ensure the quality and consistency of TLAB decisions. As such, the Chair conducts a review of all Member draft decisions prior to issuance. The Chair of the TLAB is further tasked with the coordination of Member training and professional development, the maintenance of an equal hearing schedule, decision reviews, and the preparation for business meetings.

A distinguishing factor of the TLAB is the arm's length, independent nature of the TLAB. The administrative support that city staff, Court Services, provide focuses on providing customer service, case management support and making the necessary arrangements for hearing events. The assurance of fair and effective hearing practices rests with the Chair of TLAB. The Chair is responsible to make operational decisions affecting the tribunal's hearing processes including administrative decisions on how matters are to proceed. Further, as the lead representative of TLAB, the Chair bears the sole responsibility for engaging in community outreach through various communication methods.

The current remuneration policy provides a framework in which Members are solely compensated for the following responsibilities: (1) Review of materials of each application assigned including site inspections; (2) Conducting mediations; (3) Presiding over hearings; (4) Issuing written decisions; and (5) Attending business meetings. There is no provision for Members to support the Chair beyond this framework.

The establishment of a Vice Chair will assist in bridging the gap of current staff support and in turn assist the tribunal and the Chair meet their service level standards as reported in the Chair's Annual Report. The Vice Chair will be subject to the delegation from the Chair to provide direction over the operation of TLAB, allowing for more responsive liaison with Court Services staff on administrative support matters.

The Vice Chair will be subject to responsibilities as delegated by the Chair of TLAB in the administration of the rules of practice and procedures that govern TLAB proceedings. The Vice Chair will assist in: providing direction over administrative support issues, reviewing Members draft decisions including the Chair's own draft decisions and any Review requests. This assistance is likely to expedite decisions being issued leading to an improvement in operational performance. Further, in the absence of the Chair, the Vice Chair will be delegated to perform the duties of the Chair

to ensure that the same level of efficient and effective service to the public is maintained.

This anticipated delegation of administrative tasks increases the responsibilities of the Vice Chair which will bring them more in line with the responsibilities of the Chair. An annual stipend of \$15,000 will be reflective of the greater time and effort invested.

## **CONTACT**

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Susan Garossino  
Director, Court Services  
416-338-3410  
[Susan.Garossino@toronto.ca](mailto:Susan.Garossino@toronto.ca)

## **SIGNATURE**

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Susan Garossino  
Director, Court Services  
416-338-3410  
[Susan.Garossino@toronto.ca](mailto:Susan.Garossino@toronto.ca)

## **ATTACHMENTS**

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Attachment 1: TLAB Annual Report - 2017