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Tribunals Nominating Panel Orientation

March 6, 2019

Today's presentation

1. Roles and expectations of the Panel
2. Code of Conduct
3. Open Meeting Management
4. The public appointments process
5. Tribunals Nominating Panel appointment process
6. Questions

Terms of Appointment

- Term ends February 28, 2023 - Continue to serve until a successor is appointed.
- Appointed *at pleasure* of City Council, which means that City Council may rescind your appointment without cause.
- Term limit is two consecutive 4-year terms
 - Total 8 consecutive years

Conditions of your appointment

- Resident of the City of Toronto;
- Not an employee of the City of Toronto or any of its agencies or corporations;
- Not a spouse, partner, child, or parent of a Member of City Council; and
- Cannot be a member of a land division committee, planning advisory committee member or a member of the OMB;

Conditions of your appointment

- Cannot be a former member of City Council or the Committee of Adjustment who served in the immediately preceding term of Council;
- Cannot act as agents for applicants or have an active application currently being considered before any City administrative tribunals;

Conditions of your appointment

- Cannot be an owner, employee, or agent of an advertising, communications, or media relations agency or a business which owns, controls, or has shares in a media outlet;
- Cannot be a City licence-holders or are engaged in the business of a corporate licence-holder.

Meetings

- Meets at City hall in rotating panels of up to three members.
- Meetings must begin on time and cannot be interrupted by telephone calls or other business.

Remuneration

- Panel members receive \$250 per half-day and \$500 per full day
- Maximum of \$5,000 per calendar year pro-rated on an annual basis from the time of appointment.

Leave of Absence or Resignation

- Submit a request to the City Clerk to take a leave for an extended period of time, for any reason.
- Depending on the duration and the Panel's requirements, City Council may fill the vacancy on a temporary basis.

Leave of Absence or Resignation

- Required if you run, or seek appointment to, any elected office.
- Must begin on, or before, the date of application to, or the date of nomination for, the elected office.
- Notify both the City Clerk's Office and Panel Chair in writing as soon as possible and state the date your resignation will take effect.

Notify the Clerk and Tribunal

- Notify City Clerk and Tribunal in writing if:
 - ✓ Contact information changes
 - ✓ Eligibility changes
 - ✓ Requesting a leave of absence
 - ✓ Resigning with effective date

City of Toronto Board Behaviours

Act with
integrity

Ensure fair
competition

Foster equity,
diversity and
inclusion

Serve the
public service
well

Champion the
standards of
public service



The IC, the Code of Conduct and the MCIA

Valerie Jepson, Integrity Commissioner

Tribunals Nominating Panel

March 6, 2019



Outline

1. Role of the Integrity Commissioner (IC)
2. Your role as public office holders
3. The Code of Conduct and the *Municipal Conflict of Interest Act*
4. Scenarios
5. Tips and Questions

Role of the Integrity Commissioner

- The IC is independent from City Council and from City administration
- One of four Accountability Officers
- Duties:
 - Confidential, binding advice to individual members of Council and local boards about compliance with the Code of Conduct and the *Municipal Conflict of Interest Act*
 - Education and outreach to all entities within jurisdiction
 - Policy advice to City Council as a whole and local boards
 - Investigations into allegations about contraventions

Your Role as a Public Office Holder

- The Tribunals Nominating Panel is a local board (restricted definition).
- Board members are public office holders.
- Board members have duties and accountabilities to Council.
- Council and the public expect board members to adhere to high standards of conduct:
 - Board members must act in accordance with standards of conduct for public office, not private business. Prioritize the public interest.
 - Board members must concern themselves with promoting trust and confidence in the Board – a proactive action.
 - It is no longer sufficient in 2019 for public office holders to merely follow the rules.

Sources of the Standards of Conduct for Board Members

- Code of Conduct
 - Approved by Council, applicable to all appointees of all local boards (restricted definition)
- *Municipal Conflict of Interest Act* (MCIA)
 - Provincial legislation applicable to all municipal boards in Ontario
- Local Board and City policies
 - Code requires that members observe the terms of policies and procedures established by the local board or City Council

Code of Conduct: Preamble and Principles

- “The public is entitled to expect the highest standards of conduct from members of Council and the citizen members” appointed to local boards by Council to act on its behalf
- Principles:
 - Members must serve and be seen to serve in a conscientious and diligent manner
 - Perform functions with integrity and avoid improper use of influence, conflicts of interest, apparent and real
 - Arrange private affairs in a manner that promotes public confidence and will bear close public scrutiny
 - Uphold both the letter and spirit of the law

Code of Conduct Duties

- **Article IV:** Members cannot accept gifts or benefits connected directly or indirectly with duties unless an exception applies.
- **Article V:** Members must preserve confidential information and refrain from disclosing or using confidential information for personal or private gain.
- **Articles VI and VII:** Members must ensure proper use of board and City property, services and resources.
 - Members cannot use Board resources for personal or business-related purposes or to support candidates in any election campaign.

Code of Conduct Duties

- **Article VIII:** Members must use the influence of their office only for the exercise of official duties.
 - Not to advance personal or private interests (employment, contracts, friendships, business associates).
- **Article IX:** Members must not directly provide paid goods or services to the Board.
- **Article X:** Members cannot allow the prospect of their future employment to detrimentally affect the performance of their duties.
- **Article X.1:** Members cannot serve on other agencies or boards if the other agency or board's interests are in conflict with the Board.

Code of Conduct Duties

- **Articles XI, XII and XIV:** Members must treat staff, each other and stakeholders with respect and act with decorum.
 - Members must not engage in abuse, bullying, intimidation.
 - Ensure a culture of open dialogue.
- **Article XIII:** Members must not engage knowingly in communications with lobbyists who are not registered on the Toronto Lobbyist Registry.
- **Article XV:** Members must adhere to board and City policies.

Municipal Conflict of Interest Act

- Members cannot participate in votes or any actions leading to a vote for any matter for which a member (and/or their parent, child or spouse) has a direct or indirect pecuniary interest (section 5). These interests must be disclosed verbally and in writing (section 5.1).
- Members cannot attempt to influence City or Board staff decisions or recommendations about any matter for which a member (and/or their parent, child or spouse) has a direct or indirect pecuniary interest (section 5.2).
- Practical tips:
 - Be aware that the MCIA is technical and requires interpretation.
 - Be prepared. Anticipate. Review agendas and candidate lists. Seek advice from the Integrity Commissioner about potential interests and strategies to detect and deal with them properly.
 - See Guidance issued by the Integrity Commissioner and use form and tip sheet provided by City Clerk.

Resources



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INTEGRITY
COMMISSIONER
TORONTO

Interpretation Bulletin
Municipal Conflict of Interest Act
Members of Council & Local Boards (Restricted Definition)

Identifying and Declaring Pecuniary Interests at Meetings

Purpose and Scope of the Bulletin

1. The purpose of this Interpretation Bulletin is to assist members of Council and local boards (restricted definition) (referred to as "a member" or "members" in this Bulletin) to understand their duty to identify, recuse themselves from and disclose pecuniary (or financial) interests.
2. This Bulletin provides guidance about members' obligations set out in sections 5 and 5.1 of the *Municipal Conflict of Interest Act* ("MCIA" or "Act").
3. This Bulletin does not address members' other duties under section 5.2 of the MCIA which prohibits members from using their office to attempt to in any way influence any decision or recommendation in matters in which they have a pecuniary interest, or the applicable code of conduct.
4. Members should seek confidential advice from the Integrity Commissioner to address their specific interests and concerns, as they arise. The Act indicates that when reviewing MCIA complaints, a Court may consider whether the member sought and followed the advice of an Integrity Commissioner.

Disclosure and Recusal Obligations

5. When a matter comes before a meeting of Council or the board for which a member and/or his or her parent, child, or spouse, has a pecuniary interest, either directly or indirectly, the MCIA requires that the member:
 - a. verbally disclose the pecuniary interest prior to any consideration of the matter at the meeting;
 - b. not take part in the discussion of, or vote on any question with respect to, that matter;
 - c. if the meeting is not open to the public, the member must immediately leave the meeting or the part of the meeting during which the matter is under consideration;



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TORONTO

February 12, 2019

Guidelines for Making a Declaration of Interest

1. Plan ahead

- Review agenda materials in advance to identify items in which you have a direct or indirect pecuniary interest.
- Allow enough time to seek the advice of your own counsel or the Integrity Commissioner if you are unsure.
 - The Clerk, secretary, or solicitor for the City or board cannot give you this advice.
 - *Exception:* The Integrity Commissioner does not have authority for members of the library board, police services board or board of health.
- Prepare your written declaration in advance. Use the form provided if available to ensure all of the required information is collected.

2. Make Your Declaration in the Meeting

- If you prepare your written declaration in advance, you can read from it to make your verbal declaration at the appropriate time in the meeting.
- If you make your verbal declaration before preparing a written declaration, be sure to complete the written declaration and hand it to the clerk/secretary before you leave the meeting.
 - If your board is supported by the City Clerk's Office, the secretary will be able to provide a blank form.

3. How is it recorded?

- Your declaration is recorded in the minutes of the meeting at which you make the declaration.
 - For those bodies where agendas and minutes are posted by the City Clerk to toronto.ca/council, your written declaration will be attached to the minutes for viewing online.
- In addition, the City or board is required to maintain a public register of declared interests.
 - The City Clerk makes the registry available online at toronto.ca/council for bodies the City Clerk supports.
 - For other boards, check with the secretary for information about the register.

4. If you leave the meeting without completing the written declaration

- Complete and submit the written declaration to the Clerk/secretary as soon as possible after the meeting for processing.

Declaration of Interest

Member's Name	
Meeting Date	Name of Committee or Board
Item Number	Agenda Item Title

I declare a direct or indirect pecuniary interest in the agenda item noted above in accordance with section 5 of the Municipal Conflict of Interest Act.

The nature of my interest is as follows:

[illegible]

Declaration Date	Signature of Member
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Clerk/Secretary Use Only:

Received (Date and Time)	Received by
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The Integrity Commissioner is available to provide advice on a Member's obligations under the Municipal Conflict of Interest Act.
Contact: 416 392-3826 | integrity@toronto.ca

Scenarios

- You are invited to dinner by a potential candidate to talk about the work of the Board.
- You are asked to speak on behalf of the Board.
- A close, personal friend is a candidate whose name comes before the Panel.
- It is likely that you will be asked to be a reference by a candidate whose name comes before the Panel.
- A candidate contacts you to seek information about the application process and your role.
- You are asked for your opinion about the quality of appointments made by your colleagues by media? By a member of Council?

Possible red flags and what to do

Red flags - examples

- You and the candidate have the same employer.
- You and the candidate are close, personal friends.
- You and the candidate have a business relationship.
- You and the candidate are in the same family.

What to do

- Seek advice to obtain an opinion in writing. Options:
 - Declare and recuse.
 - Declare only
- Of interest: <http://www.fja-cmf.gc.ca/appointments-nominations/committees-comites/ethics-ethiques-eng.html>
(Federal Judicial Appointments Advisory Committee)

Objectives and Tips

- Objective of the Code of Conduct:
 - Protect the reputation and integrity of the City of Toronto.
 - Protect the reputation and integrity of the Tribunals Nominating Panel.
 - Increase trust in Toronto's local government.
- Practical tips
 - Remember, it's not personal. The Integrity at stake is the City's, not our own. Our actions, regardless of our intentions, will impact how members, the public and City Council think about the Tribunals Nominating Panel.
 - Help each other. Engage in respectful discussions about the Code of Conduct.
 - Sometimes the best advice is to seek advice.

Thank you

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Integrity Commissioner

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How open meeting laws apply to local boards like the Tribunals Nominating Panel

By John D. Elvidge, Deputy City Clerk
March 6, 2019



The Panel is a “city board” for the purposes of s. 190 of COTA

- TNP is a City board
- The TNP’s meetings will be held under the same meeting laws as City Council and its committees.

COTA requires every city board to adopt a procedures by-law

- City Council has already approved the use of the Council Procedures (rules of committees) for the TNP

COTA requires public notice for all meetings of the Board

- The Clerk will give notice for all meetings of the board in accordance with the Council Procedures
- Regular meetings will be scheduled in advance
- Special meetings require 24 hours notice

All Board & committee meetings must be open to the public

- “Open” means:
 - At a place ordinarily considered a public place
 - At a time ordinarily considered a time to conduct public business
 - Accessible in accordance with AODA
 - There is room/seating for the public
 - No barriers such as “buzzing through”, requirement for escorts, presentation of ID etc.

A portion of a meeting may be closed to discuss certain matters - 1/2

- Security of the property of the Board
- Personal matters about identifiable individuals
- Proposed or pending land acquisition or disposition
- Labour relations & employee negotiations
- Litigation or potential litigation
- Receiving of advice subject to solicitor-client privilege
- Education & training if no business is advanced

A portion of a meeting may be closed to discuss certain matters - 2/2

- information explicitly supplied in confidence to the City or local board by Canada, a province or territory or a Crown agency of any of them;
- a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the City or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- a trade secret or scientific, technical, commercial or financial information that belongs to the City or local board and has monetary value or potential monetary value; or
- a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the City or local board.

The TNP is likely only ever to rely on the following reasons

- Routinely when reviewing candidates:
 - Personal matters about identifiable individuals
- Possible but unlikely:
 - Education & training if no business is advanced
 - Receiving of advice subject to solicitor-client privilege

#1 – the security of the property of the City of the local board

- For example:
 - Information whose disclosure could reasonably be expected to prejudice the economic interests or the competitive position of the Board.
 - Information whose disclosure could reasonably be expected to be injurious to the financial interests of the Board
 - Information including the proposed plans, policies or projects of the Board if the disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or undue financial benefit or loss to a person.

#2 - personal matters about an identifiable individual, including a city employee or a local board employee

- For example:
 - Matters relating to an individual's race, national or ethnic origin, colour, religion, age, sex, sexual orientation and marital or family status.
 - The education, criminal, medical or employment history of an identifiable individual
 - Any identifying number, symbol or other particular assigned to an individual
 - The address, telephone number, fingerprints or blood type of an individual.

#3 - a proposed or pending acquisition or disposition of land by the City or local board

- This includes acquisition or disposition by way of lease.

#4 - labour relations or employee negotiations

- For example:
 - Positions, plans, procedures, criteria or instructions to be implemented during employee negotiations
 - Hiring, disciplinary or termination matters
 - Management-union negotiations during the collective bargaining process

#5 - litigation or potential litigation,
including matters before administrative
tribunals, affecting the City or local board

- Matters before all courts
- Matters before administrative tribunals such as the Ontario Municipal Board, the Ontario Labour Relations Board or other labour arbitrators, the Ontario Human Rights Commission, the Workplace Safety and Insurance Board etc.

#6 – the receiving of advice that is subject to solicitor-client privilege including communications necessary for that purpose

- Verbal or written legal advice, whether given in contemplation of or for use in litigation or not.
- To qualify advice must be from person acting as the board's solicitor
 - Does not apply to advice from people who happen to be lawyers
 - Does not apply to the relay of legal advice by non-lawyers

#7 - education or training of members if no business is advanced

- Example:
 - Meeting of Councillors to provide Provincially-required training in the Ontario Clean Water Act
- This provision does not apply to “briefings” or “retreats”
- All other meeting rules apply

Meetings must begin and end in public

- This applies even if all business on the agenda qualifies for a closed session
- Before meeting in closed session, COTA requires the board to adopt a resolution
 - Stating the general nature of the matter to be debated
 - The statutory exception relied upon to close the meeting
- After a closed session, the Panel conducts its public debate on a matter

No votes may be taken in closed session*

- Exceptions
 - Votes on procedural motions
 - Votes on instructions to officers, staff or agents
- All other votes must be conducted in public

There are risks associated with improperly closed meetings

- Any person who believes a meeting has been improperly closed may request that the City investigate
- The investigator makes a public report to the Board or Council with any recommendations they see fit
- Alternatively a person may make an application to a court or tribunal to have a decision quashed

Council Procedures do not permit electronic participation in meetings

- At present COTA does not authorize electronic participation in meetings.
- Members must be present to be counted for quorum and to debate and vote

Quorum

- A quorum of a majority of members must be present for business to proceed
- Quorum is not reduced by vacancies on the board
 - e.g. Quorum remains four even if 2 seats are vacant
- Quorum is reduced by Members declaring interests provided that at least 2 members are present.
 - e.g. Quorum is three if 2 members declare an interest in a matter

Voting

- The Chair votes
- Tie votes lose
- If any member requests it, the vote shall be recorded

COTA requires a record of all meetings be made “without note or comment”

- The Clerk will prepare minutes of Board and committee meetings
- Minutes are public
 - Exception: Minutes of closed sessions must be taken, but are not made public
- This means the Clerk must be present for all sessions of a meeting.

Members are bound by the Municipal Conflict of Interest Act

- Members must declare any direct or indirect pecuniary interest in a matter affecting the Member, their partner/spouse, parents or children and refrain from influencing the debate
 - A member may consult the Integrity Commissioner for advice about compliance
- Members must also make a written declaration and submit it to the Secretary for publishing in a public register

Questions are welcome

The Public Appointments Process

- The Public Appointments policy
- Eligibility and qualifications
- How people apply for Tribunals
- How members of the public are appointed
- Appointment schedule

The Public Appointments Policy

- Framework aims to ensure the most suitable candidates are selected and appointed
- Process is principle-based, implemented in a consistent manner, and administered with integrity
- Applies to the City's appointment of citizens to boards of agencies and corporations of the City, pension bodies and external bodies.
- Available online at:
<http://www.toronto.ca/legdocs/pais/pa-policy.htm>.

We launched toronto.ca/ServeYourCity



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City of Toronto Public Appointments



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Welcome to the new website for Public Appointments

Welcome to Toronto's new website for managing public appointments to Agencies and Corporations.



Apply Now!

Use our new online application system to apply for board opportunities.



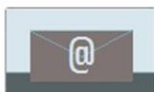
Application Deadlines - Updated

Check back here often for up-to-date information about deadlines and scheduled nominating panel meetings.



About the Public Appointments Process

Find out more about public appointments, including eligibility requirements, the application and selection process, and more.



Subscribe to Public Appointment e-updates

Sign-up to receive announcements about public appointment opportunities, news and events.

Applications

- [Current Opportunities](#)

Appointments

- [Recent Appointments](#)

Privacy Information

- [Privacy Statement](#)

Other Resources

- [Public Appointments Policy](#)
- [Public Appointments Overview](#)
- [Eligibility Requirements](#)
- [Application Process](#)
- [Selection Process](#)

Related Links

- [Meetings, Agendas and Minutes](#)
- [By-laws & Municipal Code](#)
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Continuous intake of applications

[Living in Toronto](#)[Doing Business](#)[Visiting Toronto](#)[Accessing City Hall](#)

City of Toronto Public Appointments

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Agencies, Committees and Corporations

The City of Toronto makes appointments to a range of agencies, committees and corporations. You can apply at any time for the opportunities listed below, even if there are no vacancies on the board you are interested in. You can also apply for more than one board, but can generally only serve on one board at a time.

NOTE: At this time, deadlines to apply are still being set for most current opportunities. Staff are in the process of scheduling meetings for the nominating panels responsible for public appointments. Opportunities with recent or upcoming deadlines include the Toronto Public Library and Swansea Town Hall. Follow the links below for more information. Once more deadlines are established, we will update this website and notify our [e-update subscribers](#).

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z All

Agency Name

[Board of Health](#)[Apply Now](#)[Build Toronto](#)[Apply Now](#)[Committee of Adjustment](#)[Apply Now](#)[Exhibition Place](#)[Apply Now](#)

Applications

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Other Resources

- [Public Appointments Policy](#)
- [Public Appointments Overview](#)
- [Eligibility Requirements](#)
- [Application Process](#)
- [Selection Process](#)

Related Links

- [Meetings, Agendas and Minutes](#)
- [By-laws & Municipal Code](#)
- [Public Notices](#)

Recommended Candidates will be reported to City Council publicly

 **Item**

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Tracking Status

- This item was considered by the [Nominating Panel for the 2014 Compliance Audit Committee](#) on June 26, 2014 and adopted without amendment. It will be considered by City Council on July 8, 2014.

☐ **Nominating Panel for the 2014 Compliance Audit Committee consideration on June 26, 2014**

CN2.1	ACTION	Adopted		Ward:All
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Appointment of Members to the 2014 Compliance Audit Committee

Confidential Attachment - Personal matters about identifiable individuals being considered for appointment to the Compliance Audit Committee

Panel Recommendations

The Nominating Panel for the 2014 Compliance Audit Committee recommends that:

- City Council appoint the following individuals to the Compliance Audit Committee for a term of office coincident with the term of Council that takes office following the 2014 regular municipal election:
 - John Hollins, as Chair;
 - Teja Rachamalla; and
 - James Ayres.

Basic eligibility requirements

- ✓ Residents of Toronto
- ✓ Over the age of 18
- ✓ Can only serve two consecutive terms on the same board
- ✓ Can only serve on one City board at a time

Eligibility continued...

- Applicants are deemed ineligible if:
 - They are a spouse, partner, child or parent of a Member of Toronto City Council
 - They are an employee of the City of Toronto or one of its agencies or corporations
- Applicants have been asked to disclose conflicts of interest
 - A conflict does not automatically make them ineligible

Public Appointment Recruitment Strategy




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APPLY NOW

 **Toronto**

toronto.ca/ServeYourCity

Call **311**

Public Appointment Evaluation Process



Consultation with agencies



Confidential Voluntary Diversity Survey

City of Toronto Public Appointments

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Diversity in Public Appointments Dashboard

We ask all applicants for public appointment to complete a voluntary, confidential survey about themselves to help us measure diversity in public appointments. We publish the results here on a quarterly basis.

This data reflects 7,101 applications received since the beginning of this term, December 1, 2014, and 321 current public appointments to 47 boards, committees, and tribunals as of July 30, 2018. A complete list of the decision bodies included is at the bottom of this page.

Highlights since the last quarterly update in April 2018 include:

- 247 new applications have been received, compared to 136 during the previous four month period (January to April 2018).
- Council made appointments to the Compliance Audit Committee, Heritage Toronto, Leaside Memorial Community Gardens Arena, Toronto Atmospheric Fund, Toronto Community Housing Corporation, Toronto Licensing Tribunal, and the Toronto Public Library.
- The percentage of appointees who identify as LGBTTIQQ2S has increased from 9.2% to 10.6%

Gender

We asked applicants to disclose their gender as Male, Female, Transgender, or Other.

	Applicants	Appointees	City-wide
Female	41.3%	44.0%	52.0%

Related Links

- [Current Opportunities](#)
- [Agencies and Corporations](#)
- [Public Appointments Policy](#)

What is the Toronto Tribunals Nominating Panel

- The Tribunals Nominating Panel was established by City Council to:
 - select candidates for interview
 - conduct interviews, and
 - recommend public members to City Council for appointment to the City's 9 tribunals
- Composed of up to 9 members
- As a Council decision body, all meetings of the Nominating Panel are conducted as per Council's Procedures Bylaw.

Tribunal Nominating Panel will screen, interview and recommend candidates to Council

Committee of
Adjustment

Toronto
Licensing
Tribunal

Dangerous
Dogs

Administrativ
e Penalty
Tribunal

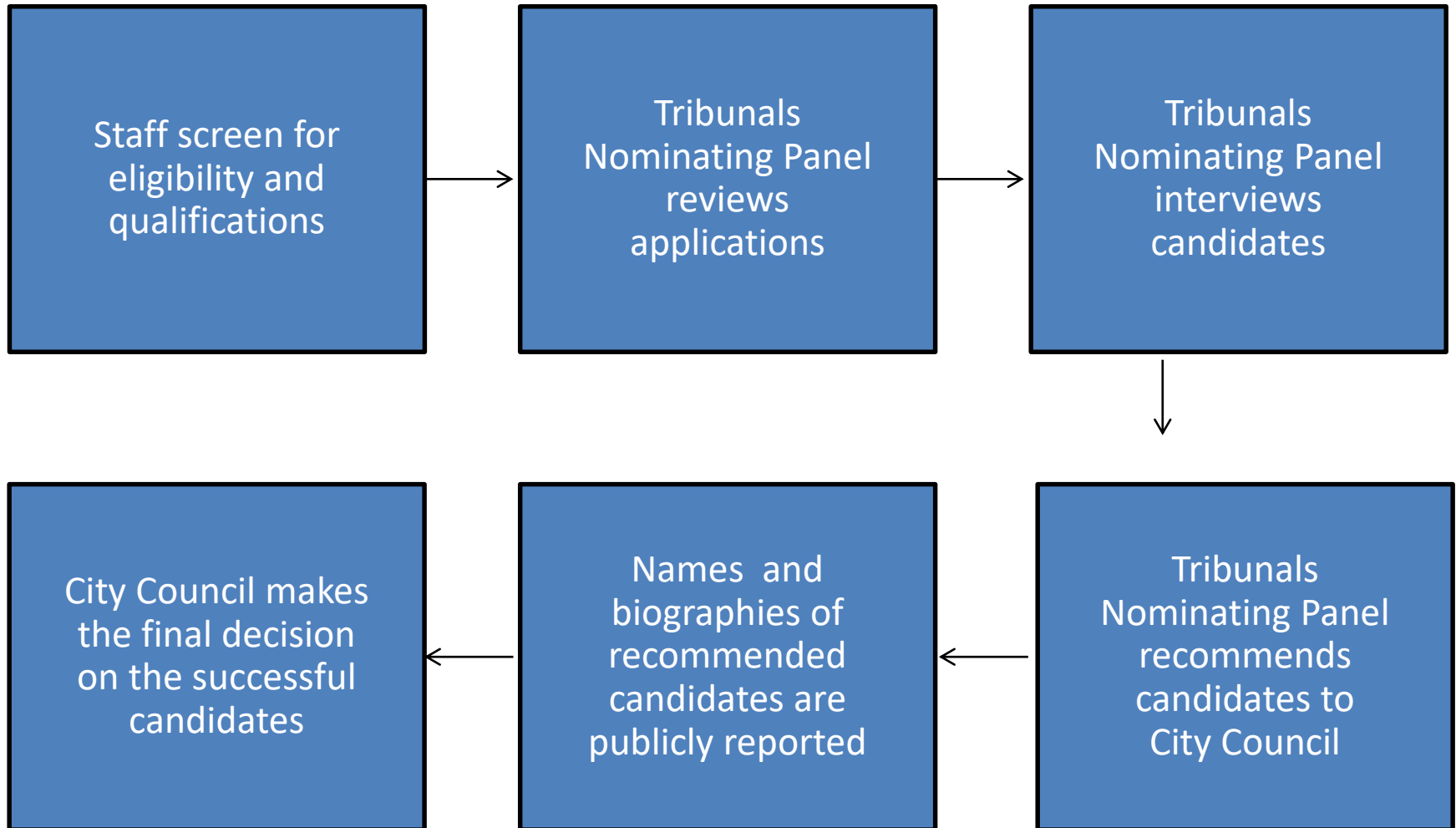
Property
Standards

Sign Variance

Rooming
House
Commissioner

Toronto
Preservation
Board

The selection process



Selection Objectives

The Nominating Panel's recommendations will strive to achieve a balance of:

- qualified applicants covering the range of qualifications specified for the board;
- experienced and new members;
- geographic representation; and
- representation of the diversity and demographics of the community including age, gender, sexual orientation, Indigenous status, race and disability.

What do members receive for Nominating Panel meeting?

- ✓ Staff report
- ✓ Confidential Candidate List identifying highly qualified, qualified and not qualified candidates
- ✓ Binder with all applications
- ✓ Interview questions
- ✓ Current diversity report of board
- ✓ Any additional information

Upcoming appointment schedule

- Toronto Licensing Tribunal – March Council
- Dangerous Dog Tribunal – April Council
- Property Standards – May Council
- Sign Variance – May Council
- Rooming House – May Council
- Committee of Adjustment – June council
- Administrative Penalty Tribunal – June Council

Questions?

Our Team

Aretha Phillip, Manager

Matthew Cowley

Robyn Cook

Kate Trotscha

Antoinette Crichlow

416-397-0088 or appoint@toronto.ca