



PH15.4.1

July 23, 2020

12th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2
Attention: Marilyn Toft

RE: **PH15.4 Toronto Local Appeal Body - Chair's 2019 Annual Report**

Dear Mayor John Tory and Members of City Council,

The Federation of North Toronto Residents Association (FoNTRA) includes over 30 residents associations in the area bounded by Bloor, Sheppard, Bathurst and the Don Valley. Given the number of Committee of Adjustment applications in our members' neighbourhoods, many residents and residents associations have been actively involved in TLAB appeals since its inception in 2017. We also see that the barriers to our effective participation are also causing the increased costs of its operations.

We appreciate the comprehensive review and report by Ian Lord, TLAB Chair. However we feel that while the report raises various matters related to the ongoing operation of the TLAB, it fails to look deeper to the workload generative issues that lie behind some of the issues raised.

Residents play a key role in the operation of the TLAB and need it to operate in a way that is fair to them. TLAB operates largely without input from residents. TLAB business meetings have been established but these are largely ineffective as mechanisms to provide input from residents. Procedure and rules continue to be added to the processes without effective input from residents. (See attached) Given that the appeal process is important to residents as it greatly affects their neighbourhoods, we pay close attention to how TLAB is operating and see how it is unfair to residents.

The TLAB deals with appeals of Committee of Adjustment decisions on minor variances. Why such timelines and complexity for what should be minor issues? Why are decisions made mainly in favour of applicants?

1. The time to deal with appeals have greatly increased and this means increased workload for all involved.

The report mentions some growing concerns regarding timeliness of issuance of decisions and disposition of appeal matters. The report cites that in 2019 the average time taken to issue a decision was 50 days, a 92% increase over the 2018 average of 26 days. However, if we compare with 2017, the time taken in 2019 increased much more (178% over 2017) (see attached Metrics table) (target metric is 14 business days from the date of Hearing or Motion to decision). Similarly the report cites that in 2019 of the appeals that were completed the average time taken to dispense of matters to the time a decision was issued was 191 days, up 39% from the 2018 average of 137 days. If we compare with 2017, the time taken in 2019 increased 34.5% (target metric is 120 days from the date the Notice of Appeal is received by the TLAB to the date the decision is issued).

The report notes that these latter statistics are disappointing and cites a number of contributory factors: hearings that involve multiple sittings with non-contiguous scheduling; decision writing delays arising from less than diligent fulfillment of undertakings by counsel and expert witnesses; a modest increase in the number of Hearings, Member complement changes, and Member issues in the delivery of timely decisions. Metrics are available in the 2018 and 2019 Annual Reports for just one of these factors: the average length of hearings which has increased from 3 hours and 52 minutes (2017) to 1.3 days (2018) to 1.5 days (2019). This amounts to an incredible 277% increase in hearing length between 2017 and 2019!

From a resident perspective the inflation in length of hearings is strikingly evident. Hearings for minor variances which were a day under the OMB are becoming two or three days and those involving severances consents may extend to 10 days. For those in the business, the lawyers and planners whose livelihood depends on TLAB hearings this inflation is hardly a problem, but for residents who must miss several days of paid work which were unplanned and unanticipated it is a major problem.

2. The rules and procedures are increasingly complex which result in increased workload for adjudicators and staff.

The rules greatly favour applicants who can afford to pay for consultants to prepare documentation for the hearings and to represent the applicants in the hearings.

There has been greater turnover of panellists than expected. We can understand this as the job has become a paper chasing one and one requiring sitting through days of technical debates rather than focusing on the issues. And of course this means much more work for panelists and for the staff, so the TLAB needs more staff and more adjudicators.

The increasingly complex set of rules and procedures also create major barriers for the effective participation of residents in the hearings. The changes add more requirements, without improving the ability of residents to present their concerns about appeals that affect their property and that of their neighbours, and neighbourhood.

It is much more difficult for residents with public and perhaps some private interest to raise the needed funds to hire consultants than the applicant with self interest. Residents should not have to hire experts or become technical experts to be heard; they only participate for applications in their neighbourhood, and for most it is a one-off experience. The information

posted on the web site is helpful but why is all this required? It is appreciated that there has been an effort to accord some witnesses as “local knowledge experts” but this only serves to create another level of “rug rank” in the hierarchy of privilege at the tribunal. While there was much to object to with the former OMB, in fact OMB hearings were much shorter and residents were able to provide their comments without providing any prior registration or documentation and their comments were taken into consideration in decision-making.

3. Wide disparity in decision outcomes compared with Cof A decisions

We have observed that there is a wide disparity in decision outcomes between the CofA and TLAB. Unfortunately there is no data addressing this in the Annual Report. In our opinion the TLAB is overturning CofA decisions to an extent far beyond what one would reasonably expect in a fair process. This situation must be reviewed by the City including conducting an analysis to examine this problem, identify the reasons for it and report its findings in a public forum.

Given these issues regarding the current TLAB operations, we recommend:

- **that City Council direct the City Manager to review the operations of the TLAB relative to its original intent, with public engagement, with a view to simplifying, removing barriers to resident participation, and reducing cost of operations.**

Yours truly,

Geoff Kettel
Co-Chair, FoNTRA

Toronto, Ontario

Cathie Macdonald
Co-Chair, FoNTRA

Toronto, ON

Attachment 1: TLAB 2019 Annual Report - Selected Performance Metrics

Attachment 2: FoNTRA comments on the most recent TLAB Business Meeting (May 2020)

C.c. TLAB

Susan Garossino, Director, Court Services

Gregg Lintern, Chief Planner and Executive Director, City Planning Division

Michael Mizzi, Director, Committee of Adjustment and Zoning

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 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.



June 10, 2020

Toronto Local Appeal Body
40 Orchard View Boulevard, Suite 211
Toronto, Ontario M4B 1R9
Via email: tlab@toronto.ca

RE: TLAB Virtual Business Meeting, May 26, 2020

Dear Chair Ian Lord and Members of TLAB,

This letter is submitted further to the recent TLAB virtual business meeting. The meeting provided a window into the operations of the TLAB and an opportunity to share some of our ongoing concerns. The virtual meeting format proved to be relatively easy to attend, and participate.

The agenda for the meeting included a couple of new initiatives: Draft Practice Direction 6: Expert Witnesses, and Evaluation Form). We were pleased that the Chair was willing to allow enough time to hear from residents' representatives as well as to allow for a fulsome discussion among some Members. However in the end we feel that a multi-step approach to developing and approving such policies is required in order to achieve the best results. We suggest that, at a minimum, an initiative should go through two readings, with an initial meeting to present a proposal and gather stakeholder input, followed by a second meeting to present and receive input to the TLAB on a revised proposal. We suggest the Board might consider organizing the first meeting with mixed stakeholders so that there is an opportunity for enhanced understanding, perhaps with independent facilitation.

FoNTRA supports the goals of 'excellence in administrative justice' and is supportive of changes that would ensure residents (including un-represented residents) experience procedural fairness throughout the hearing process.

Yours truly,

Geoff Kettel
Co-Chair, FoNTRA

Cathie Macdonald
Co-Chair, FoNTRA

Toronto, Ontario

Toronto, Ontario

c.c. Mayor John Tory, and Councillors
Gregg Lintern, Chief Planner and Executive Director, City Planning
Michael Mizzi, Director, Zoning and Committee of Adjustment
Susan Garossino, Director, Court Services

Attachment
TLAB 2019 Annual Report
Selected Performance Metrics

	2017*	2018	2019	% change 2017-2019	% change 2018-2019
Total # of appeals	314	419	279	(11.1%)	
Total # of Motions	28	95	70	160%	
Total # of Hearings	253	318	361	42.7%	
Average length of hearing (hours/days)	3 hours and 52 minutes	1.3 days	1.46 days	277%	
Average time from hearing to issuance of decision** (# days)	18	26	50	178%	92%
Average Disposition time*** (# days)	142	137	191	34.5%	39.4%
Requests for Review of decision	?	10	24	-	140%

*from 2018 Annual Report

**target 14 days

***target 120 days