

Attachment 1

Chair's Annual Report 2019 Toronto Licensing Tribunal

Mary Lee, Chair

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TORONTO LICENSING TRIBUNAL

CHAIR'S ANNUAL REPORT 2019

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1) INTRODUCTION

This is the 2019 Annual Report of the Toronto Licensing Tribunal.

The Toronto Licensing Tribunal (TLT) is an adjudicative tribunal that is part of the City's regulation of certain occupations and businesses, to protect consumers and the public. A licence holder or applicant may request a hearing before the TLT to challenge a decision of the City's Municipal Licensing & Standards Division (MLS), or MLS may require a licence-holder or applicant to appear before the Tribunal. Most of the cases before the TLT involve vehicle-for-hire licences, which includes taxicabs. The TLT acts independently from MLS and the City when it hears and decides cases in accordance with the evidence and the law.

Further information about the Tribunal is available at:

<https://www.toronto.ca/services-payments/permits-licences-bylaws/toronto-licensing-tribunal/>.

Submitted respectfully on September 30, 2020.

2) CHAIR'S MESSAGE

It is my pleasure to introduce myself as the new Chair of the Toronto Licensing Tribunal. My appointment commenced on March 29, 2019.

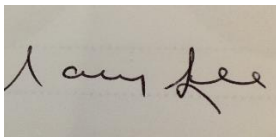
My first priority as Chair was to establish positive and productive working relationships with stakeholders, staff and tribunal members. It was also a priority to find opportunities to incorporate my experience and expertise from the provincial government tribunal sector.

To that end, work is underway to identify new opportunities to enhance fair and accessible dispute resolution services to our clients through a comprehensive review of tribunal rules of procedure. Simultaneously, a review of the tribunal's existing mediation process has commenced with the goal of establishing ways and means to improve efficiency, party experience and ultimately reduce the time to resolution.

From the outset, I have received wonderful support from a small team of dedicated and experienced staff and members who are all highly committed to delivering efficient and effective tribunal services.

I look forward to the year ahead and continuing to advance these work priorities with my team on behalf of the Toronto Licensing Tribunal and the clients we serve.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Mary Lee", is shown on a light-colored background.

Mary Lee, Chair

3) SUMMARY OF ACTIVITIES

Member Changes

The Tribunal operated with a near full complement of members between January and April of 2019, which included 5 members and 1 Chair. One of the members, Moira Calderwood was nearing her final stages of having served two consecutive terms with the Tribunal. Gary Yee, Chair of the Tribunal respectfully stepped down from his position as Tribunal Chair in order to pursue other opportunities.

On March 29, 2019, the Tribunal saw 3 members reappointed and 4 new members appointed, including a new Chair.

The Tribunal has been operating with a full complement - 6 members and 1 Chair - since March 29, 2019.

In the past few years, the gap in full membership was addressed by the existing members providing more availability for scheduling.

Business Meetings

The Tribunal held two public Business Meetings: June 19 and October 23, 2019.

Subject matters discussed at the Business Meetings covered the following areas:

- 2018 TLT Annual Report (review of proposed recommendations and next steps);
- Overview of the Municipal By-Laws;
- Statistics and service standards (written decisions);
- Self-represented parties (resources, support, training);
- Member Training (proposed professional development topics and speakers);
- Pre-hearings (Overview of processes and settlement conferences);
- Overview of Rules of Procedure and proposed amendments;
- 2019 TLT Annual Report (proposed content and recommendations for 2020);

- Tribunal Records and Retention Process (presentation from City Clerk's Office).
- Review of the Toronto Licensing Tribunal – Rules of Procedure

Training

As part of the June 19, 2019 Business Meeting, all members completed the mandatory orientation and training. Member Edgar Montigny successfully completed his Certification for Adjudicators training with SOAR in December 2019.

In November 2019, all tribunal members attended the Society of Ontario and Adjudicators and Regulators Conference (SOAR).

Pre-Hearing Conferences

A number of cases at the Tribunal are scheduled for a pre-hearing conference. The Tribunal facilitates this process whereby a staff member from Municipal and Licensing Standards (MLS) and the applicant/licensee meet before the scheduled hearing to try and agree on a proposed resolution of the matter to present to the Tribunal. Should the parties reach an agreement, they will sign a joint proposed resolution. The Tribunal will schedule a hearing date during which the proposed resolution will be presented to the hearing panel for consideration and endorsement. The hearing panel may either ask for more information, approve the joint proposed resolution, or the matter will proceed to a full hearing on the merits. Currently, the Tribunal is not involved in the pre-hearing conference discussions between the parties, but this process is under review.

In 2018, there were 127 cases scheduled for a pre-hearing conference, leading to more than half of these cases (71) being resolved without a full hearing.

In 2019, the Tribunal Chair commenced a review of the pre-hearing conference process with the Tribunal Supervisor, Members and MLS staff to identify opportunities for increased efficiency and effectiveness. At the October 23, 2019 Business Meeting, the Tribunal Chair proposed a pilot project to take place in 2020 that would enhance the overall pre-hearing conference process. The goal of the pilot project is to streamline the business process, increase efficiency, shorten the time to hearing and improve overall client satisfaction. The proposed pilot project framework was reviewed by the members, for input with more details about next steps to be provided at the upcoming scheduled Business Meeting in 2020.

Toronto Licensing Tribunal Administration Office

During 2019, the Tribunal is supported by a team of staff under the management of the Tribunal Supervisor. The staff include 3 support assistants who coordinate a wide array of activities in support of Tribunal proceedings. The Tribunal office is instrumental in the timely and efficient functioning of the Tribunal, which includes case management and confidential distribution of hearing materials, support to the Members of the Tribunal, and collaborating with City Clerk's Office in the administration of member complement and remuneration. The staff oversee the Summary of Decisions for hearings and the release and posting of all Tribunal written reasons for decisions.

The Tribunal office is part of the City's Court Services Division, and it has collaboratively worked with other Court Services units to provide ongoing client and operational support.

The Tribunal Administration office ensures accountability for compliance with the TLT Relationship Framework and collaborates with the MLS Division in addition to various stakeholders. The staff provide statistical information and annual activity reporting in relation to the Tribunal performance indicators. The Supervisor works with the Chair to provide training and orientation for newly appointed members and ongoing member scheduling.

4) CHAIR'S RECOMMENDATIONS

As indicated in the Municipal Code and the Relationship Framework for the Toronto Licensing Tribunal, the Annual Report should contain the recommendations of the Chair for improvements or changes to the hearing process, and other policies and procedures of the Tribunal, as well as proposed educational training.

Update on the 2018 Chair's Recommendations:

The recommendations for 2018 are similar to the recommendations set out in the 2017 Annual Report, with some updates and revisions.

1) Membership (size, staggered terms, Vice-Chair)

The recommendations for increased members, staggered terms and creation of a Vice Chair position were set out in the 2017 Annual Report. Increasing the maximum number of Tribunal members would enable an eighth member to be added if needed, to address scheduling difficulties caused by gaps between

departures and replacements. Staggering the terms would avoid all members facing an end of term every four years when the City Council term ends. Designating a member as a Vice-Chair would provide case management and draft decision review support for files where the Chair is on the hearing panel, and also assist with succession planning or transition.

The Supervisor of the Tribunal recommended a process whereby the outgoing members would continue to be available beyond the end of term for seized matters and for written decisions. This was also implemented for the departing Chair to meet and transition with the newly appointed chair providing some overlap between members and the Chair for knowledge transfer and shared best practices. This was a successful undertaking and provided opportunities for panel member continuity.

Update/Status: The above recommendation was considered and assessed for efficiencies within the member complements for the City's adjudicative tribunals. The review found that an increase in the Tribunal's complement was not justified. The Tribunal's complement and the caseload was manageable with existing members in place. This information was conveyed to the Chair of the Tribunal in 2018.

The recommendation for staggered terms for Tribunal members is not under consideration by the City Clerk's Office at this time. Current members of the Toronto Licensing Tribunal were appointed to four-year terms on March 29, 2019, and until successors are appointed. As per the Relationship Framework appointments to the Toronto Licensing Tribunal are coincident with the term of City Council.

2) Working with unrepresented parties

The statistics in 2018 indicate that 75% of licensees/applicants did not have legal representation. With the growing recognition that unrepresented parties need more resources and support, this is a clear access to justice issue. The Tribunal should develop a user-centric focus, with a strategy that includes training on conducting proactive hearings, cultural competence, empathy, and communications. This should include more materials and resources and tools for unrepresented parties, available in different languages.

Status: In addition to referring applicants to the Tribunal's website, the Tribunal provides written information at the time of notice to appear for either a pre-hearing conference or hearing.

Jointly, Tribunal and City staff are considering enhancements to pre-hearing conference process to better serve unrepresented parties. Such enhancements

include utilizing Language Line translation services at the pre-hearing stage and at the hearing stage. The Tribunal Chair, members, MLS and City Legal discussed the potential of implementing a pilot project where tribunal members attend pre-hearing conferences and endorse the record where a resolution has been reached. The pre-hearing conference pilot project draft model was reviewed by Legal Services and the members of the Tribunal to be discussed at the Business meeting in February 2020. Further discussions around this proposal are underway.

3) Amendment to the Tribunal's Rules of Procedure

The 2017 Annual Report recommended two Rule changes to reduce the quorum for a hearing panel from two members to one, and to establish a mechanism to avoid a deadlock if there is a two-member panel.

Update/Status: The Tribunal is in the process of completing a review of the Rules of Procedure.

In 2019, a rule amendment was adopted by the Tribunal to permit the Tribunal, at its sole discretion, to decide to proceed with a hearing panel of one (1) member on consent matters.

Other potential amendments to the Rules that the Tribunal are considering include moving from 3 member panels to 1 member on the basis that the Tribunal should have more flexibility in appropriate or unexpected situations to use 1 member. In addition, the Tribunal is considering two further changes to the Rules to allow for more flexibility in pre-hearing conferences and dealing with procedural motions – if adopted, both changes will be in line with similar provisions in the Statutory Powers Procedure Act (SPPA). Most Ontario tribunals use 1 member panel. The following 4 rule changes to the Tribunal's By-Law No. 1 (Rules of Procedure) will be considered at an upcoming business meeting in 2020:

- a. Quorum – The Tribunal is considering deleting the requirement for a hearing panel of 3 members and substituting a rule to provide that:

- 16. (1) Quorum for a hearing is one member of the Toronto Licensing Tribunal.

- (2) Where a hearing panel consists of two members of the Toronto Licensing Tribunal and they do not agree on a decision, the decision of the presiding chair of the panel shall be the decision of the panel.

- b. Procedural or interim matters – Consistent with section 4.2(1) of the SPPA, the Tribunal is considering the appointment of a 1 member hearing

panel to conduct a motion or make an order that is procedural or interim in nature. No Rules change would be needed for this if the change in Rule 16 above is implemented.

- c. Pre-hearing conferences – Consistent with section 5.3(4) of the SPPA, the Tribunal could amend its Rules of Procedure to permit a member who conducts a pre-hearing conference to preside at the later hearing on the merits if there were no settlement discussions at the pre-hearing conference, and to require the consent of the parties only if there were settlement discussions. The current TLT Rule 15(4) requires the consent of the parties even if there were no settlement discussions at the pre-hearing conference. With the Tribunal's 7 members and use of 3 member hearing panels, the Tribunal is considering how to achieve greater flexibility to assign 1 member to conduct a pre-hearing conference for case management purposes. Therefore, the Tribunal will discuss at an upcoming business meeting in 2020 the amendment of Rule 15(4) to add the words as follows:

(4) If a member of the Toronto Licensing Tribunal presides at a pre-hearing conference at which the parties try to settle issues, that member shall not be a member of the panel hearing the proceeding discussed at such pre-hearing conference unless all parties consent in writing or on the record.

4) Sharing between Toronto adjudicative tribunals

With the two recently created adjudicative tribunals (the Toronto Local Appeal Body and the Administrative Penalty Tribunal) and other municipal tribunals, there is great potential for building an administrative justice community within the City of Toronto's adjudicative tribunals. We can all benefit from sharing best practices, training, members, resources, etc., as well as coordinating policies and procedures.

Update/Status: This recommendation requires further exploration by the City Clerk's Office and divisional staff who work with the City's tribunals. In recent years, Clerk's Office staff have met with staff who support the tribunals to discuss policies and practices for remuneration and attendance, for example. Future discussions on other topics that would support best practice and benefit tribunal members, staff, and stakeholders could also be considered.

The City's adjudicative boards and tribunals can benefit from the sharing of best practices, training, members, and resources, however the Society of Ontario Adjudicators and Regulators (SOAR) has a large network for community of practice and therefore staff do not recommend the establishment of a startup community of practice internally.

5) Standardize per diem payment policies across Toronto's adjudicative tribunals

The Public Appointments Secretariat consulted with the Toronto Licensing Tribunal and other tribunals about this issue in 2018. Changes were recommended for approval in 2019. As noted in the recommendation in the 2017 Annual Report, there are major inconsistencies in the per diem policies and rates between the various municipal tribunals. TLT members only receive \$50 for writing reasons for decision after a hearing, which does not account for the many hours needed for this work.

Update/Status: In 2018 and 2019, the Public Appointments Secretariat within the City Clerk's Office met with various stakeholders, tribunal administrators, supervisors, and others to review the City's remuneration policy for local boards and tribunals. The purpose of this review was to identify any gaps or inconsistencies in the policy and the per diems for the City's adjudicative bodies.

The per diem rates for members of the Toronto Licensing Tribunal, was increased and a monthly stipend was introduced. In addition, the Chair's annual stipend was increased. The new policy came into effect on April 1, 2019.

2019 Chair's Recommendations:

1) Rules of Procedure Review

The purpose of the Rules of Procedure assists the Tribunal in fulfilling its mandate and ensures that the Tribunal proceedings are fair, accessible, and efficient for all parties. From time to time, it is paramount to undertake a comprehensive review of the Rules of Procedure to ensure that those objectives are being met or to identify where improvements can be made. This review commenced in the Fall of 2019.

2) Enhance the Pre-Hearing Conference Process

A review of the pre-hearing conference process commenced with the Tribunal Supervisor, Members and MLS staff to identify opportunities for increased efficiency and effectiveness. At the October 23, 2019 Business Meeting, the Tribunal Chair proposed a pilot project to take place in 2020 that would enhance the overall pre-hearing conference process. The goal of the pilot project is to increase efficiency, shorten the time to hearing and improve overall client satisfaction.

5) STATISTICAL INFORMATION – 2019

In 2019, the Toronto Licensing Tribunal recorded 155 new cases filed. There were 29 updates to the MLS reports filed that expanded the matters to be dealt with in existing cases. The Tribunal scheduled 225 appearances before a hearing panel.

These hearings involved some cases with more than one appearance before the Tribunal due to adjournments or other rescheduling requirements. Additionally, some cases were carried over from the year 2018. Scheduled hearings included 78 cases in which MLS presented joint proposed resolutions following settlement discussions between MLS and the Applicant.

Year	Total Appearances Before Hearing Panel
2015	193
2016	214
2017	336
2018	235
2019	225

As this table shows, the number of appearances before a hearing panel in 2019 was slightly less than in 2018 and comparable to 2016, but less than in 2017. The higher than average number of appearances in 2017 reflected that year's high level of intake from MLS and backlogs in applications.

The Tribunal scheduled hearings every Thursday, with the exception of two breaks during the first two weeks of August and the last two weeks of December. Typically, there are 48 scheduled hearing dates per year. In 2019, there were 55 hearing dates, which included several non-Thursdays for multi-day hearings and one motion hearing.

The Tribunal scheduled 33 pre-hearing dates, with 172 matters to appear. This resulted in 162 meetings between an Applicant and MLS. Approximately 33% of the pre-hearings (53 cases) resulted in a resolution of the case without the need for a full hearing.

In 2019, the Tribunal issued 27 written Reasons for Decision following a hearing. This was an increase in comparison to the 20 decisions issued in 2018 and similar to years prior to 2017, but lower than the 35 decisions issued in 2017. The lower number also reflects the success of pre-hearing conference discussions between MLS and Applicants, which resulted in proposed resolutions and no need for a contested hearing. Furthermore, in 2019, the Tribunal had several complex hearings with multiple hearing days.

The full decisions and reasons can be found on the Toronto Licensing Tribunal website:

<https://www.toronto.ca/services-payments/permits-licenses-bylaws/toronto-licensing-tribunal>

Licensing and Enforcement Reports Filed with the Tribunal

MLS Reports	2019	2018	2017	2016
Licensing Reports	148	162	131	180
Enforcement Reports	7	21	21	21
Total New Cases	155	183	152	201
Licensing Updates	24	32	21	58
Enforcement Updates	5	23	11	33
Total	184	238	184	292

Interpreters

Languages interpreted in 2019	Number of Visits
Amharic	4
Arabic	5
Bengali	7
Cantonese	2
Dari	5
Farsi	6
Hindi	4
Mandarin	2
Pashto	4
Punjabi	6
Somali	3
Tamil	4
Tigrinya	1
Twi	1
Urdu	2
Vietnamese	3
Total	59

The Tribunal provides language interpretation services required at hearings. Applicants can request an interpreter at the time of filing for a hearing or MLS or the TLT may recommend an interpreter. The Tribunal scheduled interpreters to appear on 59 occasions. There were sixteen languages that were translated, with Bengali, Punjabi and Farsi being the most common.

Categories of Licence Types

The cases before the Tribunal can be categorized on the basis of the licence types that were involved. The Chart below lists the cases that were the subject of a hearing in 2019. As this Chart indicates, some of these cases involved more than one type of licence and some cases had more than one appearance.

In 2019, the top licence types that came before the Tribunal were:

- Vehicle-For-Hire Driver's Licences
- Tow Truck Driver's or Owner's Licences

The attached chart identifies the number of licence types where an alleged contravention of the Municipal Code was identified by MLS in that licence category. When a contravention occurs, MLS can deny the new application for a licence or renewal of a licence, or notify the holder of a licence (Licensee/Applicant) of their requirement to appear before the Tribunal.

Licence Category	New Applicant	Applicant for Renewal	Holder of Licence
Body Rub Parlour Owner/Operator's Licence		1	3
Building Renovator's Licence	2		
Drain Contractor Licence AND Drain Layer Licence		2	
Drain Layer Licence	1		
Driving Instructor's Vehicle Licence	1	1	
Eating Establishment Licence	4	1	
Eating Establishment Licence AND Retail Store (Food) Licence	1		
Eating Establishment Owner Licence		1	
Entertainer's Licence	1		
Holistic Centre Owner's Licence AND Holistic Practitioner's Licence Master		3	1
Holistic Practitioner's Licence			2
Limousine Owner's Licence			3
Non-Motorized Refreshment Vehicle Owner's Licence	1		
Personal Services Settings	2		
Plumbing Contractor's Licence	1		

Public Garage Licence	3	2	
Retail Store (Food) Licence	1		2
Taxicab Driver's Licence			2
Standard Taxicab Owner's Licence			9
Taxicab Owner's Licence AND Vehicle-For-Hire Driver's Licence		1	
Taxicab Owner's Licence-Estate	1		3
Toronto Taxicab Owner's Licence		1	6
Toronto Taxicab Owner's Licence AND Vehicle-For-Hire Driver's Licence		2	
Tow Truck Driver's Licence	30	12	10
Tow Truck Owner's Licence	1		1
Vehicle-For-Hire Driver's Licence	37	25	42
Vehicle-For-Hire Driver's Licence AND Taxicab Owner's Licence			2
TOTAL	87	52	86

**Source document: 2019 Toronto Licensing Tribunal Reference List*

6) MEMBERS

Position	Name	Terms of Appointment
Chair	Mary Lee	March 29, 2019 – November 14, 2022
Chair	Gary Yee	August 1, 2017 – November 30, 2018
Members		
	Anu Bakshi	March 29, 2019 – November 14, 2022
	Anu Bakshi	June 29, 2018 – November 30, 2018
	Maureen Carter-Whitney	March 29, 2019 – November 14, 2022
	Verlyn Francis	March 29, 2019 – November 14, 2022
	Melina Lavery	March 29, 2019 – November 14, 2022
	Melina Lavery	June 9, 2016 – November 30, 2018
	Edgar-Andre Montigny	March 29, 2019 – November 14, 2022
	Daphne Simon	March 29, 2019 – November 14, 2022
	Daphne Simon	July 9, 2016 – November 30, 2018
	Moira Calderwood	July 9, 2013 – November 30, 2018
	Victoria Romero	June 29, 2018 – November 30, 2018

Add notes:

Note: Although all terms ended on November 30, 2018 to coincide with the term of the City Council, the members continued to serve until their successors were appointed.

Please refer to the City of Toronto Public Appointments website for the member biographies. <https://www.toronto.ca/services-payments/permits-licences-bylaws/toronto-licensing-tribunal/tribunal-member-biographies/>