

Toronto Local Appeal Body Variable Decision Rates

Date: January 7, 2022
To: Budget Committee
From: City Manager
Wards: All

SUMMARY

This report responds to City Council's direction through PH23.13 to report back through the 2022 budget process on the financial implications of amending the decision writing stipend accorded to Toronto Local Appeal Body (TLAB) Members from a rate of \$200 per decision to a varied rate with a maximum of \$400. The TLAB is an independent, quasi-judicial tribunal established through the City of Toronto Municipal Code Chapter 142, City of Toronto Act, and other provincial legislation.

The City Manager's Office, Court Services, City Clerk's Office and the Chair of the TLAB were consulted on the proposed variable decision rates. Compensation rates of other municipal and provincial tribunals were also taken into consideration to determine the appropriate remuneration for TLAB decisions. The proposed remuneration reflects the complexity of the decision and the effort required to produce a decision.

RECOMMENDATIONS

The City Manager recommends that:

1. City Council approve the Toronto Local Appeal Body variable decision rates outlined in this report, and authorize the Director, Court Services to include these rates as part of its 2022 budget submission effective April 1, 2022.

FINANCIAL IMPACT

City Council approval of the proposed Toronto Local Appeal Body variable decision rates will have an impact on the expenditures of Toronto Court Services as outlined below in Table 1.

Table 1

Decision Type	Current Remuneration	Proposed Remuneration	2021 Volume*	Current Fee	Proposed Fee
Withdrawal	\$200	\$50	36	\$7,200	\$1,800
Motion, Interim, Summary, and Order	\$200	\$200	98	\$19,600	\$19,600
Review Request	\$200	\$400	15	\$3,000	\$6,000
Final	\$200	\$400	142	\$28,400	\$56,800
Total			291	\$58,200	\$84,200

* 2021 volume rate as of December 16, 2021

City Council approval of the variable decision rate structure as outlined above is expected to increase the expenditures on Toronto Local Appeal Body decisions by 44.7% in 2022, with funding included in the 2022 Recommended Budget for Court Services for approval by City Council.

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

DECISION HISTORY

At its meeting on July 8-11, 2014, City Council approved the establishment of a Local Appeal Body (LAB) and directed the City Manager to report to Executive Committee on the governance, administration and fees to implement the LAB and requested the City Manager to give consideration to a minimum fee for all applicants, and a fee at least equal to the fee paid to the Committee of Adjustment for appeals initiated by Committee of Adjustment applications. The link to City Council's decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG33.14>

At its meeting on 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 which outlined the original remuneration structure for the TLAB including decision rates. The link to City Council's decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX13.1>

At its meeting on March 7, 2019, City Council adopted harmonized remuneration rates for members of the City's nine Adjudicative Boards (Tribunals) effective April 1, 2019. This included rates of remuneration for full-day hearings, half-day hearings, annual stipends for public Members and annual stipends for Chairs. The link to City Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX2.5>

At its meeting on June 8, 2021, City Council received for information the 2020 Annual Report from the Chair of the Toronto Local Appeal Body, from the Director, Court Services. City Council directed the City Manager, in consultation with the Director, Court Services and City Clerk, to report back on item 2 outlined in this report. The link to City Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH23.13>

COMMENTS

Background

The Toronto Local Appeal Body (TLAB) is an independent, quasi-judicial tribunal established through the City of Toronto Municipal Code Chapter 142, City of Toronto Act, and other provincial legislation. The TLAB plays an important role in the City of Toronto's land-use planning process providing an independent public forum for the adjudication of land-use disputes related to applications under Sections 45 and 53 of the Planning Act.

Under the TLAB's rules of practice and procedure, there are fifteen (15) rules under which the tribunal may issue a decision or order. In addition, when an appellant notifies the TLAB that they wish to withdraw their appeal, the presiding TLAB Member conducts a written hearing and issues a decision. One appeal may result in multiple decisions before a final decision is issued.

It is important to note that staff are recommending a rate reduction for TLAB decisions associated with an applicant's decision to withdraw an appeal as these are administratively templated decisions. Staff are recommending a rate increase for decisions that require more effort by a TLAB Member.

Comparison with other City Tribunals - Compensation

The TLAB is one of two arms-length tribunals administered by the City that receives remuneration for decisions. Currently, members of the TLAB are paid \$200 for decisions and members of the Toronto Licensing Tribunal are paid \$50 for decisions. The other seven tribunals do not receive any compensation for decisions. This includes the Administrative Penalty Tribunal, Committee of Adjustment, Compliance Audit Committee, Dangerous Dogs Review Tribunal, Property Standards Committee, Rooming House Licensing Commission, and the Sign Variance Committee.

The variable decision rate proposal outlined in this report follows a review of hearing remuneration rates for tribunals completed by the City Clerk's Office in 2019. This review resulted in an increase in hearing time per diems for the TLAB:

- Full day hearing per diems from \$500 to \$600
- Half day hearing per diems from \$250 to \$400; and
- A \$1,500 annual stipend being provided to TLAB members.

In addition to the above rate increases, the Chair of the TLAB receives a stipend of \$60,000 per annum, and the Vice Chair receives a stipend of \$15,000 per annum. These rates, combined with the current \$200 remuneration rate for decisions, are the highest rates of remuneration for any City tribunal.

The current \$200 rate for TLAB decisions was approved by City Council in 2016. The rate was informed by the level of complexity and the Council approved Remuneration Policy. Implementing the variable decision rate structure as described above will ensure that TLAB Members are proportionally compensated for decisions based on level of effort. It will also ensure that TLAB Members are appropriately compensated for their decisions.

Tribunal Compensation – Comparison with Provincial Tribunals

The Province of Ontario has adopted a standardized per diem rate of \$472 to \$744 for full-day hearings. According to the Province's Agencies and Appointments Directive for tribunal remuneration, per diems may be paid for time spent on formal business approved by the provincial agency chair on a case by case basis. This may include attendance at, or provision of training, attendance at meetings, and preparation time. The provincial directive on tribunal remuneration rates does not provide a separate remuneration rate for decisions.

This report recommends City Council approve the Toronto Local Appeal Body variable decision rates outlined in this report, and authorize the Director, Court Services to include these rates as part of its 2022 budget submission effective April 1, 2022. The lowest rate is for staff templated decisions in consideration of withdrawals of appeals by appellants. The highest rate is for the decisions that require the most overall effort.

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SIGNATURE

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