

2021 Toronto Licensing Tribunal, Chair's Annual Report

Mary Lee, Chair

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TORONTO LICENSING TRIBUNAL

CHAIR'S ANNUAL REPORT 2021

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1) INTRODUCTION

This is the 2021 Chair's 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 April 12, 2022

2) CHAIR'S MESSAGE

It is my pleasure to submit the 2021 Annual Report summarizing the activities of the Toronto Licensing Tribunal (Tribunal) for the past year.

Throughout 2021, the Tribunal continued to conduct hearings on its virtual platform. As efficient as the platform was when first rolled-out in early 2020, the ongoing COVID-19 situation provided the Tribunal with an opportunity to introduce additional enhancements to the system's features and to implement minor variations to hearing procedures. The Tribunal was successful in achieving its primary goal of protecting the health and well-being of all participants while continuing to deliver efficient and accessible dispute resolution and hearing services.

Of significant importance, the Tribunal completed a review of its Rules of Procedure in September 2021, and in doing so, approved several important changes. While core elements of the Rules were not changed, the Rules were modernized to provide direction to the parties as to the steps and information necessary to request that the Tribunal issue a summons to witness, request an adjournment of a hearing date or withdraw a request for a hearing, and to include clear reference to email communications and electronic hearings, among other things. Since the Tribunal recognizes that many parties are not represented and may have limited experience with proceedings of this type, the Tribunal sought to provide additional guidance in the Rules as to the factors it will consider when, for example, a party considers it necessary to summons an individual to attend at the hearing. These Rule changes were also supported by the preparation of forms that applicants may use and that are to be made available on the City's website. The Rules were also amended to provide that a hearing can be presided over by one Tribunal member, which was a change from the previous Rules that provided each hearing would be conducted by panels of three Tribunal members. Together, these initiatives are expected to assist parties in understanding the Tribunal's process and improve its administrative operations.

In closing, I wish to recognize the hard work of our Tribunal members and Court Services Staff and to thank them for their excellent work and commitment during the ongoing COVID-19 pandemic. We are very proud of the Tribunal's accomplishments during this challenging year.

Yours sincerely,



Mary Lee, Chair

3) SUMMARY OF ACTIVITIES

Member Changes

The Tribunal operated with a full complement of members between January and December of 2021, which included six members and one Chair.

Business Meetings

The Tribunal held three public Business Meetings: April 12, June 28 and September 14, 2021.

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

- Review of Draft Electronic Pre-Hearing Conference/Proposed Resolution Process
- Review of TLT Revised Rules of Procedure (Final Draft), By Law No. 1 (as amended on April 12, 2021)
- Member Onboarding and Training
- Integrity Commissioner Introduction and presentation
- Pilot Project Implementation
- Administrative Law Updates
- Toronto Licensing Tribunal General Administrative Updates
- Review of amended forms
 - TLT Application to Cancel or Vary Summons v2
 - TLT Notice of Motion v2
 - TLT Request for Adjournment v2
 - TLT Response to Notice of Motion v2
 - TLT Response to Request to Adjournment v2
 - TLT Summons to Witness v2
 - TLT Witness Summons Granted
 - TLT Revised Rules For Approval Sept 2021

Training

In November 2021, the Tribunal Chair, Ms. Mary Lee attended the Society of Ontario Adjudicators and Regulators' Annual Conference (SOAR), along with Verlyn Francis, Melina Laverty, Edgar Montigny and Paula Turtle.

At the Business Meeting held on September 14, 2021 the Integrity Commissioner delivered a presentation to the Members and City Staff. The presentation included an overview on the role and mandate of The Office of the Integrity Commissioner and the standards of conduct expected of elected and appointed officials.

Pilot Project to Enhance Pre-Hearing Conferences

In 2021, the Tribunal moved forward with one-member panels for the purpose of conducting electronic hearings on vehicle replacement matters. Simultaneously, a full review of the Tribunal Rules of Procedure was completed. The recommended rule amendments were adopted in the latter part of 2021 providing the Tribunal the opportunity to proceed with expanded uses of one-member panels.

As part of the Tribunal Rules of Procedure amendments, pre-hearing conferences are now called Procedural Conferences. Procedural conferences are conducted by a one-member panel which provides a more efficient platform for addressing procedural matters including mediating issues in dispute.

Further advancements for the purpose of improving the procedural conference process will be reported in the Chair's Annual Report 2022.

Toronto Licensing Tribunal Administration Office

The Tribunal office is one of three offices managed by the Court Services Division, and it has collaboratively worked with the respective City Divisions to provide ongoing client and operational support.

The Tribunal is supported by a team of Court Services Staff under the management of the Tribunal Supervisor and Manager. The Court Services team include three support assistants who process requests for a hearing filed with MLS by defendants or requests made by Municipal Licensing and Standards for a Tribunal hearing. The team coordinates and schedules hearings and hosts a wide array of activities in support of Tribunal proceedings.

The Tribunal continued to operate based on Court Services' recommendations and the ongoing assessments of risk management, primarily guided by a list of considerations provided by the Government of Canada.

Court Services Staff continued to provide services remotely effective March 18, 2020 and into early 2022. Court Services Staff remain instrumental in implementing on-line hearings in relatively short order which resulted in continued access to justice and minor interruption to Tribunal operations.

On March 20, 2020, the Government of Ontario passed an emergency order (O.Reg. 73/20) under the Emergency Management and Civil Protection Act and subsequently the Ontario Court of Justice issued an order and extended its period of postponement for all Provincial Offences Act matters scheduled up to and including May 29, 2020. Further, Mayor John Tory declared an emergency in the City of Toronto.

Court Services Staff continued to provide Administrative support to the Tribunal and the public in remote hearings and on-line services throughout 2021.

The Tribunal Administration 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 Tribunal members, and collaborating with City Clerk's Office in the administration of member

complement and remuneration. Court Services Staff oversee the Summary of Decisions for hearings and the release and posting of all Tribunal Written Reasons for Decisions on the Tribunal website.

Furthermore, the office ensures accountability for compliance with the Tribunal Relationship Framework and collaborates with the MLS Division in addition to various stakeholders. Court Services 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) CHAIRS RECOMMENDATIONS

As indicated in the Municipal Code and the Relationship Framework for the Toronto Licensing Tribunal, the Annual Report should discuss improvements or changes to the hearing process, and other policies and procedures of the Tribunal, as well as any new training recommended.

Update of the 2020 Chair's Recommendations:

The Chair recommended a comprehensive review of the Tribunal Rules of Procedure to ensure that the Tribunal proceedings are fair, accessible, and efficient for all parties. The review commenced in the Fall of 2019 but was halted in 2020 while Court Services Staff and Tribunal Members revised their rules and procedures in response to the COVID-19 pandemic in 2020. The review resumed in January and concluded in the latter part of 2021. The amended Tribunal Rules were adopted and the updated Rules are available on the Tribunal website.

The second recommendation from the Chair was to develop and launch a pilot project of the Pre-Hearing conference process. The Tribunal Supervisor, Members and MLS Staff were asked to identify opportunities for increased efficiencies. As part of the Tribunal rule amendments, Pre-hearing Conferences are now called Procedural Conferences. In 2021, the Tribunal was able to successfully hold one-member panel, electronic hearings for vehicle replacement matters.

2021 Chair's Recommendations:

1) Review of Hearing Documents and Submissions for Electronic Hearings

With the transition to electronic hearings, it is important to ensure the relevant hearing documents and submissions are quickly and easily accessible. With the current document format, participants and members experience difficulty navigating between the various electronic documents referred to in a hearing. The Tribunal will collaborate with Court Services Staff and relevant stakeholders in improving and streamlining electronic hearing documents and submissions.

2) Finalize the Review of Procedural Conferences (previously Pre-Hearing Conferences)

With the completion and adoption of amended Tribunal Rules of Procedure, the Tribunal Supervisor, Members and MLS Staff will undertake this work with a view to continuing to enhance the efficiency and effectiveness of the Procedural Conference Process.

5) STATISTICAL INFORMATION – 2021

In 2021, the Toronto Licensing Tribunal recorded 100 new cases filed. There were 47 updates to the MLS reports filed that expanded the matters to be dealt with in existing cases. The Tribunal scheduled 219 appearances before a hearing panel.

Matters Heard

Year	Total Scheduled Appearances Before Hearing Panel
2017	336
2018	235
2019	225
2020	156
2021	219

As the above table shows, the number of scheduled appearances before a hearing panel in 2021 was higher than in 2020. The COVID-19 emergency pandemic had an impact on not only the number of scheduled hearings but the method of which they were delivered to the public once hearings started again in May 2020.

The Tribunal scheduled hearings every Thursday, with the exception of two breaks during the first week of August and the last two weeks of December. Typically, there are 48 scheduled hearing dates per year. In 2021, there were 53 hearing dates, with no In-Person hearings, 219 matters scheduled, 51 Electronic Hearing dates, 3 special hearing dates and 2 written hearing dates.

In 2021, the Tribunal issued 13 Written Reasons for Decision (WRFD) following a hearing. This was a decrease in comparison to the 17 written decisions issued in 2020 and the 27 written decisions issued in 2019. The decrease in WRFD is a result of the increased use of Procedural conferences and matters being settled at the beginning of scheduled hearing dates.

Licensing and Enforcement Reports Filed with the Tribunal

MLS Reports	2021	2020	2019	2018	2017
Licensing Reports	94	170	148	162	131
Enforcement Reports	6	4	7	21	21
Total New Cases	100	174	155	183	152
Licensing Updates	38	26	24	32	21
Enforcement Updates	9	5	5	23	11
Total	147	205	184	238	184

Interpreters

Languages interpreted in 2021	Number of Visits
Arabic	1
Bengali	4
Dari	1
Farsi	1
Gujarati	1
Korean	1
Mandarin	10
Pashto	3
Punjabi	3
Tamil	4
Twi	1
Urdu	5
Total	35

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 2021. As this Chart indicates, some of these cases involved more than one type of licence and some cases had more than one appearance.

In 2021, the top licence types that came before the Tribunal were:

- Tow Truck Drivers Licences
- Taxicab Owner's Licence; and
- Vehicle-For-Hire Driver's Licences

The chart below 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 Categories by Reports Received in 2021

Licence Category	New Applicant	Applicant for Renewal	Holder of Licence
Body Rub Parlour Owner/Operator's Licence	0	0	2
Building Renovator's Licence	2	0	0
Eating Establishment Licence	2	0	5
Holistic Centre Licence	0	3	1
Motorized Refreshment Vehicle Owner's Licence	0	1	1
Pawn Shop	0	0	1
Personal Services Settings	0	0	1
Public Garage Licence	0	0	3
Retail Store (Food) Licence	2	0	0
Taxicab Owner's Licence	0	1	11
Tow Truck Driver's Licence	9	13	10
Tow Truck Owner's Licence	1	0	4
Vehicle-For-Hire Driver's Licence	5	17	5
Total	21	35	44

**If taxicab owner also has a VFH licence, the report is counted here as one (1).*

Licence Categories by Matters Heard in 2021

Licence Category	New Applicant	Applicant for Renewal	Holder of Licence
Body Rub Parlour Owner/Operator's Licence	1	0	2
Body Rubber Licence	1	0	0
Building Renovator Licence	3	0	0
Eating Establishment Licence	4	1	11
Holistic Centre Licence	0	3	4
Motorized Refreshment Vehicle Owner's Licence	0	1	2
Pawn Shop	0	0	2
Personal Services Settings	0	1	1
Public Garage Licence	0	1	4
Retail Store (Food) Licence	2	0	0
Taxicab Owner's Licence	0	6	34
Tow Truck Driver's Licence	13	14	33
Tow Truck Owner's Licence	1	3	12
Vehicle-For-Hire Driver's Licence	6	31	21
Total	31	61.451	126.55 126

**If taxicab owner also has a VFH licence, the report is counted here as one (1).*

***Source document: 2021 Toronto Licensing Tribunal Reference List.*

6) MEMBERS

Position	Name	Terms of Appointment
Chair	Mary Lee	March 29, 2019 – November 14, 2022
Members		
	Anu Bakshi	March 29, 2019 – November 14, 2022
	Paula Turtle	November 27, 2020 – November 14, 2022
	Verlyn Francis	March 29, 2019 – November 14, 2022
	Melina Laverty	March 29, 2019 – November 14, 2022
	Edgar-Andre Montigny	March 29, 2019 – November 14, 2022
	Daphne Simon	March 29, 2019 – November 14, 2022

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/>