

# CHAIR'S 2021 ANNUAL REPORT

## Toronto Local Appeal Body



Dino Lombardi

Chair, Toronto Local Appeal Body

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Toronto Local Appeal Body 2021 Annual Report

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## **I. Executive Summary**

**Mayor and Members of Council**

**June 8, 2022**

**City Manager**

**Court Services**

On December 4, 2020, I was given the honour of being appointed the Chair of the Toronto Local Appeal Body (TLAB) for a 4-year term. As in 2020, I am pleased to report on the successes of the Toronto Local Appeal Body in 2021 and share the accomplishments of our Members during this past operating year.

In 2020, and again in 2021, and building on the successes achieved in response to COVID-19, staff and Members have continued working together to facilitate and conduct virtual hearing events, produce significant jurisprudence, and dispose of appeals in a timely fashion.

Amidst the challenges of the last two years, I am proud of the resilience of our Members and Court Services Tribunal support staff to continue delivering timely adjudicative services to the residents of the City of Toronto.

I am pleased to advise City Council that the Toronto Local Appeal Body's Members have continued to engage their responsibilities with determination and resolve providing for the fair, thorough, and timely resolution of appeals before it – all on proper principles of good community planning.

This is a significant achievement that ensures the Toronto Local Appeal Body's Hearings continue to be conducted expeditiously and cost-effectively.

Court Services Tribunal staff's support is appreciated, and I can report that staff have embraced the creation of systems and liaison with the public that is modern, comprehensive, responsive, and continues to exemplify and be a credit to the public service.

## Accomplishments

Toronto Local Appeal Body Members have accomplished much in the face of the ongoing challenges encountered in 2021. Key accomplishments include:

- Successfully clearing the backlog of outstanding matters due to pandemic shutdowns.
- Rapidly shifting and adapting to online adjudication with the continued support of administrative staff.
- Introducing and advancing continuous Tribunal improvement initiatives in response to public deputations and input from the public.
- Fostering an accessible forum for appeals and respectfully hearing many more participants and residents.

With the ongoing pandemic, the Toronto Local Appeal Body has continued to find ways to meet the needs of the public we serve, while keeping the safety of City staff, its Members and the public top of mind and following the recommendations of our public health officials.

## Challenges/Issues/Emerging Trends

This, however, has not proven to be easy. In 2021, as in previous years, the Toronto Local Appeal Body has encountered challenges, issues, and identified emerging trends in its operation as an adjudicative land use appeals tribunal. These include:

- Continued high turnover of Members and administrative support staff.
- Communication challenges with senior City staff.
- Mounting burdens on the TLAB Chair and Vice-Chair to support Members, give direction on policy and procedural matters, and address complaints.
- The increased workload in terms of the number of appeals and the increasingly complex procedural demands of the appeal process, especially via Motions.
- Ongoing difficulty meeting service standards (decisions and hearing schedules) due to constraints due to Member workload capacity.

However, the Toronto Local Appeal Body continues to find ways to more efficiently address the needs of those that come before it, and we remain committed to working towards improving our services to the public and making the land-use dispute process more streamlined, effective and accessible for people.

### **Recommendations**

The Toronto Local Appeal Body Chair's 2021 Annual Report advocates seven (7) Recommendations to support its commitment to improving the services it offers to the public. These Recommendations can be summarized as follows:

- ✓ Enhanced communication with City Management.
- ✓ Chair input into the Members' Appointment process to facilitate a better understanding of the needs and expectations of the Toronto Local Appeal Body, and the realities of candidate responsibilities.
- ✓ The attraction and retention of Members and succession planning.
- ✓ Member remuneration for policy development and service improvement initiatives (Currently unpaid).
- ✓ Recognition of the demands and increased mandate of the Toronto Local Appeal Body's Chair (and Vice-Chair) as a result of an expanded Member complement.
- ✓ Support for Business Meetings, Member training, and a staff 'Navigator' role.

I hope this Report is informative and its **Recommendations, Article X**, considered as a component of future City governance.

Respectfully submitted,

X 

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Dino Lombardi  
Chair, Toronto Local Appeal Body  
Signed by: dlombar

## ABOUT THE TORONTO LOCAL APPEAL BODY





## II. About the Toronto Local Appeal Body

### Background

The Toronto Local Appeal Body (TLAB) is an independent, quasi-judicial tribunal established through the City of Toronto Municipal Code Chapter 142, the *City of Toronto Act* (**COTA**), and other provincial legislation. Its genesis can be found in amendments to the *Planning Act*, 2006, which gave municipalities the authority to create such local appeal tribunals.

City Council first considered creating a local appeal body at its meeting in July 2014, at which it approved the establishment of a Local Appeal Body (LAB) and directed the City Manager to report to the Executive Committee on the governance, administration, and fees to implement the LAB. Subsequently, at its meetings on March 31, and April 1, 2016, Council adopted the Local Appeal Body Governance Structure.

The TLAB formally commenced operations in February 2017 and plays a vital 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*. It replaces for identical statutory jurisdiction the Local Planning Appeal Tribunal (OLT), formerly known as the Local Planning Appeal Tribunal (LPAT) and the Ontario Municipal Board (OMB) for these purposes, within the corporate limits of the City.

The TLAB is responsible for adjudicating land-use planning appeals of decisions of the four panels of the City's Committees of Adjustment (Toronto & East York, Scarborough, North York, and Etobicoke & York) and processes files from intake to closure. Its key mandate is the disposition of appeals in an efficient, cost-effective, open, and fair process to all stakeholders and it is in service to all persons with an interest in an appeal.

The Tribunal's *Rules of Practice and Procedure* (*Rules*) promote the early resolution of a multitude of matters using a variety of dispute resolution methods, and issues



decisions, orders and recommendations arising from pre-hearings and mediations, settlements and if required, a formal hearing.

### Organizational Structure

Since its inception, the TLAB has been most closely connected with the City's Court Services Division. Court Services provides a broad range of administrative and support services to the public using the Provincial Offences Courts within the City as well as servicing other relevant City tribunals such as the Administrative Penalty Tribunal, Toronto Licensing Tribunal, and the Toronto Local Appeal Body.

Court Services oversees financial and administrative processes, technology, facilities support, frontline customer services, coordinating and delivering training to TLAB Members related to Tribunal digital processes. It has proven to be a helpful sounding board for issues identification and discussion and its Senior Management has assisted the TLAB Chair with arranging meetings of relevance to the Tribunal involving City interdepartmental jurisdictions.

The TLAB Chair routinely engages in direct communications with Court Services on matters which impact the dimensions of the welfare of the Tribunal itself focussed primarily on existing and emerging administrative matters, and the TLAB's annual budget submissions. However, Court Services has no direct control over issues such as TLAB Member appointments, the Chair's Annual Report, liaison with the City Manager's Office or the Manager and Secretaries of the Committee of Adjustment panels, or the operations and procedures of the TLAB.

While the TLAB Chair is in direct communication with Court Services on matters respecting Court Services Tribunal Staff or which go to the dimensions of the welfare of the Tribunal itself, it must be recognized that this expectation of open dialogue is tempered by the fact that Court Services is a City division from which the TLAB must demonstrate and retain autonomy.

### **TLAB Panel Appointments and Member Composition**

The TLAB was originally constituted in 2017 with seven (7) Members, including the Chair, appointed in a 'part-time' capacity. The inaugural Panel Members were appointed to a four (4) year coterminous term of office by City Council on December 13<sup>th</sup>, 2016, based on the recommendations made by the citizen-member Nominating Panel.

In late 2017, two (2) Members of the original appointment roster resigned and were correspondingly replaced with new Council appointments. A third original appointee resigned in late 2018 and another in 2019. In 2019, City Council appointed four (4) new Panel Members and a fifth in late 2019, bringing the TLAB Member complement to ten (10) Members.

The more recent appointments reflect the staggered terms of their selection. Of the ten Member appointments currently in place, four (4) appointments are ending in 2022, one (1) in 2023, and five (5) in 2024.

Of those Members first appointed in 2017, and whose appointment term ended on December 13, 2020, four sought a second consecutive appointment term, as permitted by the City, and were subsequently re-appointed by Council through the requisite nominating process.

The TLAB Chair did not seek an additional term and as a result, Council appointed a new (and the current) Chair from the Members seeking a second term with duties that commenced on December 4, 2020. This appointment resulted in an additional Member vacancy which Council filled on December 14, 2020, to bring the total TLAB Panel Member complement, again, to ten.

In July 2018, Council authorized the appointment of a TLAB Vice-Chair with duties commencing on January 1, 2019. Under the Tribunal's Procedure By-law 1-2017, the Vice-Chair is elected from its membership for a term of no more than one year, on a rotating basis. The TLAB has seen three new Vice-Chairs selected from its Members

including the current Vice-Chair, Ana Bassios, whose duties commenced on January 1, 2022.

In 2021, the TLAB was advised by two (2) Members, Shaheynoor Talukder and Justin Leung, of their intention to resign their appointments. Member Leung's resignation took effect at the end of November 2021, and Vice-Chair Talukder at the end of December 2021.

In anticipation of these vacancies, the Public Appointments Secretariat commenced the protocol for the Member selection process and the TLAB anticipates that two (2) new Members\* are expected to be appointed by City Council in the 1<sup>st</sup> quarter of 2022 to replace the outgoing Members, above cited.

*(\*At the time of publication of this Annual Report, City Council appointed Members Carissa Wong and Gerald Swinkin to the TLAB on March 9, 2022, for a 4-year term bringing the Tribunal Panel complement back to the ten (10) Members in place before the resignations in late 2021)*

## **TLAB Chair & Vice Chair**

### **1. Chair**

The TLAB Chair is responsible for maintaining reputational integrity, Member discipline, liaison with all City Staff and Tribunal external legal counsel and is tasked with reporting annually to Council via an Annual Report, among other duties. In addition to the general responsibilities as a Member of the TLAB, such as presiding over Hearings and drafting and issuing decisions and orders, the Chair's responsibilities also include the following:

- The consistent application of the TLAB Rules, and the conduct of all Business Meetings per the City Procedures By-law applicable to the TLAB and '*Roberts Rules for the Conduct of Meetings*';
- Bringing interim and final decisions on Tribunal Policy to Business Meetings of the Tribunal for consideration and where necessary, ratification;

- Setting Business Meeting Agendas and final approval to the scheduling and content of Business Meetings;
- Ensuring Staff practices, posting protocols, public communications and responses;
- The delegation of responsibilities between Members, including ensuring a proportionate allocation of assignment opportunities, extra-services requests, the distribution and timely quality review of draft decisions (along with the Vice-Chair), and ensuring Member performance;
- The timely and accurate approval and publication of *Rules* updates, updates to Practice Directions, the promulgation of procedural practices and reminders, the update of the Public Guide, and the presentation and accuracy of the Tribunal's webpage and resource materials;
- Authorizes the allocation of continuing education funding to Members and is responsible for prioritizing budget expenditures;
- The sole liaison with the TLAB's external legal counsel and reviews and recommends all invoiced accounts of legal counsel;
- Administers the election of a Vice-Chair, annually, at the last Business Meeting of the year and, if the Tribunal's election process reveals no candidates, chooses an ensuing Vice-Chair;

It is important to note that while the TLAB Chair's appointment is also '*part-time*', the Chair is required to be accessible during normal business hours, and beyond.

## Biography

### **Dino Lombardi, Chair (effective December 14, 2020; Vice-Chair, 2019 & 2020)**

Dino Lombardi is a Registered Professional Planner (RPP) with over 30 years of diverse experience in land use planning both in the public and private sectors. Dino has held several progressively more responsible senior management positions managing complex planning and development projects and is a Full Member of the Ontario Professional Planners Institute (OPPI) and the Canadian Institute of Planners (CIP). He

continues to be actively involved with both organizations, most recently having been appointed to OPPI's Discipline Committee. Dino is also a Member of Lambda Alpha International, a worldwide, honorary land economics society, as well as having been the Editor of the Ontario Municipal Tribunals Report. He has an Advanced Certificate in Adjudication for Administrative Agencies, Boards and Tribunals from the Society of Ontario Adjudicators and Regulators (SOAR).

## **2. Vice Chair**

The Vice-Chair is the Chair's 'designate' and may be delegated authority and duties normally associated with the Chair, in the Chair's absence or upon assignment. These duties include:

- Chairing the Business Meeting in the absence of the Chair;
- Performing any duties of the operation of Business Meetings assigned to the Chair upon delegation;
- Other duties as assigned by the Chair.

## **Biography**

### **Ana Bassios (Appointed December 2019)**

Ana Bassios is a City Planner with over thirty years of experience in the municipal sector. Ana Bassios has led large-scale public consultations, completed major municipal planning policy plans, (including a municipal Official Plan) and negotiated resolutions to contentious development applications. She is a former Commissioner of Planning in the GTA. A long-time resident, Ms. Bassios appreciates the uniqueness of each of Toronto's neighbourhoods and the desire of communities to have a say in how they change.

### **3. Panel Members' Biographies**

#### **Sabnavis Gopikrishna**

Sabnavis Gopikrishna is the Executive Director of The Housing Help Centre, a non-profit organization which helps tenants access and sustain habitable housing. His passion for community building and planning has resulted in his volunteering for many non-profit organizations. He was formerly a Member of the City of Toronto's Committee of Adjustment and was appointed in 2014 by the Province of Ontario to the Board of Directors of the Central East Local Health Integration Network.

#### **Stanley Makuch**

Stanley Makuch, a Toronto lawyer and academic, has had an outstanding career in municipal, planning and development law. Called to the Bar in 1976 and now a John Bousfield Distinguished Visiting Professional at the University of Toronto, he has extensive experience before the Ontario Municipal Board, the Environmental Appeal Board, and the courts. As a professor of law and planning, he has served on many boards and commissions and published many influential municipal and planning articles and books.

#### **Ted Yao**

Ted Yao, a descendent of a Chinese head-tax payer, has been a lawyer adjudicator for the Law Society Tribunal since 2012. He was an in-house municipal lawyer for several GTA municipalities, including the City of Toronto. Mr. Yao was a full-time member of the Ontario Municipal Board for over a decade. Subsequently, he has worked in private practice. Recently he has served on tribunals in Vaughan and Toronto, including chairing Toronto's first Sign Variance Committee.

**Sean Karmali (Appointed December 2018)**

Sean Karmali obtained his law degree from Osgoode Hall Law School. He also holds two Master's degrees, one in Political Science from the University of Toronto and the other in Public Policy from York University. Mr. Karmali has served on the City of Toronto's Committee of Adjustment panel for 7 years as a decision-maker and chair. He works in the public service where he has held progressive positions within various departments. Sean's skills include statutory interpretation, planning law, and ADR.

**John Tassiopoulos (Appointed December 2018)**

John Tassiopoulos is a senior urban designer within WSP Canada Group Ltd. with 19 years of experience. He is a graduate of the University of Toronto in Urban and Economic Geography and Political Science. He has experience in urban design and planning ranging from large to small scale projects. He also serves as an instructor with the RAIC Syllabus program and as a member of the Vaughan Design Review Panel. He previously served as a member of the Toronto East York Committee of Adjustment (2009-2015).

**Christine Kilby (Appointed December 14, 2020)**

Christine Kilby is a lawyer and accredited mediator with ten years of experience in commercial litigation, including construction and regulatory law. In her full-time alternative dispute resolution practice, she mediates civil and employment lawsuits and conducts workplace restorations, mediations, assessments, and investigations. She is a certified Workplace Fairness Analyst. She has called Toronto home since 2003 and is an active member of her community.



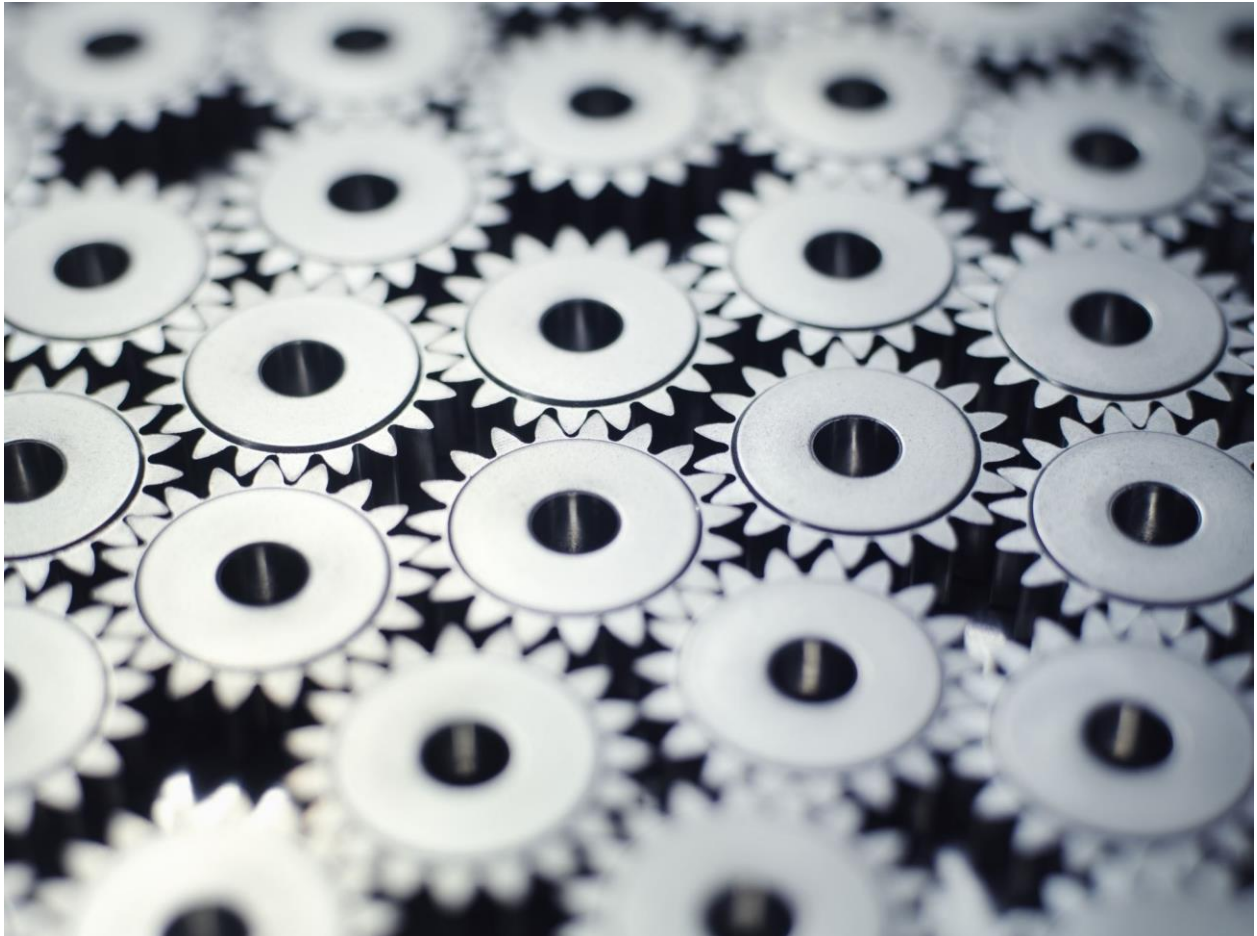
**Shaheynoor Talukder, Former Vice-Chair (December 14, 2020 – December 10, 2021 – Resigned December 31, 2021)**

Shaheynoor Talukder is a lawyer practicing in estates law and business law in Toronto. She is active in the Toronto community and volunteers at several community-based law organizations. She is a graduate of the University of Toronto (M.Sc.) and the University of Ottawa (J.D.). She is also a member of the Society of Trust and Estate Practitioners, Canada.

**Justin Leung (Appointed December 2018 – Resigned November 2021)**

Justin Leung graduated from York University's planning program in 2013 and first entered the workforce in the public sector. He then joined the Town of Aurora as Secretary-Treasurer, Committee of Adjustment and as a Planning Technician. He is continuing to learn by pursuing a college certificate for AutoCAD and is active in his community by volunteering with the Bruce Trail Conservancy.

## OPERATIONAL HIGHLIGHTS



### III. Operational Highlights

The TLAB's mandate as set by City Council has several broad objectives that the Tribunal has attempted to maintain and enhance:

- a) *City residents should be given the assurance that their views would be conscientiously considered in a reasonable period, on City premises and by people who are themselves residents of the City of Toronto.*
- b) *To sharpen fair and workable 'Rules of Practice and Procedure (Rules)' that the TLAB could adopt and adhere to; and*
- c) *Ensure the application of key fairness principles that the public could recognize and rely on.*

These objectives continue to be the foundational tenets of the TLAB's mandate and, along with a set of core *Tribunal Rules Principles* (see Attachment 1), these goals assure the public that the Tribunal's statutory mandate of a complete and first instance (*de novo*) consideration of the appeals before it is maintained.

More specifically, the TLAB's mandate, as an **independent, quasi-judicial adjudicative body** dealing with land use planning appeals of decisions from the Committee of Adjustment, is to dispose of those appeals in an efficient, timely, cost-effective, transparent, and fair process.

While the emergence of and consequences associated with the COVID-19 pandemic over the past two years have tested this mandate, it is important to highlight that the TLAB was able to adapt quickly and proficiently to what has now essentially become our 'new normal'.

Since the summer of 2020, the TLAB was able to convert its 'in-person' hearing events to 'virtual/remote' hearings using the WebEx meeting platform, thereby allowing the Tribunal to fulfill its mandate of hearing and disposing of appeal matters before it. This has required Members to undertake Hearing assignments primarily from their homes

using personal computers further burdening and, in some cases, challenging their technological capabilities.

The TLAB's rapid adaptability to working remotely was due entirely to the structural processes put in place contemporaneously at the time of the Tribunal's inception whereby its Rules require all materials to be filed electronically in a 'paperless' environment

While the TLAB had hoped to return to 'in-person' Hearing events or at least transition into a 'hybrid' Hearing event model in 2021, the various opening and closing directives from the Province and, by association, the relaxing and then re-imposition of COVID protocols generally prevented this from happening.

The emergence of two variants of the COVID-19 virus, the Delta and Omicron variants, further complicated the TLAB's ability to resume its normal practices of accommodating 'in-person' Hearings in its hearing rooms at its 40 Orchard View Blvd. offices.

To assist Members in the 'new normal' required of the remote Hearings environment, staff undertook supplemental training sessions providing guidance regarding 'virtual' Hearings using the City's WebEx platform. The TLAB also provided an optional 'hybrid' Hearing event to participants to further accommodate attendance both in-person and remotely where such accommodation was required.

As a result, Members continued to hear matters and were seen as exercising control to the highest standards of public health, safety, and judicial standards commensurate with the mandate to make decisions and conduct dispute resolution.

The Tribunal, its Members and Court Services administrative staff are to be commended for overcoming these unanticipated impediments and time commitments which have allowed the TLAB to maintain operations during a particularly challenging and unprecedented period.

The time commitment and dedication of Members in executing their responsibilities are exemplary, not new, and reflect the fulfillment of a Member's 'civic duty'. With a revolving complement, an increased number of hearing events, and many combined

consent and variance applications requiring at least two hearing days, the reality is that many Members are working full weeks.

The TLAB, again, is pleased to report to Council that a prolific body of administrative law has evolved from the TLAB through the conscientious decision writings of its Members. This jurisprudence is giving a growing basis of consistent interpretation of Council's policies and goals as expressed in its Official Plan. Consistency in approach for the respect, reinforcement, and the gradual evolution of City neighbourhoods worthy of preservation and protection, following the policy priorities set by Council, remains an essential element of City building that the TLAB Members take seriously.

Members have sought to enhance all aspects of the legitimacy of the TLAB process in the provision of fair, impartial, and accessible Hearings. While a learning curve on systems has occurred over the years since the TLAB's inception in 2017, gaining acceptance was also obvious and apparent in 2021.

I also reassert that under the legislation, the TLAB sits as the appellate jurisdiction on decisions from the Committee of Adjustment, in a *de novo* or 'first instance' jurisdiction: it is a new hearing. Bill 108, now enacted, has returned this pre-eminence Hearing role to the provincial Local Planning Appeal Tribunal for all similar and additional matters outside the City.

This '*de novo*' approach to a new hearing remains contentious to some who mistakenly understand the concept to be closed to only the 'evidence' of experts. In reality, no Hearing held by the TLAB can be entirely *de novo*. The *Planning Act* requires that the TLAB consider, among other things, a litany of provincial policy, and prescribed statutory tests, as well as the decision of the initial consideration

TLAB Members are provided with all Committee filings and must be conscious of the decision made by the applicable four City panels of the Committee of Adjustment. To the extent that the Committee's express reasons, they are a helpful and important contribution to the record provided on a TLAB appeal that decision is not determinant in the final decision and order issued by the Tribunal.

Statutory and common law obliges the TLAB to hear all persons who properly come before it “for that is the duty lying upon anyone who decides anything” respecting the rights and interests, including real property, of citizens.

Added to the file stream are Motions, mediations, Settlement Hearings and Review Requests, which are incapable of being scheduled in the normal ‘anatomy’ of a TLAB appeal timeline, but which must be dealt with on an expedited and contemporaneous basis. Review Requests continued to be filed in 2021 in the order of one every month. All require decisions and several can result in ordering new Hearings which must be added to the Members’ schedules.

Based on the performance metrics prepared by Court Services Administrative Staff and included in this Report, I expect a consistent and stable Panel Member complement should be sufficient to address the workload of Committee of Adjustment appeals to the TLAB, provided that an equal sharing of Member responsibilities can be sustained. If it is not, enterprise risk management will warrant measures to address the structural issues impacting the Tribunal.

## **VII. Business Meetings Highlights**

### **1. Key Business Meeting Initiatives**

The TLAB regularly convenes Business Meetings to discuss items of interest and members of the public are encouraged to attend. The rules governing the TLAB Business Meetings are outlined in Procedure By-law 1-2017. Notice of Business Meetings together with the Agenda are published on the TLAB website ([www.toronto.ca/tlab](http://www.toronto.ca/tlab)) in accordance with City disclosure practices.

The TLAB actively responds to requests for constituent education from Councillors and external organizations; organizations interested in receiving information from a TLAB representative should arrange a session using the contact information listed on the last page of this Report.

In 2021, TLAB Members scheduled and held five (5) Public Meetings with the assistance of external legal counsel on the following dates:

1. *Q1 Business Meeting – February 10<sup>th</sup>*
2. *Q2 Business Meeting - May 7<sup>th</sup>*
3. *Q3 Business Meeting - September 24<sup>th</sup>*
4. *Q4 Business Meeting – November 16<sup>th</sup>*
5. *Q5 Business Meeting - December 10<sup>th</sup>*

In addition, the TLAB Chair scheduled an additional half-day Business Meeting on November 5, 2021, with the sole purpose to provide a training and education session for TLAB Members as permitted by Rule 11 (1)(f) of the TLAB's Procedure By-law 1-2017.

The following are highlights from those 2021 Business Meetings:

#### **❖ Public Accessibility to the TLAB**

The TLAB believes that public input into the operation of the Tribunal and, correspondingly, the land use appeals process is fundamental to its function and



legitimacy. Such participation and input assist the TLAB in keeping the Tribunal accessible to all.

In this regard, it is important to note that TLAB Hearings, as well as its Business Meetings, are open to the public and in fact, the Tribunal has on many occasions received deputations, both written and oral, at its Business Meetings. This continued to be the case in 2021.

At both its February 10<sup>th</sup> Q1 and May 7<sup>th</sup> Q2 2021 Business Meetings, the TLAB received and addressed deputations from the Federation of North Toronto Residents Association (*FoNTRA*), the Long Branch Neighbourhood Association (*LBNA*), the Annex Residents' Association (*ARA*), and the South Armour Heights Residents' Association (*SAHRA*).

The oral and written deputations from these residents' groups, some of which regularly depute at the Tribunal's Business Meeting, included comments and responses resulting from the TLAB Chair's February 25, 2021, response letter to *FoNTRA*. That letter primarily addressed correspondence from *FoNTRA* addressed to the Mayor and City Council dated July 23, 2020 (RE: PH15.4 Toronto Local Appeal Body – Chair's Annual Report), commenting on the TLAB Chair's 2019 Annual Report and offering suggestions to improve public participation in the ongoing operation of the TLAB.

In that February 25<sup>th</sup> letter, the TLAB Chair responded to *FoNTRA*'s concerns and reconfirmed the Tribunal's support of *FoNTRA*'s recommendation that City Council continues to review opportunities for expanded public engagement at the TLAB to ensure that the public has access to fair, open, reliable, and accessible appeals.

At its May 7<sup>th</sup> Business Meeting, the TLAB addressed additional correspondence from *FoNTRA* and *ARA*, and *SAHRA*, including a subsequent February 7, 2021, follow-up letter from *FoNTRA*. The result was the adoption of a Motion to improve public engagement at the TLAB to simplify and remove barriers to resident participation and reduce costs, improvements which were reflected in the *Recommendations* contained in the TLAB Chair's 2020 Annual Report.

Again, it is important to highlight that over the last number of years, The TLAB has implemented many improvements related to procedural complexity, perceived lack of natural justice and procedural fairness, and expanded opportunities for public engagement, including the introduction of a 'Local Knowledge Expert' in the appeal hearing process. Furthermore, the TLAB has also introduced a strict protocol for hearing day extensions, reinforcement, and increased usage by the Tribunal of TLAB-led mediation, practice directions, etc.

The TLAB is committed to reviewing its Rules of Practice and Procedure and its Business Meeting protocols so that these can become more effective mechanisms for residents to provide input to the Tribunal. The TLAB continues to review its rules and procedures to make them less complex and simpler in wording thereby removing major barriers to effective public participation.

#### ❖ The Virtual Environment/Access to Natural Justice

In response to the ongoing COVID-19 global pandemic, the TLAB has continued the practice of conducting its affairs in a 'virtual' environment as mandated by the City of Toronto to safeguard the health and well-being of Tribunal Members, Court Services administrative staff who support the TLAB, stakeholders in the appeals process, and the general public.

To comply with physical-distancing directions from public health authorities, most of the Court Services Administrative Staff and all Members worked remotely in 2021. Nevertheless, Tribunal appeals have continued to be heard by way of the WebEx video conference platform. In-person Hearings or Hearings involving both in-person and electronic means were not available throughout the year.

The TLAB's goal continues to be to ensure minimal service disruptions to those who participate in its hearing process while at the same time keeping the public safe. To date, I can report that the Tribunal has received very few complaints regarding this

'virtual' working model and no Hearings were cancelled or rescheduled due to issues related to technology.

As an organization, the TLAB considers procedural fairness and natural justice as essential to its '*ethos*'. The ongoing pandemic has clearly accelerated the pace at which the public is harnessing technology, and the TLAB strives to provide those who appear before the Tribunal with appropriate supports to allow active participation in the appeals process.

In this regard, the TLAB has improved its website and online presence to help better communicate, prepare, and guide participants in advance of hearing events. It has also committed to recommendations from the public requesting that the Tribunal prepare and upload to its website an annual calendar of upcoming business meetings, administrative/Operations meetings, and a timeline for the Chair's Annual Report.

### ❖ Continuous Service Improvements

At its Q1 Business Meeting in 2020, Tribunal Members identified and discussed an initiative to evaluate some elements of its performance using a feedback instrument such as a survey. The initial intent of this consideration was to investigate the creation of an evaluation tool such as an 'Evaluation Form/Survey for Hearings' that could be completed by participants to measure how well the Tribunal hearing format is working.

However, after preliminary discussions, the Members deferred the matter to facilitate further investigation and to receive input from the public to establish clear and realistic evaluation objectives for such an initiative.

In this regard, TLAB Members listened attentively to all contributors who provided input to the Tribunal in the form of written submissions and oral depositions on the matter. Input was not received from City Council members as they have generally continued the advice of the Integrity Commissioner to decline any attempt at interventions or comment in the appellate role of the TLAB. This is viewed as responsible and appropriate advice that is longstanding from the Integrity Commissioner and serves to reinforce Tribunal

independence, freedom from perceived influence and the avoidance of the potential for judicial review.

Although the focus of the original 'evaluation' initiative was centred on Hearing assessment, that focus was expanded due to the input received by the Members. Many stakeholders who address the Members have expressed strong support for consistent, anchored decision-making, based on City and provincial policy direction and the continuity of established administrative law principles, where applicable.

#### **a. The TLAB's Evaluation Subcommittee**

The TLAB formally constituted a working group consisting of four (4) Members and generally referred to as the 'Evaluation Subcommittee' at its Q4 Business Meeting on December 2, 2020. The Subcommittee evolved by way of previous discussions at TLAB Business Meetings amongst Members regarding suggestions to improve the Tribunal's hearing process, self-evaluation, and consistency in decision making.

At its December 2<sup>nd</sup> Business Meeting, after receiving deputations from residents' associations, the Tribunal formalized the Subcommittee's constitution by way of Motion and directed the group to establish the purpose, methodology and design of a template for the evaluation of hearing events.

In 2021, the Subcommittee met several times, considering resident/stakeholder input and perspectives provided by way of written and oral deputations received at Business Meetings in 2020, and provided updates to the Membership at each Business Meeting in 2021.

In a Memorandum (dated April 28, 2021) and an update from the Subcommittee Chair at the May 7, 2021, Business Meeting, the Subcommittee recommended a 'Continuous Service Improvement' (CSI) initiative including ways to make the hearing process easier to understand, providing more cogent and clearer information about the TLAB to the general public, and fostering an environment that aims at consistency in decisions.

At its September 24, 2021, Business Meeting, the Membership adopted by Motion the following action items related to the CSI initiative:

- a. Create an outline for the mini handbook for Self-Represented Parties
- b. Develop a draft list of frequently asked questions
- c. Continue to study how mediation can be encouraged, how it is best practiced, and what opportunities exist to become effective mediators.

The Subcommittee was also directed to continue to study the feedback and input received to date and any forthcoming feedback from the public regarding the Draft initiative outlined in the subcommittee's September 14, 2021, Memorandum.

Furthermore, the Motion also directed that the Chair become a member of the Subcommittee and that a draft continuous service improvement work program be provided at the second TLAB Business Meeting in 2022 for consideration and adoption by the Members, including an implementation plan and timeframe be involved as part of that model.

#### ❖ Harmonization of the TLAB's Conventions/Policies/ Protocols

##### a. Protocol for the Conduct of Business Meetings

At its Business Meeting on May 7, 2021, the TLAB adopted by Motion the new procedural protocol for the conduct of its regular quarterly business meeting. The procedural protocol that was adopted is based on Section G, Rules of Debate, of the Tribunal's *Procedure By-law 1-2017* governing the meetings of the TLAB and is primarily patterned on how City Council meetings are conducted.

The protocol was introduced by the Chair to improve the efficiency of its meetings thereby resulting in meetings that are more productive and less taxing for Members and more enjoyable and constructive for the public in attendance.

The key procedural requirements are: Members are now required to advise staff of agenda items of interest on which they would like to speak before the Meeting; the TLAB Chair will maintain a list of Members who wish to speak, and each will initially be

given a maximum amount of time to speak with no Member speaking more than once until every Member who wishes to speak has done so.

I can report that this procedural protocol is working well and has resulted in business meetings that run more effectively and are completed in the time allotted for each.

**b. Communication with Members Outside of the TLAB's Rules**

The Tribunal also considered, and adopted by Motion, a protocol related to persons attempting to communicate directly with TLAB Members outside of the *Rules of Practice and Procedure (Rules)*. Communications with a person outside of the official processes and procedures of the TLAB can undermine the Tribunal's reputation, undermine both the perception and real independence and impartiality of a Member, and undermine the solemn public process of judicial decision-making. As a result, the Rules were amended to include a new Rule (2.6) with wording that explicitly states that, excluding communications between Parties and Court Services Tribunal staff that is merely administrative only, all communications with or from the TLAB concerning any proceeding must be copied to, or be made in the presence of, all other Parties.

**c. Notice of Hearing (Form 2) Amended Wording Re Settlements**

TLAB Members adopted a Motion incorporating additional wording into the Notice of Hearing (Form 2) related to Rule 19 of its *Rules of Practice and Procedure* dealing with Parties who arrive at a 'Settlement'. The TLAB's Rules, specifically 19 and 20, encourage mediation and the settlement of some or all issues in dispute in an appeal matter. Previously, the Notice of Hearing form had been amended to include wording that expresses the Tribunal's goal of encouraging TLAB-led mediation when there is good reason to believe one or more of the issues in dispute may be resolved through that process.

At its December 10, 2021, Business Meeting, the Members adopted a Motion that further amended the Notice of Hearing form and incorporates additional wording strongly encouraging Parties who arrive at a settlement to serve the terms of a proposed settlement on all Parties and file the same with the TLAB as required by Rule

19 but no later than two (2) days before a scheduled Hearing. In doing so, this allows all participants and the presiding Member to receive notice of any terms of a settlement agreement in advance of the 'return-to' Hearing date.

#### **d. Pre-hearing Conference Pilot Project**

The TLAB acknowledges that the appeals process requires residents to attend hearing events that may engage multiple Hearing days. Given that appeals are undertaken as 'de novo' hearings, hearing time is allocated so that all persons with an interest have a fair opportunity to express their views and that those views are heard. This is the duty of any hearing officer charged with the responsibility to decide anything under statutory direction.

Following input and feedback received from residents, and upon further reflection and consideration regarding this issue by its Members, the TLAB has attempted to address the length of Hearings through the implementation of a strict Chair's protocol for Hearing Day extensions. Currently, that process directs Members to exercise prudent case management discipline that best ensures the disposition of assignments based on a formula that schedules a one (1) day Hearing for 'variance only' applications and two (2) day Hearings for combined 'consent & variance' appeals.

While a presiding Member hearing a matter is allowed latitude for additional Hearing days to a specific limit, any further extension requests are now escalated to the Chair's attention. In the case of initial scheduling, a Pre-Hearing Conference involving the Chair (or designate) and the presiding Member is required before any additional dates are accepted or scheduled by administrative staff.

To further calibrate and perfect this protocol, the TLAB passed a Motion at its Q2 May 7, 2021, Business Meeting with the intent of implementing a *Prehearing Conference (PHC) Pilot Project* to further crystallize the protocol for approval of additional Hearing days in an appeal matter.

The objective of the PHC Pilot Project is two-fold: first, to enhance the efficiency of TLAB Hearings through the effective use of prehearing conferences; and second, to address concerns raised by the public that TLAB Hearings are engaging multiple



hearing days and Hearing are taking longer to complete. The PHC Pilot Project adopted by the Tribunal sets out an established number of days for hearing events based on the type of appeal filed.

For example:

- A 'variance-only' Hearing will automatically be scheduled by TLAB staff for one (1) hearing Day with a 2<sup>nd</sup> Hearing Day, if necessary, without the requirement for further approval from the Chair; and
- A 'consent and associated variance(s)' Hearing will automatically be scheduled for two (2) Hearing Days with a maximum of two (2) additional Hearing Days, if necessary, without the requirement for further approval.

The PHC also sets out specific procedural steps and parameters for hearing day extension approvals when certain thresholds are met such as any Hearing with three (3) or more Parties and/or expert witnesses will automatically be scheduled for a PHC to be undertaken at the commencement of the first day of the scheduled Hearing not to exceed more than the first 2-hours of the hearing event.

It was the consensus of the Membership, and direction included in the wording of the PHC, that the PHC be conducted by the presiding Member with the Vice-Chair in attendance.

The PHC Pilot Project had been scheduled to commence on October 1, 2021, but was deferred by the Tribunal to allow further refinement of this initiative and the TLAB adopted a Motion that the PHC Pilot Project be reconsidered at a Business Meeting in 2022.

#### **e. TLAB Public Guide Revisions**

In supporting further public awareness of the TLAB's operations, the TLABI has continued to make extensive revisions to its **Public Guide**, an online publication that provides information on TLAB procedures. The Public Guide is intended to be used in conjunction with other resources found on the TLAB's website.

Previously, the TLAB developed and uploaded to its website an informative (4-minute) animated video intended to augment the Public Guide as a resource for those interested in the Tribunal. These efforts were intended to provide the public with a concise overview of the TLAB, its operations and its mandate, and offer a visual appreciation of what the public can expect in the adjudicative process.

In an ongoing effort to continually update its general publications, TLAB Members considered the Public Guide at its Business Meeting in December 2021. At that Business Meeting, the TLAB received input from the general public with suggestions and possible revisions to the Guide. As a result, Members directed Court Services Tribunal staff to consider revisions to the document and to bring forward an amended version of the Public Guide to a Business Meeting in 2022 for consideration and adoption.

#### **f. TLAB Core Guiding Principles**

In 2021, the TLAB Membership also considered a set of nine (9) core draft Rules Principles for the TLAB which, along with its *Rules of Practice and Procedure*, its Forms, and its Practice Directions, are intended to express the fundamental values of the Body as an independent, quasi-judicial land use planning tribunal hearing appeals from the City's Committee of Adjustment for consent and variances.

The Members deferred this set of draft Rules Principles to 2022, to allow input from members to Court Services Tribunal staff and directed that staff bring forward a finalized set of Principles for consideration.

#### **g. Decision Writing Timelines and Member Accountability**

The Membership also considered the issues of decision timelines and accountability at its Q5 2021 Business Meeting. TLAB Members have supported the rationale that timely decision reporting is not just a service to the public as expected of the TLAB by City Council, but also serves to avoid the potential for 'decision backlog building' that can overwhelm and compromise the individual Member as well as the TLAB.

It is important to remember that the TLAB's reputation has been fostered on an overriding goal of timely service to the public. To date, feedback from the public has generally been positive not only as to the responsiveness of the Members' decision process, but also the demeanour of conduct of hearings and the incisiveness and descriptive engagement by Members in the facts and appreciation of the evidence as demonstrated in thorough, well-written, and cogent decisions.

However, the TLAB has seen a measurable increase over the last few years in the number of and the delay in issuing outstanding decisions. This escalation in the number of Members' decisions that continue to be 'unreasonably' delayed beyond the service level threshold considered acceptable has contributed to a troubling trend, which required redress by the Tribunal Membership.

Delay in the production and issuance of final decisions and orders keeps interested Parties and Participants in regrettable suspension as to their future course of action and impacts the established integrity of the TLAB.

For the Member, it raises the prospect of more time engagement in finding, listening, and reviewing the DAR (and now WebEx) recordings, as well as heightening the prospect of factual or other 'errors on the face of the record'. For Court Services Tribunal staff, inordinate delays require the fielding of multiple enquiries from Parties and Participants who may be frustrated with the process and do not understand the delay.

The TLAB is functioning at or close to its 135-day scheduling service standard but is falling short of its 14-business day decision turnaround issuance time. While there are obvious exceptions for complex appeals, appeals with multiple parties, appeal events engaging multiple days, instances of intervening holidays, review request delays, availability for accessibility reviews, signatures, dating and issuance, the matter of decisions that continue to be delayed beyond 1-2 months after the completion of a hearing was, again, a problematic trend this year.

However, the TLAB did initiate a re-examination of its processes and procedures to understand and assess how improvements can be made.

At its Q5 2021 Business Meeting, the TLAB adopted a Motion to increase the decision issuance turnaround from 14-business days to 21 business days, to more accurately reflect the reality and responsibility that Members face in drafting multiple decisions often in quick order. This is an extremely important matter to the Members as decision writing is the most intensive and time-consuming component of the appeal adjudicative process.

Decision writing is the essential 'end product' of the appellant process, forms the basis of communication with the public and constitutes the body of administrative law and jurisprudence that is regularly accessed by legal and planning practitioners. TLAB Members understand their obligation to produce detailed, cogent, and concise decisions and orders that provide parties, participants, and the public with reasons for the outcome of an appeal matter.

Detailed final decisions and orders are prepared by Members following hours of consideration including access to online records and often requiring the Member to listen to significant portions of the Digital Audio Recording (DAR) of the Hearing and extensive editing of text, document assembly, and consultative syntax review by the Chair.

The TLAB also formally supported a prescriptive remedy available to the TLAB Chair to encourage and foster appropriate conduct where a Member's 'backlog' of pending decisions reaches the dimension of risk at an unacceptable level. This remedy does not apply to delays that occur in decision issuance arising from complexity, multiple Party scenarios, intervening absences, schedules, or other reasonable circumstances, whether foreseeable or unforeseeable.

Where any of the following is demonstrated by a Member:

- Inordinate delay, i.e., greater than two (3) months has elapsed once the close of the Hearing and more than one (1) such decision is outstanding and has not been rendered; or
- A Member has six (6) or more decisions outstanding; or

- There is a refusal, direct or indirect by action or inaction, to address the timely delivery of decisions without reasonable explanation or excuse.

The TLAB Chair may take one or more of the following actions, because of the risk of injury to the public, to the reputation of the TLAB, and the potential embarrassment to City Council:

1. Require the offending Member to attend **in-camera** at a business meeting of the TLAB to explain the circumstances;
2. Require the Supervisor to suspend scheduling subsequent appointments until the backlog of the Member is cleared;
3. Require the Supervisor to cancel Member appointments and to re-assign current schedules to other Members, where availability permits, until the backlog is cleared.

The TLAB has continued its liaison with a representative of both the Office of the Integrity Commissioner and City Ombudsman which has led to the improved publication of complaint procedures, respecting both Members and Court Services Tribunal staff, such that the public has full disclosure and recourse to identifiable processes. This information is in the **Public Guide** and is accessible online.

#### **h. Mediation and Settlement of Appeals**

The land-use planning appeals process can be difficult to navigate for those who have not encountered it before. It can be an adversarial situation pitting parties and participants on opposite sides of an application for property development. While the TLAB's role in appeals from the Committee of Adjustment is to adjudicate matters, the *Tribunal's Rules of Practice and Procedure* (Rules 19 & 20) recognize and encourage parties to consider mediation and settlement to allow parties to address issues in dispute in a collaborative manner.

TLAB-led, confidential, and non-binding mediation is a quasi-voluntary approach to settling disputed issues and can assist parties, especially, lay citizens, in defining the matters in issue and facilitating the settlement of some or all the issues in dispute.

Mediations conducted by the TLAB are undertaken in a more relaxed environment where parties are on an equal footing during confidential discussions, and it represents an alternative approach conducive to facilitating informed decision-making while at the same time allowing self-determination by participating parties. Mediation can also be a more efficient and less costly approach to the appeals hearing process, characteristics that have made TLAB-led mediation increasingly attractive as an alternative to an adversarial hearing event.

Given the continued interest from parties in TLAB-led mediation, in 2021 the TLAB Chair established a formal protocol for Members who engage in mediation within the ambit of the Tribunal's *Rules*. The protocol is provided to explain how the mediation is to be conducted and should assist Members in understanding their role in this alternative dispute resolution approach.

Mediation training for TLAB Members is also one of the professional education and training sessions contemplated for 2022.

#### **i. Service Levels and Impacts on Members**

A key guiding principle of the TLAB codified in its Rules directs the disposition of variance and consent applications in a timely manner based on site familiarization and full disclosure. As evidenced from the statistical analysis in this Report, while the TLAB's goal for disposition remains about one-third of the time of the provincial adjudication process, some slippage has occurred in the Tribunal's service levels.

Several factors contributed to the disruption in the TLAB's service levels, the most significant and detrimental being the COVID-19 pandemic and the unprecedented impact of the virus on City services.

Other factors have contributed as well: a lengthy suspension of all Hearing matters in 2020; multiple extensions of that suspension period; a backlog of suspended Hearings and adjournments; resultant increased workload; variable Member and Court Services Tribunal staff availability; technological challenges related to virtual Hearing events;

competing demands for Hearing dates on resumption of TLAB Hearings; and, to a lesser extent, a replacement appointment and lengthy training period.

Furthermore, it should be noted that in 2021 seven of the ten (10) TLAB Members were employed in full-time, primary positions outside of their Tribunal appointments. It is important to reiterate that Member appointments are **part-time**, premised upon an expectation of one to two (1-2) Hearing Days per week with significant additional responsibilities. These include: the review of all materials pre-filed for each appeal; the conduct of a site inspection of the subject property; the review and rendering of a written decision and the preparation and attending of multiple business and select training meetings.

In 2020, Member responsibilities were strained even further due to the impacts of COVID-19 and, as a result, they were abruptly and expectantly required to undertake 'virtual or remote' Hearing assignments from their homes using personal computers. This sudden turn of events further burdened and, in some cases challenged their technological capabilities. The TLAB, Members and Court Services Tribunal staff are to be commended for overcoming these unanticipated hurdles and time commitments which allowed the Tribunal to maintain operations during a particularly challenging and unprecedented period.

The time commitment and dedication of Members in executing their 'civic duty' are exemplary and are not new. Members dedicate a great deal of time and effort to undertaking their collective responsibilities of fulfilling the TLAB's mandate, and this must be properly identified and appreciated from the outset of recruitment and appointment.

A Hearing scheduled for one day requires at least one-half day for the site attendance and file familiarization. Decision writing can easily occupy multiple days or more.

The expectation for TLAB Members to accept Hearing assignments of one to two (1-2) Hearing Days per week required as part of their TLAB appointments can, at times, result in an exceedance of a twenty (20) to twenty-five (25) hour work week. That



expectation includes reviewing all pre-filed materials, site visits, the Hearings themselves, and reviewing the DAR recordings of the Hearing when required.

For the TLAB Chair, the administrative and operational responsibilities associated with that role coupled with a full workload of assigned Hearings can result in a forty (40) hour work week, including weekend hours.

With a revolving complement, an increased number of Hearing events and many combined consent and variance hearings occupying two or more days, the reality is that many Members are working full weeks. Added to the file stream are Motions, Mediations, Settlement Hearings and Review Requests which are incapable of being scheduled in the normal 'anatomy of a TLAB Appeal' timeline but must be dealt with on an expedited and contemporaneous basis.

Review Requests continued in 2021, in the order of one additional matter every two months; all require decisions. and several can result in new Hearings being added to the schedule.

#### **j. *A Common Document Book***

In 2021, TLAB Staff have continued to work to overcome systemic constraints to its 'all-electronic' processes. Augmenting the work done in 2020, filings can be done online in greater capacity and evidence can be easily exchanged and accessed. A '*Common Document Book*' record has been advanced by way of a Practice Direction with the potential to cut the repetitive nature of attachments to witness statements, exchanges, and filings. All these improvements have served the TLAB well in helping it to adapt to a new normal during the COVID-19 pandemic.

#### **k. *Administrative/Operation Meetings***

Internally, the TLAB resumed regular virtual Operations Meetings between the Chair, Vice-Chair and Court Services Tribunal staff to ensure the timely consideration of a multitude of discussion points. For attending Members, these meetings, although an additional demand on time, are extremely productive.

### ❖ TLAB in the Media/Tribunal Outreach

The TLAB Chair is the spokesperson for the Tribunal unless he/she specifically delegates that function on a discrete matter to the Vice-Chair or another Member.

At times, the TLAB is mentioned or highlighted in general publications of a planning or development nature such as *Novae Res Urbis (NRU)* which is a weekly publication that focuses on municipal affairs in the City of Toronto and provides articles on real estate and development, municipal law, architecture, planning, etc.

In an article in its July 9, 2021, Toronto edition, *NRU* published an interview with the TLAB Chair in an article entitled – *A Pause for Reflection*, which highlighted the Tribunal's operation in general, and the Chair's 2020 Annual Report, in particular.

Given the emerging familiarity with and importance of the work of the TLAB amongst stakeholders and participants in the City's land use planning environment, the Chair expects further requests for interviews from local media with the intent of continuing to highlight the work being done by the Tribunal.

The TLAB Chair has continued to be available for outreach to organizations that would like to know more about the appeals process and remains receptive to invitations to educate groups, through Council members and otherwise, including a variety of public and private organizations. Informational videos instituted form a further outreach effort.

### ❖ Mandatory Member Training

The TLAB commenced operations in the summer of 2017 with an original complement of seven (7) Members all appointed for a four (4) year term concluding in December 2020. As recited in a previous section of this Report, since 2017 new and additional Members have been added to that panel complement due initially to resignations and then the approval by Council of an expansion of the Membership to a total of ten (10).

Following the conclusion of the TLAB's inaugural first term, and the commencement of its 2<sup>nd</sup> full term, the Chair directed staff to schedule a mandatory Panel Member Orientation and Training session at both its Q3 and Q4 2021 Business Meetings.

In the morning portion of its Q3 Business Meeting on September 24, 2021, TLAB Members received general presentations from the staff of various City departments/offices including the City Clerk Secretariate, City Manager's Office, the Public Appointment's Secretariate, and the Office of the Integrity Commissioner. These presentations were intended for those Members who were recent and new appointments to the Tribunal.

These presentations were conducted in the public session of the Business Meeting and the materials presented by the various City departments in attendance were uploaded to the TLAB's website for general consumption.

A more intense orientation and training session conducted '*in-camera*', occurred at the Q4 Business Meeting on November 16, 2021. At that Meeting, Members received in-depth presentations from City Planning and Zoning Departments, Urban Forestry, Court Services and the TLAB's external legal counsel, Duxbury Law.

Despite this, the TLAB adopted a Motion to make the materials received available to the public.

### ❖ Member Professional Development

The professional development of Members is an integral part of the organization. Training of Members ensures ongoing knowledge and support to meet mandated responsibilities, and the most relevant knowledge in legislation and operational functions. Across the TLAB, at the beginning of each new term of Members, the TLAB is obligated to provide member onboarding and tribunal-specific training sessions, all conducted through remote platforms. This training is done collaboratively with the assistance of various City departments.

One of the key responsibilities of the Chair is the authorization and allocation of continuing education funding to Members as well as identifying education and training opportunities for Members.

In 2021, the Chair retained the Society of Ontario Adjudicators and Regulators to develop and deliver an intensive half-day training session specifically tailored for the TLAB entitled – 'Effective Decision-Writing for the TLAB' to Members. That training session occurred on November 5, 2021, and focused on the mechanics of decision writing and improving Members' decision-writing skills to assist in writing well-reasoned decisions.

This session was well-received by the Members and has contributed to further discussion and examination regarding improving the TLAB's decision writing template. It has also resulted in the TLAB's consideration of best practices to assist Members in drafting more concise and uncomplicated decisions.

## **IV. TLAB Milestones**

July 8 <sup>th</sup> , 2014:	City Council approves the establishment of a Local Appeal Body.
March 31 <sup>st</sup> , 2016:	City Council adopts the Local Appeal Body governance structure.
July 12 <sup>th</sup> , 2016:	Members of the Nominating Panel are appointed by City Council.
December 13 <sup>th</sup> , 2016:	City Council appoints Local Appeal Body Panel Members recommended by the Nominating Panel.
March 29 <sup>th</sup> , 2017:	Chapter 142 of the Toronto Municipal Code is adopted by City Council by By-law 294-2017.
May 3 <sup>rd</sup> , 2017:	Rules of Practice & Procedure, TLAB Forms, Procedural Bylaw, and Public Guide are adopted by TLAB. TLAB begins accepting Committee of Adjustment appeals.
June 14 <sup>th</sup> , 2017:	Guiding Principles are adopted by TLAB. External legal counsel for TLAB is selected.
July 23 <sup>rd</sup> , 2018:	<p>City Council approves an increase in the Toronto Local Appeal Body Member composition from seven (7) to ten (10) part-time Members including the Chair.</p> <p>City Council amends the terms of reference for the Toronto Local Appeal Body to provide for a Vice-Chair.</p>
December 5 <sup>th</sup> , 2018:	Toronto Local Appeal Body appoints a Vice-Chair for the Tribunal.
March 4 <sup>th</sup> , 2019:	Toronto Local Appeal Body adopts revised Rules of Practice & Procedure with an effective date of May 6, 2019.

May 6 <sup>th</sup> , 2019:	Toronto Local Appeal Body's Revised Rules of Practice & Procedure, revised Forms and Public Guide are effective and live on TLAB's website.
May 13, 2020:	Urgent Relief Motion (COVID-19) Hearing Parameters and Procedures Manual.
May 26, 2020:	Amendment to the TLAB's Procedural By-law 1-2017 to enable remote electronic participation in Business Meetings during an emergency.
August 14, 2020:	Lifting of "Suspension Period" and recommencement of all hearing events - announcement of conducting 'virtual or electronic' hearing events for matters where such an approach could be facilitated.
December 2, 2020:	Toronto Local Appeal Body adopts revised Rule 31, Review Request, with an effective date of December 2, 2020.
February 10, 2021:	Toronto Local Appeal Body adopts Practice Direction 4 permitting the sharing of video evidence via YouTube or other video media links hosted online.
February 10, 2021:	Toronto Local Appeal Body establishes a Continuous Service Improvement (CSI) initiative subcommittee.
May 7, 2021:	Toronto Local Appeal Body adopts a new procedural protocol for conducting its Business Meetings.
May 7, 2021:	Through the adoption of a Motion, the Toronto Local Appeal Body initiates a Pre-hearing Conference Pilot Project.
September 24, 2021:	Toronto Local Appeal Body amends Rule 2 of its Rules of Practice and Procedure through the introduction of sub-Rule 2.6 addressing communication with Members outside of the Rules.
September 24, 2021:	All Members undertake a training and orientation conducted by various City Departments and Divisions.

December 10, 2021: Toronto Local Appeal Body revises its voluntary 'turnaround' timeline for Members to issues decisions and orders to 21 business days.

December 10, 2021: Toronto Local Appeal Body elects a new Vice-Chair for a one-year terms for 2022.

See: Article VII for 2021 Quarterly Meetings and Summary Statistics Schedule (Article VIII) for performance metrics.

## **V. Key Principles of TLAB**

The following are a set of key principles that Panel Members have strived to enshrine into the Rules of Practice & Procedure governing how the TLAB operates:

- a) Disputes between neighbours can become contentious and every effort should be made to ensure timely resolution, emphasizing alternative dispute resolution, within the framework that finality is a necessary hallmark of administrative justice.
- b) Justice delayed is justice denied. A lengthy interval between an appeal and an appeal decision serves no party or participant. People lose interest, events change, memories fade, reasons of convenience intercede, and delay has procedural consequences and incurs unnecessary expense. The TLAB has established Rules which provide a regimented disclosure obligation on parties and participants.
- c) One-day Hearings (variances only) – two-day Hearings (for combined variance/consent matters) should be scheduled with the definitive timeline of the Rules, approximately 115 days from the Notice of Hearing to the Hearing Date.
- d) Every person with an interest is provided with the opportunity to participate within the statutory scheme including TLAB's Rules of Practice and Procedure, limited only by relevance and repetition.
- e) A Hearing Decision and Order should be issued within fourteen (14) business days of the close of the final sitting.
- f) Moving to an all-electronic format, while requiring a learning curve for parties, participants, the public and the Members, can dramatically advance exposure, timeliness, connectivity, and cost reductions by providing instantaneous file access without the need for paper deliveries, repetitive attendances, reproduction costs, witness meetings, delays,



challenges, and other risks associated with multiple pre-hearing processes.

- g) Early disclosure of the Applicant's revisions is required. In the past, practices revealed many modifications to plans and variances sought at the late stage of Hearing commencement. Parties and participants who had prepared their positions based on the material before the Committee of Adjustment were faced with changed circumstances and settlements not revealed. This dislocation of effort and resources, angst, and costs of 'trial by ambush' is remedied by the mandatory requirement of an Applicants' Disclosure up front, early and while the matter is fresh in the minds of those interested.
- h) The Rules provide for the online filing and service of Motions that can request any form of relief and any form of Hearing, written, oral or electronic. Members are open and free to grant relief in warranted circumstances made known to all concerned, even where not presented on consent. Although there are many Forms and Rules, there is flexibility to ensure that individual hardship can be addressed and eliminated in the context of a process that is open to all.
- i) Hearing premises are generally fixed, relatively central to the geography of the municipality and are accessible by public transit. The TLAB has accommodated 'in-person' Hearings at the four (4) municipal Civic Centres in Etobicoke, North York, Scarborough, and East York in the event of a large list of participants in attendance.
- j) The TLAB and all persons participating or communicating on any matters before it shall act in good faith and in a manner that is civil, courteous, and respectful to all. Tribunal Members facilitate hearing from all participants in the Hearing including the public and are expected to treat each with dignity and are in service to all persons with an interest in an appeal.
- k) Matters that have been given consent by parties are encouraged by

Members to advance through TLAB-led mediation, agreement or settlement. This results in expedited Hearings conducted less formally and encouraged by all available means, subject to statutory requirements.

## VI. The TLAB Appeal Process\*

**\*NOTE: The timelines noted herein are applicable to post-May 6, 2019; the revisions to the Rules contributed to different processes and requirements commencing on that date.**

The timelines associated with document submission are outlined below to illustrate the steps involved with the TLAB appeal process – the ‘anatomy of an appeal to the TLAB’.

Please refer to the Rules of Practice and Procedure for compliance purposes.

## Step 1: Appealing a Committee of Adjustment Decision

**Submission Required:** Notice of Appeal (Form 1).

Due Date: 20 calendar days after the Committee of Adjustment Decision for minor variance appeals.

20 calendar days from the Committee of Adjustment Notice of Decision issued for consent appeals.

**Responsibility:** The Appellant.

## Step 2: Notice of Hearing

**Submission Required:** Notice of Hearing (Form 2).

Due Date: 5 calendar days (objective) after the receipt of a Notice of Appeal from the Committee of Adjustment.

Full identification of timelines for procedural obligations.

**Responsibility:** TLAB Staff.

### Step 3: Applicant's Disclosure of Revisions

Submission Required:      Applicant's Disclosure of Revisions (Form 3).

**Due Date:** 20 calendar days after the Notice of Hearing is issued.  
**Responsibility:** The Applicant.

**Step 4:** Identification of Parties and Participants

**Submission Required:** Notice of Intention to be a Party or Participant (Form 4).

**Due Date:** 30 calendar days after the Notice of Hearing is issued.

**Responsibility:** Parties and Participants.

**Step 5:** Document Disclosure

**Submission Required:** Any documentary evidence including photographs that will be presented at the TLAB hearing, in digital format.

**Due Date:** 60 calendar days after the Notice of Hearing is issued.

**Responsibility:** Parties and Participants.

**Step 6:** Submission of Statements

**Submission Required:** Witness Statement (Form 12), Participant's Statement (Form 13), and Expert's Witness Statement (Form 14).

**Due Date:** 60 calendar days after the Notice of Hearing is issued.

**Responsibility:** Parties (Form 12 and Form 14) and Participants (Form 13).  
Responses and Replies are governed by Rule 16.

**Step 7 (Optional):** Filing a Motion.

**Submission Required:** Notice of Motion (Form 7).

**Due Date:** 15 days before the Motion and hearing date.

**Responsibility:** Parties.

**Step 7A:** Responding to a Motion.

**Submission Required:** Notice of Response to Motion (Form 8).

**Due Date:** 7 days before the motion date.

**Responsibility:** Parties.

Step 7B:	Replying to Response to Motion.
Submission Required:	Notice of Reply to Response to Motion (Form 9).
Due Date:	4 days before the motion date.
<b>Responsibility:</b>	Party that filed the Notice of Motion.

## ***Practice Directions***

The TLAB periodically issues Practice Directions that provide consistent guidance to Panel Members, the public and Court Service Tribunal Staff on matters of procedure.

Those adopted between 2017 and 2020 that continue are:

### **No. 1: Standard Consent Conditions (Approved February 25, 2020)**

Outlines the standard consent conditions that should be imposed in the case of the granting of a consent.

### **No. 2: Default Format of Motion Hearings (Approved October 11, 2017)**

Stipulates that motions requesting a written or electronic hearing, the adjournment of a Hearing date, or seeking costs from another Party will be treated as a written motion unless specified otherwise.

### **No. 3: Document Referencing (Approval March 4, 2022)**

Provides direction to Staff regarding the creation of a Common Documents Base containing public documents that are frequently referenced in Hearings.

### **No. 4: Video Evidence (Approved October 11, 2017)**

Lays out the requirements that parties must adhere to if they are presenting video evidence at a Hearing.

### **No. 5: Service of Physical Documents (Approved October 11, 2017)**

Stipulates the procedures that must be followed by parties if an individual requires an exemption to the digital filing requirements.

### **No. 6: Expert Witnesses (Approved May 26<sup>th</sup>, 2020)**

Stipulates who can be categorized as an Expert Witness in a Hearing and the basis for qualifying such witnesses as well as their duties when appearing before the TLAB.

Furthermore, this practice Direction introduces a 'Local Knowledge Expert' as a new category of expert and be qualified as such in appropriate circumstances.

**No. 7: Procedure for Late Document Filing (Interlocutory) (Approval Pending)**

Stipulates the procedure for the filing of late documents after the filing dates as required by the TLAB's Rules of Practice and Procedure have passed.

## PERFORMANCE METRICS & SUMMARY STATISTICS



## VIII. Performance Metrics & Summary Statistics

The TLAB has now been in existence for five years, and over that time the Membership has continued to review and reassess its internal operation on an ongoing basis, including performance and service standards. This continual reassessment is conducted on an annual basis, or when appropriate, and is considered with a view to identifying areas in which operational improvements and/or refinements can be implemented.

An aggregate statistical measurement for each year has been published in the Chair's Annual Report underscoring overall Tribunal performance. These statistics are a helpful discipline reference point for Tribunal Members to assist in recognizing that timely decisions are the essence of public service. They are analyzed yearly by the TLAB to understand and gauge whether the TLAB appeals process is adhering to a set of self-imposed, targeted timing and service standards.

This operational review assists Members in determining opportunities for re-calibrating and optimizing the balance between service to and expectations of the public and the anticipated and actual time commitments required of its **'part-time'** Members.

From time to time, these service standards require reconsideration to determine whether they are realistic and practical both from a Members' and participants' point of view and to gauge whether re-calibration of expectations is necessary.

In 2021, the TLAB undertook a *'self-actualizing'* assessment exercise of these standards, starting with the review of a key service metric - the Members' voluntarily accepted discipline to complete and issue Decisions within a *'14 business day turnaround'* timeline following the conclusion of a Hearing.

The efficacy of the TLAB rests in part on its ability to deliver its Decisions and Orders in a timely fashion. Improvements to the Tribunal are considered by its Members with the view of continuing to advance its core guiding principle that it is in service **to dispose of appeals in an efficient, timely, cost-effective, open, and fair process to all stakeholders.**



Delayed decisions and decisions that involve postponements and adjournments adversely affect this statistical measure and, regrettably, this has been used to the disadvantage and criticism of the Tribunal by commentators.

For example, the TLAB adopted a revised standard benchmark of '**14 business days**' in 2019 from the initial '**14 calendar days**' guideline initially set by the Tribunal in 2017. However, this measurement needs to be tempered by the reality of events – especially in 2020-21, in so far as the influence of the COVID-19 pandemic has intervened.

As highlighted in this Report, a review of this standard was both overdue and necessary now in the growth cycle of the Tribunal. Such a consideration resulted in the TLAB adopting a '*21-day turnaround time*' for the issuance of decisions and orders at its Business Meeting in December 2021.

Another performance metric reviewed by the Membership was the necessity for additional Hearing days. The TLAB is committed to disposing of appeals in a timely and expeditious manner and Members are encouraged to be judicious in the allocation of the TLAB's time concerning matters before it.

The fair and proportionate allocation of time conserves resources and ensures that the resources, time and energy of parties, participants and witnesses are efficiently deployed. The TLAB has heard repeatedly in deputations at its Business Meetings from a resident's perspective the issue of Hearings extending beyond the timeframes established by the TLAB has become a concern for residents.

The TLAB has continued to administratively schedule hearing matters using a stable and consistent formula wherein 'variance only appeals' are typically scheduled for a one (1) day sitting and 'combined variance/severance appeals' for two (2) day sittings. In most circumstances, this has proven to be realistic and satisfactory.

However, this standard is not always achievable due to several factors including the number of Parties and Participants in a matter, the complexity of the issues in dispute (e.g., planning, heritage, the natural environment, architecture, etc.), and the calling and

cross-examination of numerous witnesses, both expert and Party/Participant, to highlight just a few.

The consideration of additional hearing days has also been exacerbated by the necessity of undertaking hearing events exclusively within a virtual or remote environment due to COVID-19. That milieu is fraught with attendant technological issues and glitches which can result in potential adjournments and/or unavoidable recesses during Hearings. This proved to be the case following the lifting of the 'Suspension Period' in some of the Tribunal's Hearings in 2020.

Accordingly, in 2021 the TLAB again considered a draft protocol for consideration to remedy granting requests from Parties for additional Hearing days in a matter. The Pre-hearing Conference Pilot Project was crafted to impose a more stringent limit on the Hearing days for the two categories of applications before the Tribunal with some 'built-in latitude' allocated to the presiding Member to a specified limit, after which any extension requests are to be escalated to the Chair's attention.

In 2021, the number of instances where Hearings engaged lengthier timeframes with consequent interruptions in **scheduling decreased by 43% from that experienced in 2020**. Hearings that extended over several days for unanticipated reasons, themselves interrupted by scheduling slots that are not contiguous, had the effect of lengthening timeframes from the Notice of Appeal to final hearing dates and decisions.

However, just as significant is that **the average length (in days) of a Hearing in 2021 decreased to three (4) hours and 73 minutes, representing a forty (40) minute reduction in Hearing time from 2020**. More importantly, this is a significant reduction over time in the average length of Hearings from the average in 2019 (1.46 days), a positive metric for all stakeholders.

This decrease reflects specific circumstances concerning the implementation and continued refinement and acceptance of electronic hearing events being the norm as well as a concerted effort by Members to expedite Hearings to further reduce the attendance time commitments and cost requirements for residents.

## 1. Service Standards

### A. Timely Receipt of Appeal File from Date the Appeal is filed to the date it is received by the TLAB

The timeframe from the date the Committee of Adjustment (COA) is made aware of an appeal to the date the appeal file is received by the TLAB, **on average, increased from 25 days in 2020 to 34 days**, representing an increase of 36%. This increase is due to a combination of a confluence of circumstances: the cessation of hearings at the COA caused by the COVID-19 pandemic in 2019; attempts by the COA to address backlogged appeals following the resumption of more 'normal' operations; and the 'flow through' of backlogged files to the TLAB in 2021.

### B. Timely review and setting of Hearing Dates (5 business days target metric from the date TLAB receives an appeal from the Committee of Adjustment)

The average administrative screening time in 2021 was fourteen (14) days which represents an **increase of 27% from 2020**. However, an analysis of this metric at a more granular level suggests differences between the first six months and the last six of the year.

For example, of the appeals received before August 2021, on average, appeal matters were scheduled for hearings within **4.4 days, which is slightly less than the targeted five (5) day service standard set by the TLAB** after receiving the appeal file from the Committee of Adjustment.

That number increased during the last five months of 2021 when the average increased to almost 27 days. This is attributable to several factors including a significant surge in the number of files forwarded by the Committee following the initial impacts due to the pandemic and a significant fluctuation in the administrative staffing complement supporting the TLAB.

**C. Timely Hearings scheduled (115 calendar days target metric from Notice of Hearing Issue date to Hearing Date)**

Of the appeals received, on average, matters were scheduled 102 days from the day a Notice of Hearing was issued. This is a **decrease of 43% from the 2020 performance of 178 days**. The TLAB's service standard is 115 calendar days and the 2021 average is significantly less than that standard (13 days).

This average does not include Adjournments, Continuations or Withdrawals which also impact scheduling parameters but takes into account an increase in the target metric from 100 to 115 days instituted by the TLAB in late 2019. The decrease in the 2021 average also represents a scheduling time that is **22 days less than the average (124 days) experienced in 2019**, pre-COVID-19.

**D. Timely issuance of Decisions (21 business days target metric from the date of Hearing or Motion to decision).**

Of the decisions issued, the average time taken to issue a decision in 2021 was 63 days, **a 29% increase over the 2020 average of 49 days**. The 2021 average metric is somewhat skewed higher by the decision 'turnaround' times in 3 particular months, those being January (129), September (110) and December (140).

If those 3 months are not included in the calculations, then the average time to issue a decision in 2021 was **47 days or a 4% decrease and 4 days less than the average metric for 2019**.

**E. Timely disposition of appeal matters. TLAB appeals are to be completed within 120 days as a target metric from the date the Notice of Appeal is received by the TLAB to the date the decision is issued.**

Of the appeals that were completed, the average time taken to dispose of matters from the date the appeal file is received by the TLAB to the time a decision was issued was 305 days, **an increase of 29% from the 2020 average of 236 days**. This average is 160 days more than the targeted service standard of 145 days

established by the TLAB for disposing of appeal matters which is a significant and troubling increase that the TLAB is committed to reducing in 2022.

That average, however, is not surprising given the difficulties experienced by the TLAB Membership during the year including a reduction in the number of Members eligible to accept hearing assignments and a corresponding temporary increase in assignments for a reduced pool of Panel Members, an increase in appeal files from the Committee of Adjustment, and a delay in the submission by Parties of materials requested by the presiding Members after the completion of a Hearing.

That metric is also not surprising when compared to the relative number of TLAB appeal files received from the Committee of Adjustment in 2021. The total number of appeals increased by 8% from 2020 but more significantly the **total number of Motions that Members must dispose of increased by 46% while the total number of Hearings undertaken by Members in 2021 increased by 89%** (328 whereas there were 174 scheduled in 2020).

The total number of Hearings in 2021 also resulted in a corresponding **58% increase in application outcomes at the TLAB**. A total of 312 decisions were issued by Members in 2021, with 46% (145) being Final Decisions and Orders. Of the application outcomes, 75% involved approval of applications while 16% of the applications before the TLAB were refused. This ratio has been fairly consistent since the TLAB's inception, with approvals ranging between 70 to 75% over those five years.

In summary, the above-cited statistics are understandable but not unexpected given the continuing impacts of the COVID-19 pandemic, the pivoting to and ongoing accommodations made for 'remote' hearing events, and the cumulative consequences experienced by the TLAB.

A further contributing factor impacting these performance metrics is the TLAB's responsibility to undertake Review Requests as permitted by Rule 31 of the *TLAB's Rules*. This gives a right to a party aggrieved by a Final Decision and Order, to request its review

and reconsideration by the Tribunal and engages a process for the full review of a TLAB Member's original decision.

A Review Request typically engages all the resources of the TLAB in processing: a Member site visit; multiple considerations; and a possible Motion or Hearing. It requires a written disposition, whether dismissed or allowed and in terms of Hearing dispositions, resources and consideration demands, is materially significant.

Before 2021, Review Request files were primarily the accepted responsibility of the Chair with the assistance of the Vice-Chair, who was allocated Review Request assignments on an agreed-to ratio. In 2021, however, TLAB Members adopted a protocol that expanded the assignment of a Review Request undertaking to individual Members by the Chair on a voluntarily and rotating basis. This protocol has worked well and was appropriately timed given that the Tribunal experienced a 50% increase from 2020 in the number of Review Requests received, and subsequently issued 15 Review Request decisions this year.

While the increase in Review Requests is understandable given the number of appeal files forwarded to the TLAB by the Committee of Adjustment in 2021, the number of Review Requests is **down sharply (-57%) from the 23 received by the TLAB pre-COVID-19**.

Several procedural, supplementary factors also appear to have contributed to the variability in the statistics as well: hearings that involve multiple sittings with non-contiguous scheduling; decision writing delays arising from less than diligent fulfillment of undertakings by counsels and expert witnesses; and Member time constraints due to primary work commitments (70% of the total TLAB Panel Member Complement have full-time employment outside of Tribunal responsibilities); and Member issues in the delivery of timely decisions due to work/life balance.

The issue of decision writing is perhaps the most important deliverable a TLAB Member has to offer the public, although Hearing management is also a critical component of the appeal process. Not only do decisions complement the body of administrative law

established by this TLAB but they are also the most important contributor to the public perception that their issues and concerns have been heard and addressed.

In modern jurisprudence, the mandate of providing 'reasons' is to not only provide clear and implementable dispositions of the Applications on appeal but also to communicate to the unsuccessful party or participant just why the presiding Member has arrived at that decision.

The Tribunal's decisions can and do contribute significant value to the City's economy. Decisions, properly articulated, constitute the difference between respect for the institution created by the City, and the expression of dissatisfaction and the propensity for discord. Decisions that have neither the incentive, time nor capacity to be carefully prepared result not only in the potential for complaint but also the exercise of the right to make Review Requests under the TLAB's Rules of Practice and Procedure. Parties also have the right to seek judicial leave to appeal a decision to the Divisional Court of the Superior Court of Justice concurrently with the filing of a Review Request with the TLAB.

Both aspects have direct cost aspects to the decision-making system, the City and the Parties and Participants who are entitled to just, timely, and fulsome reasons. This aspect is raised again in **Recommendations, Article 1**, below.

It is important to underscore that the TLAB encourages Mediation and Settlement in its Rules as a means of resolving some or all the issues in dispute in a matter. Members utilize this alternative dispute resolution strategy to investigate whether Parties are open to discussing outstanding issues and concerns in a less formal conciliatory construct with the intent of reducing the cost and time associated with the appeal process.

To reflect this approach to dispute resolution, a new metric, TLAB-led Mediation, has been added to the Tables entitled '*Appeal Outcomes*' and '*Application Outcomes*' found on the following pages, under the third set of Summary Statistics for 2020.

Mediation, whether directed by the TLAB or brought forward by Parties following private negotiations, advance the disposition of applications through expedited Settlement Hearings thereby reducing the length and time required to complete hearing matters.

In 2021, the **TLAB engaged in three (3) TLAB-led mediations and five (5) settlements of appeals, representing an increase of 25% from 2020** and although not a large sample size, this metric is nevertheless indicative of the TLAB Members' commitment to encourage and employ mediation more consistently as a practical TLAB dispute resolution strategy.



## 2. Performance Metrics

	A	B	C	D	E
Month appeal is commenced by the Appellant	Date Filed With COA to Date Appeal Package Received By TLAB	Screening Time (Date Appeal is Received by TLAB to Date a Notice of Hearing is Issued)	Scheduling Time Date Notice of Hearing is issued to First Scheduled Hearing Date (Does not include: Adjournments, Continuances or withdrawals **By month scheduled)	Decision Time Hearing Date to Decision issued **By month Decision is issued	Disposition Time Date Appeal is Received by TLAB to Date Decision is Issued **By month Decision issued
January	47	4	129	146	321
February	31	3	124	57	357
March	43	5	107	32	216
April	25	5	99	43	433
May	32	5	99	28	306
June	22	4	94	39	309
July	31	5	101	30	220
August	22	11	95	52	284
September	41	25	102	110	239
October	41	28	99	56	210
November	45	25	95	84	253
December	19	45	99	140	454
2021 Average	34	14	102	63	305
2020 Average	25	11	178	49	236
2020 vs 2021	Increase of 36%	Increase of 27 %	43% Decrease	Increase of 29%	Increase of 29%
Targeted Service standard	N/A	5 business days	115 calendar days	21 business days	145 days

### 3. Summary Statistics

Number of TLAB Appeal Files Received	2017	2018	2019	2020	2021	2020 vs. 2021
Total Number of Appeals	314	419	279	227	246	Increase of 8%
Total Number of Motions	28	95	70	28	41	Increase of 46%
Total Number of Hearings	253	318	361	174	328	Increase of 89%
Avg. Hearing Length (Days)	No data	1.3	1.46	4.53 hours	3.73 hours	

Appeal Type	2017	2018	2019	2020	2021	2020 vs. 2021
Variance	267	346	246	194	217	Increase of 12%
Consent	54	73	33	33	29	Decrease of 12%

COA Districts	# of TLAB Appeals Received by COA District 2021	% of TLAB Appeals Received by COA District 2021	Total COA Applications received by COA District in 2021	% of Committee of Adjustment Decisions Appealed to TLAB, by district
Toronto & East York	96	39%	2062	5%
North York	64	26%	1029	6%
Etobicoke York	56	23%	756	7%
Scarborough	30	12%	541	6%
Totals	246	100	4388	6%

<b>Appeal Outcomes</b>	<b>2020</b>	<b>2021</b>	<b>%</b>
Allowed	72	114	58
Dismissed/Refused	45	75	38
Mediation	3	3	0.02
Settlement	4	5	0.03
Total	124	197	

\*Includes Withdrawals; Counts Multi-Part File Decisions As One Outcome

<b>Application Outcomes</b>	<b>2020</b>	<b>2021</b>
Approved	78	117
Refused	16	35
Withdrawn	23	37
Adjudicative Dismissal	1	2
Approved with conditions	117	101
Approved with Varied Variances	6	121
Settlement	10	4
Variances refused	37	38
Total	288	455

<b>Review Request Disposition</b>	<b>2020</b>	<b>2021</b>	<b>% Difference</b>
Review Request Dismissed - Decision Confirmed	7	11	Increase of 57%
Granted - New Hearing	3	3	No change
Decision Varied	0	1	Increase of 1
Totals	10	15	Increase of 50%

<b>Decision Page Count - Average</b>			
<b>Type</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Final	11.7	11.6	11.7
Review Request	11.4	13.4	15

<b>Decision Type</b>		
<b>Decision Type</b>	<b>2021</b>	<b>%</b>
Final	145	46
Interim	37	12
Mediation	4	1
Motion	41	13
Order	11	4
Review	15	5
Revision	17	5
Settlement	5	2
Withdrawal	37	12
<b>Total</b>	<b>312</b>	<b>100%</b>

## **EMERGING TRENDS, ISSUES AND RECOMMENDATIONS**



## **IX. Going Forward: Emerging Trends, Issues, and Recommendations**

The Toronto Local Appeal Body has operated continually since early 2017 but in comparative terms to other quasi-judicial tribunals in Ontario, it is still a rather new body and, as such, retrospection and introspection annually are necessary to identify and address issues and trends requiring consideration.

As the TLAB Chair, and with the assistance of the Vice-Chair and Members, I have continued to highlight several structural issues related to the functioning and operation of the TLAB warranting further attention. On-going discussions with TLAB Members and Court Services have been instructive to record ongoing concerns and methodologies to address the matters raised.

As time passes and experience is gained, several issues previously identified in the preceding Chair's Annual Reports have been resolved, but some issues remain. Some have been addressed constructively within the limitations of Court Services Tribunal Staff advisors and budget guidelines applicable to the TLAB, but others must be approached and resolved within the more broadly interpretation parameters of the TLAB's mandate than understood by the City.

Below, I highlight issues/recommendations raised in the 2020 Chair's Annual Report which are resolved and submit recommendations for the TLAB that remain and require action for Council's consideration going forward. These latter aspects result in a series of **Recommendations**.

### **RECOMMENDATION**

#### **1. Communications**

The TLAB is susceptible to work assignments of part-time appointments becoming too onerous, low compensation rates, management issues and group term sunsets. Since 2017, the TLAB has benefited from information and support from Court Services Tribunal staff and regular Administrative/Operations Meetings with the Chair and Vice-

Chair have provided a vehicle for the identification and resolution of administrative issues internal to the Tribunal.

As well, additional meetings and ongoing communication between Court Services and the Chair assisted the TLAB in taking timely responsive action during the COVID-19 pandemic.

Since 2017, under the City's Guiding Principles, the TLAB has benefited from information and support from other City staff who have, by invitation, attended regular business meetings and Court Services Tribunal staff Operations meetings. Other City staff have also engaged in direct communications with the Chair.

This proactive approach to fostering open and direct dialogue, operational support planning, educational opportunities and issue problem solving is important to the Tribunal. This framework was instrumental in assisting the TLAB in taking the timely action and responsive planning necessary during the COVID-19 Emergency.

However, as highlighted earlier in this Report, there are instances where that mandate and the 'Guiding Principles' related to the TLAB are not fully sufficient. While an Annual Report is a vehicle to raise overall performance issues, it also can be unsuited for timely action and response planning. A review of the Guiding Principles may enable the TLAB to broaden its ability to communicate pressing issues arising from the operations of a tribunal that is five years into its mandate.

Again in 2021, as in the previous year, instances have occurred where the channel of communications from the TLAB through Court Services Tribunal staff on operational or administrative issues was undefined, diffused, or truncated. Responses of direct communications with the executive branch to the Controller and the City Manager, copied to the Mayor, which were undertaken by the Chair on the TLAB's behalf in 2021 were either unanswered or remain outstanding.

The investigation and consideration of an enhanced communication protocol as well as more direct channels for communication especially with the City Manager's Office would be beneficial in contributing to open and effective dialogue.

Recommendation 1:

**Council request that the City Manager's Office review the Guiding Principles for the Toronto Local Appeal Body, in consultation with it, to provide enhanced communication opportunities. Specifically, that authority be supported therein to the creation of a vehicle whereby the TLAB Chair can convene a meeting of representatives from the City Manager's Office, the Comptroller, Court Services and the TLAB Chair and Vice-Chair directly through a more enhanced communications protocol.**

## **2. Panel Member Appointment Considerations**

The appointment of qualified TLAB Panel Members is the most important component of guaranteeing that the Tribunal meets its mandate to provide decisions to parties, participants and the public in a cost-effective and timely manner. Furthermore, the retention of Members and Member recruitment is paramount to the successful operation of the TLAB and contributes directly to the achievement of performance service thresholds that it strives to provide to the public.

The core component of a TLAB Member's accountability is that of providing a service to City residents. In performing their duties, Members are subjected to public scrutiny and accountability, and long work hours while at the same time removing them from elements of society, family, and other work commitments.

Council has established clear administrative processes to address 'end of term' replacements, the replacement of Members who resign from service, and succession considerations. Council has assigned the responsibility of recommending candidates to the Nominating Panel – Toronto Local Appeal Body, and that Panel's vetting of potential candidates for appointment is crucial to maintaining the integrity and adjudicative skillset of the Tribunal.

Since 2018, the appointment process has resulted in timely Council appointments to the TLAB, and the TLAB has benefited from offsetting appointment terms as well as the continuity of experienced Panel Members.



As the TLAB Chair, I have sought to provide meaningful input into the appointment directly to the Public Appointments Secretariat staff by highlighting such topics as emerging TLAB Member trends and issues to ensure the process and timeliness of future appointments meet the current standards.

While the TLAB is appreciative of this opportunity, that input can only be characterized as 'minimal' and has been accommodated in a rather informal and sporadic manner.

Representations made by the City in the selection of new Members warrant oversight, consideration, and input by the TLAB. The criteria for the selection of a new Member are under constant review. The Chair is best placed to identify TLAB needs and criteria relevant to the TLAB and communicate that to the Public Appointments Secretariat.

To date, the TLAB Chair's role in the Member appointments process has typically involved **monitoring the appointment renewal process externally** to ensure the TLAB Member panel complement is kept full and functioning. While this monitoring oversight by the Chair is valuable, the reality is that this is a limited role in the process which I believe requires re-evaluation and further engagement.

There is little merit in having a person stand for public appointment to the TLAB only to learn that the demands and the tasks of membership are too great. Given that the criteria for selection of a new Member are under constant review, the TLAB Chair should be provided more opportunities to identify and communicate the TLAB's needs and to make that known directly to the Selection Advisory Committee/Nominating Panel.

It is important to reiterate that TLAB Members are appointed on a **'part-time'** basis but premised on an expectation of an appointee being required to accept on to three hearings per week with significant additional responsibilities. In performing their duties, TLAB Members are required to review pre-filed materials; conduct site visits; draft decisions and orders; and attend multiple business meetings and select training.

Members dedicate a substantial amount of time and effort to undertaking their collective responsibilities in fulfilling the TLAB's mandate which can, at times, exceed twenty-five (25) hours per week, must be properly identified and appreciated from the outset of recruitment and subsequent appointment.

Ongoing and continued dialogue between the TLAB Chair and the Public Appointments Secretariat is essential to understanding the type of candidates best suited to succeed as TLAB Panel Members given the demands placed on each through the acceptance of a 4-year term appointment.

In 2021, I took the initiative as the TLAB Chair to reach out directly to the Public Appointments Secretariat to discuss what current Members are experiencing and what trends are emerging. I suggested to the Secretariat that the City consider allowing the TLAB Chair to assume a more prominent role in the appointments process. Public Appointments noted that they are happy to meet as necessary and will continue to meet before a recruitment process is underway to understand the complement needs and best suitability of candidates.

The current protocol requires that the Nominating Panel schedule a meeting when a list of candidates has been established for discussion and consideration. The first part of that meeting is open to the public while the second part of the meeting requires the Panel to arrive at a shortlist of candidates in an 'in-camera' session. The public can register to speak on an item on the agenda and can submit communication on an item which is circulated to the Panel in advance.

While I understand that Court Services is customarily invited to attend these meetings, it is my understanding that the TLAB Chair has never been invited. This is a troubling revelation and must be reconsidered. A formal invitation should be extended to the Chair to participate as this affords an important opportunity to participate.

These meetings will allow the Chair to monitor the appointment renewal process to ensure that it is engaged in a timely fashion. Such meetings will also facilitate transparent discussions regarding the TLAB Member complement to assist the Secretariat in achieving and maintaining a full and functioning panel of Members representing the highest quality of appointments.

City Council should also investigate other opportunities not currently available for the TLAB Chair to more directly participate and provide input into the TLAB Member appointment process so that quality in the selection process is assured. The TLAB Chair should be viewed as a relevant and valuable resource to shortlisted candidates offering

the type of invaluable insight potential candidates should receive so that can better understand the realistic requirements of becoming a Member.

**Recommendation 2:**

**The TLAB Chair and the Public Appointments Secretariat schedule, at minimum, two (2) regular meetings throughout the year, or as deemed necessary by the Chair to facilitate ongoing discussions intended to assist the Public Appointments Secretariat in understanding the TLAB's Panel Member complement needs and the types of candidates best suited to succeed as TLAB Members to maintain a full and well-functioning Member Panel.**

**The TLAB Chair be formally invited to the Toronto Local Appeal Body Nominating Panel's public meeting at which a 'short list' of potential candidates for appointment to the TLAB is to be considered by the Nominating Panel.**

**City Council investigate other opportunities through the Public Appointments Secretariat for the TLAB Chair to be part of the Member appointments process.**

### **3. TLAB Member Succession Planning**

Since its inception, the Toronto Local Appeal Body has seen several Members resign their appointment or not seek re-appointment for a second term. Although resignations and 'worker turnover' are to be expected in organizations, the relatively small complement of TLAB Panel Members is magnified in bodies such as the TLAB.

Between 2017 and 2020, Council has appointed six (6) new Members with at least two more expected in early 2022.

In 2019, the former TLAB Chair, in his Annual Report, requested that the City canvass Members for their intentions respecting re-appointments to the TLAB to ensure continuity and ensure consistent file management. Given that the integration of a new Member, once identified, can take up to four (4) months and TLAB Member booking assignments run an additional four (4) months in advance, this was considered an important component of succession management.

A recommendation was put forward in the '**Going Forward – Recommendations**' section at the end of that Annual Report to address this issue. Unfortunately, that recommendation was not considered.

As an update, I can report that there has been productive and ongoing dialogue between the TLAB and the City's Public Appointments Secretariat regarding Member succession and replacement plans for the TLAB. Although this dialogue has not been formalized in any prescribed protocol, as the new Chair, I have been assured that this open dialogue will continue.

Such communication is imperative to the success of the appointment process, is important to the TLABs objective of achieving its targeted service standards and is fundamental to ensuring continuity of service.

Nevertheless, this should be recognized as a vital component of the public appointments process and required of Members who seek and are appointed TLAB Members.

#### **Recommendation 3:**

**Council, through the Public Appointments Secretariat, require Members to identify one (1) year in advance of their term expiry, a Member's intention to seek re-appointment, and that the City maintain a roster of Member appointment candidates such that vacancy and resignation replacement Members can be in service to the public for assignments within four (4) months.**

#### **4. Member Remuneration for Service Improvement Initiatives**

As an independent, quasi-judicial tribunal adjudicating and making determinations on variance and consent appeals, the Toronto Local Appeal Body has all the powers and duties of the local planning appeal tribunal, and functions within the parameters of the *Statutory Powers Procedure Act*, section 115 of the *City of Toronto Act, 2006*, its *Procedure By-law 1-2017*, its *Rules of Practice and Procedure*, and the relevant provisions of the *Planning Act*.

The independence of the TLAB and its 'arms-length' relationship with the City of Toronto is fundamental given that City Council continues to be able to appeal

Committee of Adjustment decisions and instruct the City's legal staff to argue its position before the TLAB, as was done before the former Local Planning Appeal Tribunal (LPAT).

An important aspect of judicial independence is the maintenance of both an arms-length relationship as well as the *'appearance of that arms-length relationship'*.

This relationship categorically provides for TLAB Members to exercise all the powers necessary to issue decisions and, more crucially, to reform or refine the procedures of the Tribunal itself.

TLAB business is customarily conducted by way of its Business Meetings, of which the Tribunal is required to schedule a minimum of four (4) meetings annually. These venues have provided the sole opportunity for TLAB Members to conduct business related to the TLAB's operation. Business meetings, like Council meetings or standing committee meetings, must be conducted in public with 'Member quorum', minuted with an agenda, and provide opportunities for public deputations.

However, it is simply not practical to convene a formal meeting in public and have TLAB administrative staff 'clerk' the meeting to work on draft policy, rule revisions, or even service improvement discussions. Being constrained by and required to adapt to Council's elaborate procedures for the conduct of public meetings, TLAB Business Meetings have precluded informal group meetings of the TLAB, in whole or in part. This imposes an unnecessary constraint on the TLAB in communicating amongst the Members, sharing experiences, circulation of educational materials or even liaison between the Chair, Committees, and subsets of Members.

No other tribunal that exercises a quasi-judicial authority has the constraints that the seeming simplicity of Business Meetings imposes on the TLAB.

Working group or subcommittee meetings, then, which are restricted to fewer than five (5) Members and where Members do not advance the business of the TLAB through the moving or adoption of Motions and where decisions are not being, are helpful to the Membership in improving the effectiveness and efficiency of the Tribunal. **Such sub-groups are a normal and necessary part of the tribunal ecosystem.**

In its brief existence, the TLAB has struck two subcommittees/working groups to discuss and bring forward service improvements to the Membership. The first was a group consisting of 4 Members formally constituted by Motion at the Business Meeting in August 2020, that addressed revisions to Rule 31 (Review Requests) of the TLAB's *Rules of Practice and Procedure*.

More recently, the Continuous Service Improvement (CSI) Subcommittee (originally the Evaluation Subcommittee), was formally constituted by way of a Motion at the Q4 Business Meeting on December 2, 2020.

As service improvement initiatives, both Tribunal sub-groups were well-received by the public and residents' associations. They were thoroughly vetted and in undertaking their work formulated and then forwarded suggested initiatives and recommendations to the full TLAB Membership at Business Meetings where motions were considered and adopted.

The Rule 31 subcommittee, working in conjunction with the TLAB's external legal counsel, brought forward revisions that resulted in amendments to the TLAB's Rules of Practice and Procedure concerning Rule 31, the Review Request Rule that is currently in place.

The CSI subcommittee has been integral to the development of service improvements to the Tribunal that have been identified both by the public and Members as requiring review and attention. However, ongoing issues and challenges impacting Member workload capacity in 2021 have resulted in this and other initiatives being deferred temporarily.

TLAB Members who participated in these working sub-groups agreed initially to join voluntarily, with the understanding that their time commitments might not be compensated. Court Services ultimately confirmed that Members serving on those subcommittees were, in fact, eligible to be compensated for their time and were remunerated accordingly within the Tribunal's budget allocation.

There have been ongoing discussions with Court Services with respect to the work of TLAB Member Subcommittees and some clarification of the TLAB's mandate is required on this issue.

Members have voluntarily engaged in service improvement initiatives to assist in addressing some of the 'pinch points' that have been identified by Members, staff, and the public. These initiatives include a Pre-hearing Conference Pilot which is aimed at streamlining upcoming hearings and a series of service improvement projects that were initiated in response to public feedback.

A form of incentive or inclusion in work responsibility; properly funded, would help to overcome this deficiency. There is no current incentive for TLAB Members to undertake special committee work, drafting or investigations germane to the Tribunal, where considerable time is involved in the absence of compensation. As such, Business Meetings are compromised as far as they can consist, simply to the attention span of the hours involved in the sitting.

It is impractical to convene a formal meeting in public with administrative staff to work on draft TLAB policies, draft Rule revisions or even service improvement discussions. The striking of working groups/subcommittees with a sub-set of TLAB Members reflects an expression of genuine interest and enthusiasm in advancing the broad mandate of the TLAB in achieving a more responsive and effective adjudicative tribunal.

The time that Members commit to and invest in designing, drafting, and working on these service improvement initiatives merit remuneration. An annual Honourarium, attributed to the Members but excluding the Chair and the Vice-Chair, has proven an unsuited mechanism to guarantee or even ensure participation in this and other aspects where significant additional personal time engagement is required regularly

#### **Recommendation 4:**

**TLAB Members who participate as members of the TLAB's subcommittee/working groups be accorded remuneration at a flat rate of \$200 for their time commitment for each meeting they attend as a member of each sub-group. Members will be restricted to serving on a maximum of two (2) subcommittees per year.**



## **5. Request for an Increase to the TLAB Chair's Annual Stipend**

The Chair is “the glue that serves to hold the TLAB together.” In addition to the numerous duties and responsibilities outlined at the beginning of this Report, he/she is the Information and Privacy Head, holds responsibility for dealing with Member and Staff complaints, and for giving instructions to the TLAB's external legal counsel. The TLAB Chair is also required to be accessible during normal business hours, on beyond.

The Chair is a resource for Members including the allowance of seeking legal counsel advice directly, on an issue of concern and where circumstances warrant, ensures Member performance, and Member respect and discipline which is perhaps the most intangible of all aspects of the Chair's responsibilities to the TLAB.

The Chair is also responsible for the initial training and ‘onboarding’ of new Members directly participating in and conducting training sessions with the assistance of the Vice-Chair to facilitate the seamless integration of appointees into the TLAB's scheduling of Hearings.

The administrative and operational responsibilities associated with that role coupled with a full workload of assigned Hearings can, and often does, result in a forty (40) hour work week, including weekend hours.

If there is a single obligation that warrants a greater appreciation for the TLAB Chair's responsibility to the Tribunal, it is cultivating Member respect and discipline. As a Member, the TLAB gains respect from three sources: Hearing conduct; decision writing; and all Members' performances. It follows that the loss of respect for the TLAB or a Member can be attributed to own actions or actions of others that reflect upon the TLAB, and therefore the City.

It is the job of a Chair and Vice-Chair to encourage the maintenance of high standard attributes of the TLAB's work, to discourage aberrations and to continually seek to set additional standards of conduct or, in practice, to enforce existing or perceived standards. Consequently, the Chair and Vice-Chair must navigate between the personalities of the Members and, where necessary, seek to establish the commonality



of group expectations articulated by consensus. This becomes more complicated with an ever-increasing complement of panel Members.

At the time of drafting this Annual Report, City Council at its meeting on April 9, 2022, adopted a recommendation from the City Manager's Office to increase the TLAB complement by an additional four (4) Members, to a total of fourteen (14).

I note that the Chair's current annual stipend was calculated and established by City Council as part of the foundational discussions undertaken when the TLAB commenced operations in early 2017. That annual stipend was based primarily on the role and responsibilities of the Chair associated with a Panel Member complement of seven (including the Chair).

However, in the five years since the TLAB's inception in 2017, Council has increased the Member complement from 7 to 10 Members including the introduction of the Vice-Chair, which represents an increase of 43%, and that total will again increase to a total of 14 in 2022.

Tangentially, I submit that an increase in the panel complement must include a reconsideration of the TLAB Chair's annual stipend as well as that of the Vice-Chair. I also submit that to do otherwise would be unfair to the Chair and Vice-Chair, who are tasked with and work diligently to maintain the reputational integrity of the TLAB. The Chair's annual stipend is critical to acknowledge the significant responsibilities of that role, the importance of succession planning for the TLAB, and necessary to incentivize Members to consider putting their names forward for consideration by City Council to assume this titular role.

Recommendation 5:

**That Council increase the annual stipend of the Toronto Local Appeal Body Chair from \$60,000 to \$85,000, and the Vice-Chair's annual stipend from \$15,000 to \$20,000, retroactively, to reflect the corresponding increase in the role and responsibilities associated with the number of TLAB Member appointments that have resulted in doubling the total complement since 2017.**

## **6. Increase in the Number of Annual Tribunal Business Meetings**

A significant detail overlooked in the creation of the Toronto Local Appeal Body is its funding and the Tribunal engagement. The setting of a Budget is, ostensibly, the responsibility of Court Services through the City annual budget process. There is no provision for input by the TLAB to this Budget and while Court Services has been acquiescent to the discussion of TLAB needs, that discussion has been generally limited to such issues as 'continuing Member education' and external legal services.

One area of dialogue regarding the TLAB budget that has continued to be a challenge is TLAB Business Meetings. Court Services established, for Budget allocation purposes, typically four (4) Business Meetings annually. In 2021, the TLAB Chair was successful in garnering approval from Court Services for a fifth Business Meeting, which was used for Member training and education as permitted by the TLAB's *Procedure By-law*.

However, this budgetary allocation control approach has proven to be unduly restrictive as Special Business Meetings have been sought and been declined in the past, as unfunded, for educational and public communication purposes.

There should be a Budget allocation of at least six (6) Business Meetings annually and it should not be for Court Services Tribunal staff to preclude a Business Meeting of the TLAB when considered necessary by the Chair, provided it is conducted during normal business hours.

On the issue of the City's annual budget process, the Chair's 2020 Annual Report (Recommendation #6) recommended that the TLAB Chair be represented and be afforded an opportunity to provide **meaningful** input in the preparation and submission of the TLAB's annual budget by Court Services. To date, the Chair's input has continued to be extremely limited, a situation that must be addressed.

A more fulsome exploration of and discussion with Court Services regarding the TLAB's annual budget would be a productive and transparent exercise and would allow the Chair/Vice-Chair to be more sensitive to decisions regarding oversight issues such as the number of Hearings, additional Hearing days in an appeal matter, and additional Business Meeting requirements, the cost of external legal counsel, etc.

**Recommendation 6:**

**The Toronto Local Appeal Body be permitted at least six (6) Business Meetings annually to conduct its operations as permitted by the Toronto Local Appeal Body's Procedure By-law 1-2017, without budget approval from Court Services, and**

**The Chair of the Toronto Local Appeal Body be formally included in the preparation of the Toronto Local Appeal Body's annual budget by Court Services through ongoing, meaningful discussions and representation during the various stages of the annual budgeting process.**

**7. Creating an Administrative Staff 'Navigator' Role**

Administrative staffing assistance to the TLAB is the prerogative of Court Services and Court Services Tribunal Staff are the front-line communicators with the public and have been universally appreciated in this role. The Toronto Local Appeal Body has had the benefit of excellent Court Services Tribunal staff resources since its inception in 2017.

Member communications with Staff are largely confined to individual file processing matters and Business Meetings.

Regrettably, with ongoing Court Services Tribunal staffing changes and the advent of the COVID-19 protocols, the structure and the administrative personnel staffing of the TLAB have been impacted. This has resulted in several instances in 2021 whereby communications between Staff and parties and the public have led to the escalation of issues requiring a decision by a Member or a practice determination by the Chair. While these are generally file-related and were handled in that context, a number have required the intervention of the Chair to define limits both of Court Services Tribunal staff advice and the need for a Member determination of the issue.

As above noted, Court Services Tribunal staff is available to provide administrative assistance to the public, parties and participants who contact the TLAB for general information regarding appeal files. They also assist Members in being of service to the public.

It is important to remember that communicating accurate and relevant information as part of the administrative screening of files is paramount to an efficient Tribunal operation.

To improve this communications role and the service to the public provided by the Toronto Local Appeal Body, it may be prudent for Court Services to consider introducing a new administrative staff role at the TLAB, that of a **'Navigator.'** A *'Navigator'* function is not a new or novel position in administrative bodies as evidenced by similar examples in tribunals and governmental organizations in Canada and the United States. The role is becoming more important in organizations that deal directly with the public such as the TLAB, and such a function could add to the service received by the public.

The introduction of a *'Navigator'* as part of the Court Services Tribunal staffing framework would assist in ensuring that the right information and available resources are highlighted to help the public better understand the TLAB appeals process.

The *'Navigator'* would be a member of Court Services Tribunal staff with a sound understanding of the TLAB appeals process and the knowledge to identify resources with the overarching goal of assisting the public to administratively navigate the complex TLAB appeals process.

The *'Navigator'* role would be the *'initial'* point of contact with the public and a Court Services Tribunal staff member who can address frequent questions of process and the resources available to assist those individuals who may be engaging in the appeals process for the first time.

A *'Navigator'* would be enormously beneficial for the public in identifying TLAB policies and procedures without transgressing the line of giving advice or of providing interpretive applications of such matters as the *Rules*, the language of the Forms, or the requirements in preparation for a Hearing.

In addition to the resource materials already on the TLAB website, the *'Navigator'* would be available to further respond to the request from the public and residents' associations in deputations and correspondence to the TLAB and work cooperatively

with TLAB Membership to introduce 'tools' to remove barriers to resident participation and engagement, and generally 'de-mystify' the appeals process.

**Recommendation 7:**

**That City Council direct Court Services to consider the development of a Staff 'Navigator' role within the framework of Court Services Tribunal staff's complement with the main goal of assisting the public in better understanding the appeals process and the resources available at the Toronto Local Appeal Body for those who wish to participate in the process.**

ALL OF WHICH IS RESPECTFULLY SUBMITTED

June 8, 2022

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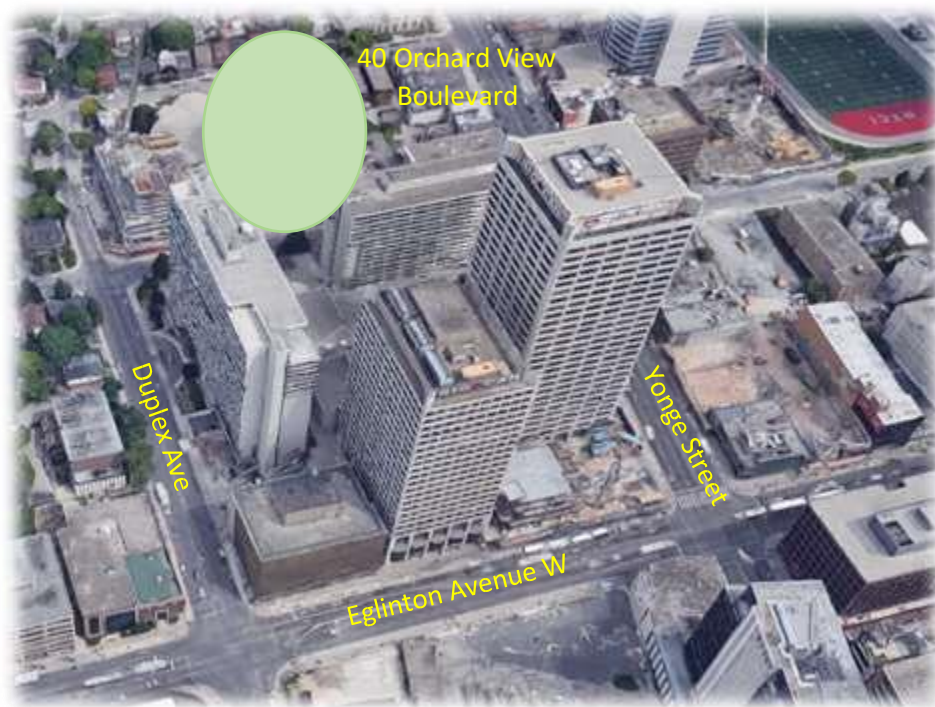
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