

## **Toronto Local Appeal Body – Chair's 2022 Annual Report and New Arrangement for Legal Support**

**Date:** September 14, 2023

**To:** Planning and Housing Committee

**From:** City Solicitor and Interim Director, Court Services

**Wards:** All

### **SUMMARY**

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Enacted on May 3<sup>rd</sup>, 2017, the Toronto Local Appeal Body (TLAB) is an independent, quasi-judicial tribunal established through City of Toronto Municipal Code Chapter 142, Local Appeal Body, the City of Toronto Act, and other provincial legislation. The TLAB has all the powers of the Ontario Land Tribunal related to the hearing of appeals to Committee of Adjustment decisions for minor variance and consent applications under subsections 45(12), 53(14), 53(19) and 53(27) of the Planning Act.

The TLAB is composed of fourteen members including the Chair, Vice-Chair, and twelve Panel Members who are nominated by an impartial citizen-member nominating panel with recommendations for appointments submitted to City Council. City Council appoints Members of the TLAB for a four-year term of office.

This report transmits the 2022 Annual Report from the TLAB Chair to City Council for information. It also recommends that the City Solicitor take over the provision of legal services to the TLAB with respect to providing advice on questions identified by TLAB Members, with respect to the administration of hearings, as part of their decision making duties, and providing advice on the development, review or revision of operational policies, practice directions and rules.

### **RECOMMENDATIONS**

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The City Solicitor and Interim Director, Court Services recommend that:

1. City Council assign the City Solicitor responsibility for the provision of legal services to the Toronto Local Appeal Body with respect to (1) providing advice on questions identified by Toronto Local Appeal Body Members, with respect to the administration of hearings, as part of their decision making duties, and (2)

providing advice on the development, review or revision of operational policies, practice directions and rules.

## **FINANCIAL IMPACT**

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There are no financial implications to the City arising from the recommendation in this report in 2023. To give effect to Recommendation 1, a budget amendment requesting transfer of approved base funding from Court Services to Legal Services to support the creation of one new full-time permanent position in Legal Services resulting in a zero net impact to the City will be presented for Council consideration and approval in 2024.

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

## **DECISION HISTORY**

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The 2021 Annual Report from the Chair of the Toronto Local Appeal body was received for information by Council on July 19, 2022. The link to Council's decision is available at: <https://secure.toronto.ca/council/agenda-item.do?item=2022.PH35.8>

At its meeting on June 8, 2021, City Council received for information the 2020 Annual Report from the Chair of the Toronto Local Appeal Body, from the Director, Court Services. City Council directed the City Manager to report back on items 1, and 3a-c as outlined in this report. The link to City Council's decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH23.13>

The 2019 Annual Report from the Chair of the Toronto Local Appeal Body was received for information by Council on July 28 and 29, 2020. City Council directed the City Manager to review the recommendations in the TLAB 2019 Annual Report from the Director, Court Services and report back to the Planning & Housing Committee by the first quarter of 2021 on the feasibility of implementing the Chair's recommendations. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH15.4>

The 2018 Annual Report from the Chair of the Toronto Local Appeal Body was received for information by Council on May 14, 2019. The link to Council's decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH5.7>

The 2017 Annual Report from the Chair of the Toronto Local Appeal Body was received for information by Council on June 26, 27, 28 and 29, 2018. The link to Council's decision is available at <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG30.10>

## COMMENTS

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The Toronto Local Appeal Body Chair's Annual Report covers TLAB activities from January 1, 2022 to December 31, 2022.

The 2022 Annual Report includes the following sections:

- Executive Summary
- About the TLAB – Background
- Organizational Structure
- TLAB Operational Highlights
- Business Meeting Highlights
- TLAB Milestones
- Key Principles of the TLAB
- The TLAB Appeal Process - Timelines
- Adopted Practice Directions
- Performance Metrics and Summary Statistics
- Going Forward: Emerging Issues and Recommendations

### **New Arrangement for Providing Legal Services to the TLAB**

The City's Legal Services Division currently provides in-house counsel to all City tribunals except the Toronto Local Appeal Body. The Toronto Local Appeal Body (TLAB) is an independent quasi-judicial tribunal established in 2017 under the City of Toronto Municipal Code Chapter 142, Local Appeal Body, the City of Toronto Act, and other provincial legislation. The TLAB has all the powers of the Ontario Land Tribunal related to the hearing of appeals of Committee of Adjustment decisions for minor variance and consent applications under subsections 45(12), 53(14), 53(19) and 53(27) of the Planning Act.

The TLAB has retained external legal counsel since 2017 to: (1) provide advice on questions identified by TLAB Members, with respect to specific hearings, as part of their decision making duties; (2) provide advice on the development, review or revision of operational policies, practice directions and rules; and (3) represent TLAB should it be a party to a specific court proceeding involving TLAB's jurisdiction, decision or process and representation is required.

This report recommends that the City Solicitor take over the provision of legal services with respect to items (1) and (2) above. External legal counsel would continue to be retained for any court proceedings and the City Solicitor would not provide advice on the merits of any case. Bringing these legal services in-house, now that the heavier workload of setting up the TLAB is complete, would be consistent with how legal support is provided to all other City tribunals and would result in improved support for the TLAB as well as the other tribunals. This change will require City staff to exercise its delegated authority to terminate the contract with the existing external legal service provider.

As a City tribunal, the TLAB requires legal counsel with knowledge and experience in administrative law. It also requires legal counsel with an understanding of the relationship between the City and its tribunals. This expertise is available in-house and, except for representing the TLAB in court proceedings, can be provided by Legal Services.

In-house counsel has extensive knowledge and experience in administrative law and have an in-depth understanding of the TLAB's place within the City. A net new position with Legal Services will provide the TLAB with efficient and effective legal support. Additionally, the position will bolster similar support provided by Legal Services to other City tribunals, including the newly created Multi-Tenant House Licensing Tribunal. Court Services currently allocates \$271,000 per year for the provision of external legal services for the tribunals in its portfolio. These include the Toronto Local Appeal Body, Administrative Penalty Tribunal, and Toronto Licensing Tribunal. The net new in-house position within Legal Services will provide these tribunals with legal services in respect of items (1) and (2) above.

On occasion, Legal Services is directed by Council to represent the City in proceedings before the TLAB. The division has appropriate protocols in place to ensure independence of the new position including that it will not be used to provide advice on the merits of any case.

## **CONTACT**

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## **SIGNATURE**

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Philip Arhinson  
Interim Director, Court Services

Wendy Walberg  
City Solicitor

Attachment 1 – Toronto Local Appeal Body Chair's 2022 Annual Report