

July 9, 2024

Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2
Attention: Nancy Martins

RE: PH14.3 Toronto Local Appeal Body - Chair's 2023 Annual Report

Dear Councillor Gord Perks, Chair, and Members of the Planning and Housing Committee,

In the fall of 2023, the Committee of Adjustment ruled against a building proposal affecting Craven Road. Weeks later, the Applicant appealed the COA's decision. Subsequently, residents of Craven Road followed the TLAB Rules and Procedures and filed in opposition to the Appeal.

We are here today so that our avoidably stressful and costly experiences are never repeated. No other residents navigating the rules of the TLAB should endure the inequity of being held to a different standard than their opponent. This submission is being made for three reasons: that Parties and Participants in the TLAB process must be treated equitably; that there be greater oversight of the TLAB particularly as to how Practice Direction 7 (conditions of "justifiable circumstances") is implemented; that given the impact of administrative errors, the TLAB reconsiders our request for costs.

It was our experience that the following TLAB Rules were violated:

TLAB Rule 2.1 The TLAB is committed to fixed and definite dates. These Rules shall be interpreted in a manner which facilitates that objective. As lay persons, appearing at the TLAB for the first time, we depended on the TLAB Rules, Procedures and Practice directions to guide us on how to submit documentation and respond to the opposing party. We went to great lengths to meet our deadlines. We expected the same from the opposing Party.

TLAB Rule 11. APPLICANT'S DISCLOSURE

11.1 Whether or not an Applicant is an Appellant, an Applicant shall disclose any intended revisions or modifications to the application that was made to the Committee of Adjustment for the City of Toronto.

11.2 The Applicant shall File using Form 3 an Applicant's Disclosure, including text and plans, with the TLAB not later than 20 Days after a Notice of Hearing is Served.

22 days after our Expert Witness statements were filed, the appealing Party submitted late disclosure, which was due November 27, 2023. The whole reason for timely disclosure as per the TLAB posted dates, is to give Participants and Parties a fair chance to respond and discuss submitted material. The violation of rule 11 deprived Craven Road residents of this opportunity, leading them instead to spend money to respond to original plans - plans rejected by the COA. As per the TLAB's Practice Direction 7, late filings compromise procedures of fairness and are to be discouraged, especially when there are no justifiable circumstances.

TLAB Rule 14.1 requires that a Form 5 be filled out if there is a change in representation. This December 5th, 2023 omission of this requirement had a ripple effect with real life consequences for the Craven Road residents. It was only 36 days later that the change of representation was "discovered" by the Craven Road residents.

TLAB Rule 15 obliges the Parties and Participants to consult the website to identify Parties and Participants for Service. Given that the TLAB neglected to remove the no longer active Representative's name from the People's List, the Craven Road residents were using inaccurate information on which to base their decisions and strategies in responding to the Appeal. A non active lawyer's name remained on the site for 36 days and the Craven Road Party's name was not posted on the site for 13 days, despite frequent calls asking them to do so.

TLAB Rule 16.8 states that Parties shall serve an Expert Witness statement on all parties and file the same with the TLAB using form 14, not later than 60 days after a notice of hearing is served. The Craven Road residents (Party and Participants) met this deadline. The appealing Party did not file expert witness statements, which is counter intuitive when filing an appeal.

TLAB Rule 17.10 A Notice of Response to Motion shall:

- a) state the Responding Party's response, including a reference to any statutory provisions or Rules to be relied on;**
- b) list and attach the Documents to be used in the response to Motion; and**
- c) be accompanied by an Affidavit setting out a brief and clear statement of the**

facts upon which the Responding Party will rely.

In their decision to deny us costs, the TLAB did not take into account that rule 17.10 (a-c) was not followed by the Party responding to our motion for costs.

TLAB Rule 28.6 allows the TLAB broad jurisdiction to award costs. Factors that are considered are

c) whether a Party failed to act in a timely manner;

d) whether a Party failed to comply with the TLAB's Rules or procedural orders;

e) whether a Party caused unnecessary adjournments, delays or failed to adequately prepare for a Proceeding

f) whether a Party failed to present evidence

h) whether a Party acted disrespectfully or maligned the character of any person connected with the hearing

i) whether a Party presented false or misleading evidence.

After receiving disclosure 22 days after filing our Expert Witness statements, the Craven Road residents submitted a motion for costs on February 5th, 2024. Seven minutes later, the appeal was withdrawn. This negated the whole process for an appeal and undermined all the efforts by the Craven Road residents to engage in a constructive appeal process. Since an Applicant can easily resubmit plans at the COA, nothing was achieved through the appeal, except the costs incurred by the Craven Road residents.

The issues are many and varied, and we couldn't summarise them succinctly in this document, but would be glad to submit more detailed information if required to get the full picture of the events. The Craven Road residents experienced all the items listed in Rule 28.6 (c, d, e, f, h, i). Given that the Appeal was submitted by a lawyer and other professionals, the Craven Road residents felt that in order to respond on an equal footing and properly prepare for the hearing on February 20, we needed to do the same. It should be noted that the Party and Participants of Craven Road did not initiate this process. Rather, a librarian, a teacher and a nurse, all from single income households, spent hundreds of hours and tens of thousands of dollars collecting, organizing and representing the views, interests and values of their community **as a response to unaltered building plans disclosed on November 27, 2023**, plans which had been rejected by the CoA months earlier. Craven Road residents followed the TLAB rules carefully and respectfully, submitting affidavits where necessary as well as itemized evidence of costs incurred.

To conclude, the 17 Participants and Party of Craven Road who participated in the TLAB process, formally request the City of Toronto to direct the TLAB to

- a) Reconsider our request for costs. The City should reimburse us for TLAB's failure to conduct themselves properly since they are a City operated and directed tribunal. Errors and omissions by the TLAB in following their own rules and procedures changed the course of events and people's lives who invested time and money to participate in the judicial process.
- b) We recommend that closer monitoring for adherence to rules and procedures might result in other residents avoiding what we went through.
- c) Equitable expectations for deadlines and required submissions are crucial in the TLAB's functioning. Deadlines and required submissions are not suggestions but play a vital role on which other vital components hinge.
- d) That the TLAB's failures set out in our letter be referred to the OMBUDSMAN to review and to report on the same; and,
- e) That the TLAB's failures set out in our letter be referred to the INTEGRITY COMMISSIONER to review and to report on the same.

Sincerely

Linda Kalafatides, Craven Road resident

Claudia Aenishanslin, Craven Road resident

Kim Hull, Craven Road resident

Cc: Dino Lombardi, Chair, Toronto Local Appeal Board

Brian Halloran, Manager, Court Operations - Tribunals, Court Services

Paula Fletcher, Councillor for Toronto Danforth, Ward 14