

# Toronto Local Appeal Body Public Guide

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## **Preface**

Welcome to the Toronto Local Appeal Body (TLAB).

This public guide has been produced to help you better understand how the TLAB works. The Public Guide provides information about the TLAB and its processes. If you are planning to appeal a decision from the Committee of Adjustment, or are looking for a general overview of the TLAB, this guide is a good place to start.

While this guide is a valuable resource, it is not a substitute for legal or professional advice. It does not replace the TLAB's Rules of Practice and Procedure, Forms, Practice Directions or Procedural By-law(s). This guide should be reviewed for information purposes only.

## **Part 1 – About the TLAB**

### **Overview**

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

### **Members**

The TLAB's Chair and Members are nominated by an impartial citizen-member nominating panel and recommendations for appointments are submitted to Toronto City Council. Toronto City Council appoints Members of the TLAB for a four-year term of office. There are seven Members of the TLAB, including the Chair.

Members are responsible for the adjudication of TLAB matters. Members are appointed to resolve disputes, hold hearings, and make decisions. For more information about the Toronto Local Appeal Body's Members, please view the Toronto Local Appeal Body website at [www.toronto.ca/tlab](http://www.toronto.ca/tlab).

## **Mandate**

The TLAB's mandate is to address and make decisions on appeals of Committee of Adjustment decisions under Sections 45 and 53 of the Planning Act. Hearings are conducted in an impartial manner and in accordance with the principles of natural justice. All TLAB proceedings must be conducted in accordance with the Statutory Powers Procedure Act (SPPA) and are guided by Rules adopted under that and related statutory authority. The City of Toronto Act provides authority for the enactment of the TLAB and the Tribunal's ability to make binding decisions.

## **History of the TLAB**

In 2014, City of Toronto staff undertook a public consultation process to identify the opportunities, issues, and challenges associated with creating a Local Appeal Body. A set of Guiding Principles for TLAB implementation was created based on the results. In February 2016, City staff submitted a report to City Council on the implementation of TLAB. City Council approved this report on March 31<sup>st</sup>, 2016 and directed the City Solicitor to bring forward the implementation by-law.

The TLAB by-law was passed by City Council on March 28, 2017 with an effective date of May 3, 2017. Following enactment, the TLAB Members formally adopted the tribunal's Rules of Practice and Procedure and administrative policies, after a period of earlier consideration in public meetings. The TLAB Rules of Practice and Procedure (the "Rules"), related Forms and administrative policies are available on the TLAB website at [www.toronto.ca/tlab](http://www.toronto.ca/tlab).

## **TLAB as an appeal body**

The TLAB provides a forum to hear land-use planning appeals when a Committee of Adjustment decision related to an application under Section 45 or Section 53 of the Planning Act is appealed. After a hearing takes place, a decision is made based on the relevant law and the evidence presented.

## **TLAB proceedings**

TLAB processes are designed to be paperless. (For Digital Requirements, please see Part 7 of this Guide). Given that the TLAB Rules introduce standards for disclosure and accountability, they include processes and requirements that operate under specific timelines. Persons with an interest in a TLAB proceeding are urged to access and comply with the appeal regime established by the Rules. Members will consider relief from the Rules on a case-by-case basis only.

## TLAB Forms

The TLAB provides its own forms. These forms must be used as directed in the Rules.

Where there is no form available, the following information must be included in your correspondence:

- the name of all known Parties and Participants in the Proceeding;
- the name of the person filing the Document and if applicable, that person's Representative;
- the email address, mailing address and telephone number of the person filing the Document, and if applicable, the same information for the person's Representative; and
- the Case File number, if available.

TLAB forms are referenced in this Guide.

## Part 2 – Filing an Appeal

The TLAB's Rules of Practice and Procedure establish the process for filing an appeal. Reading the Rules before filing an appeal is a good way to prepare. The following steps are based on the TLAB's Rules and will help you navigate the appeal submission process.

**Please note:** The Planning Act generally sets out who can appeal, how to appeal, and the deadlines for filing the different subject types of appeals. Refer to the legislation or seek professional advice for more information about these requirements and how they apply. **The law sets time limits on appeals. These must be respected or rights to appeal can be lost.**

### Step 1 – How do you know if you can appeal?

There are several factors to consider before you file an appeal:

- Do you disagree with a Decision of the Committee of Adjustment or conditions imposed?
- Have you applied to the City of Toronto for planning approval under Section 53 and not received a decision within the legislated timelines?

If you answered yes to any of these questions, you may be able to file your appeal.

## **Step 2: How do you know your appeal is to TLAB?**

The property may be subject to an existing or related appeal at the Ontario Municipal Board (OMB). If the property is subject to an appeal at the OMB, you must appeal to the OMB. The OMB will continue to have jurisdiction over appeals filed **before** May 3, 2017 and in the scenarios outlined below.

An appeal of a Committee of Adjustment decision **cannot** be made to the Toronto Local Appeal Body (TLAB) in the following scenarios:

### **Committee of Adjustment Decision Appeal Filed Prior to May 3, 2017**

The decision was appealed to the Ontario Municipal Board (OMB) prior to May 3, 2017. If this has happened, all persons wishing to file an appeal of the decision must file an appeal to the OMB with the Manager & Deputy-Secretary Treasurer, Committee of Adjustment. To find out if an appeal of the same matter was made before May 3, 2017 please contact the Committee of Adjustment Case Manager for the matter before filing your appeal. **Note this only applies to appeals from Committee of Adjustment decisions made or issued between April 13 and May 2, 2017.**

### **There is a Related Planning Application Appeal (E.g. Official Plan Amendment, Rezoning or Site Plan Appeal)**

There is an appeal to the OMB for the same matter under section 114 of the City of Toronto Act, under sections 17, 22, 34, 36, 38, 41 or 51 of the Planning Act or under a regulation made under section 70.2 of the Planning Act. If there is an appeal under one of these sections to the OMB, all persons wishing to file an appeal of the Committee of Adjustment decision must file an appeal to the OMB with the Manager & Deputy-Secretary Treasurer, Committee of Adjustment.

The OMB will occasionally receive related planning application appeals after a TLAB proceeding has commenced. The appellant or applicant is ultimately responsible for letting the TLAB know about related appeals filed with the OMB. To learn if there is a related appeal as noted above, search community planning applications in the **Application Information Centre** and contact the assigned planner if necessary.

### **The Appeal Period Has Expired**

The time period to file an appeal has expired. In this case, you cannot appeal to the OMB or TLAB.

Where there is already an appeal related to the same matter at the OMB, you must submit your OMB appeal to the Manager & Deputy-Secretary Treasurer within the appeal period. If you do not file your appeal to the proper appeal body in time, an appeal of the Committee of Adjustment decision cannot be made.

### **Step 3 – Know your appeal type**

You must be able to indicate the section of the Planning Act that relates to your appeal. You can find this information on the Notice of Decision.

### **Step 4 – Fill out your appeal form**

The appeal process to TLAB begins when a Notice of Appeal (Form 1) is filed in-person in digital PDF format on a CD/DVD with the Manager & Deputy Secretary Treasurer of the Committee of Adjustment. The Notice of Appeal must be completed in full and received by the deadline in the Committee of Adjustment's decision.

Notice of Appeal (Form 1) forms are available on the TLAB website or by contacting the TLAB. The Notice of Appeal is expected to be completed in typed format. If the information is hand-written, the writing needs to be legible.

If you complete the Notice of Appeal (Form 1) on your computer, you can sign it using a digital signature or an electronic signature. For a tutorial on how to incorporate a digital signature, please visit (coming soon). Otherwise, you will have to print the document, sign it by hand, and scan it into PDF format, for filing within the required time limit for appeal.

Please see Digital Requirements outlined in Part 7 of the Guide.

### **Step 5 – Submit your appeal to the Committee of Adjustment**

Appeals to TLAB are submitted to the Manager & Deputy Secretary Treasurer of the Committee of Adjustment for the City of Toronto. The Notice of Appeal (Form 1) must be submitted in person in digital PDF format on a CD/DVD at any of the Committee of Adjustment designated service counters listed below. A fee is payable at the time of filing of an appeal.



## City of Toronto Designated Committee of Adjustment Service Counters:

### Toronto and East York

Toronto City Hall  
Ground Floor, West Tower  
100 Queen Street West  
Committee of Adjustment Counter  
Toronto, ON M5H 2N2

### North York

North York Civic Centre  
Ground Floor, 5100 Yonge Street  
Customer Service Counter  
Toronto, ON M2N 5V7

### Etobicoke York

Etobicoke Civic Centre  
4<sup>th</sup> floor, 2 Civic Centre Court  
Committee of Adjustment Counter  
Toronto, ON M9C 5A3

### Scarborough

Scarborough Civic Centre  
3<sup>rd</sup> Floor, 150 Borough Drive  
Customer Service Counter  
Toronto, ON M1P 4N7

## Step 6 – Pay your appeal fee(s)

When you submit your Notice of Appeal (Form 1), Committee of Adjustment staff will review your application to ensure that you are filing within the appeal period, which is listed on the Notice of Decision. Filing an appeal by the deadline is a requirement under the Planning Act and a necessary step in the appeal process. Staff will also confirm that your appeal falls within the TLAB's jurisdiction. If there are any related appeals filed with the Ontario Municipal Board (OMB), your appeal is not eligible for review by the TLAB. If your appeal should be to the OMB, you must file an appeal to the OMB with the Manager & Deputy-Secretary Treasurer, Committee of Adjustment and it will be forwarded to the OMB.

Once this information is confirmed, you will be directed to pay your appeal fee(s) at a Toronto Building Customer Service Counter. Filing fee(s) can be paid by certified cheque, money order or cash. A certified cheque or money order must be made payable to the City of Toronto. A \$300.00 appeal fee is due for each appeal filed regardless if related and submitted by the same appellant—please see Fee Schedule in Part 8 of the Guide.

Once you pay the fee(s) a receipt will be provided. The Manager & Deputy Secretary Treasurer of the Committee of Adjustment will then prepare an appeal submission and forward this submission along with your Notice of Appeal (Form 1) to the Toronto Local Appeal Body.

## **Step 7 – Screening of Appeal Applications**

Upon receiving the completed materials for your Notice of Appeal (Form 1) from the Secretary Treasurer of the Committee of Adjustment, TLAB staff will review your appeal application to ensure your appeal form is completed in full and the date received by Committee of Adjustment is within the legal time limits. If any of these conditions are not met, the TLAB will not process the appeal and will send you a Notice of Non-Compliance (Form 16) via email. If the appeal is filed after the legal time limit, the matter will not be processed further, as described below.

If you receive a Notice of Non-Compliance (Form 16) for incomplete information, you can resume the appeal process by providing the required information within five (5) calendar days of the notice date. If you do not meet the compliance requirements within the time period outlined in the Notice of Non-Compliance (Form 16), your matter will be referred to a Member of TLAB for screening. If you filed your appeal late, it will be sent immediately for adjudicative screening. Any fees paid will not be refunded.

Non-compliance appeal applications are considered administratively by a Member of the TLAB. If an appeal does not meet the legal requirements, the Member may propose the dismissal of all or part of the matters subject to an appeal. If a Member of the TLAB proposes dismissal, you will receive a Notice of the Proposed Dismissal (Form 18), at which time you will be given ten (10) calendar days to provide a written response. Any fees paid will not be refunded.

## **Step 8 - After filing your appeal**

TLAB will post the property TLAB Case File Number and supporting materials on the TLAB website: [www.toronto.ca/tlab](http://www.toronto.ca/tlab).

Once all of the appeal information is submitted and verified, the TLAB will email you a Notice of Hearing (Form 2) applicable to this TLAB Case File. Important information related to your case will be provided in the Notice of Hearing (Form 2) including the hearing date, time and location.

Notices of Hearing (Form 2) will also be emailed or mailed by TLAB to the applicant (if different from appellant), all interested persons from the Committee of Adjustment hearing, and in the case of Section 45 matters, the registered owners of all neighbouring properties within a 60 metre radius of the property under appeal. Provincial legislation and regulations may also require service of the Notice of Hearing (Form 2) on other persons.

**If you are the applicant and plan to make any revisions or modifications to your original application that was heard by the Committee of Adjustment**, you must provide this information by filing an Applicant's Disclosure (Form 3) along with any supporting documents via email to the TLAB no later than 15 calendar days after the Notice of Hearing is issued. The due date for filing the Applicant's Disclosure (Form 3) is listed on the Notice of Hearing (Form 2).

TLAB will post information received on the TLAB website for the benefit of the public and all those interested in the appeal Case File.

\*All Forms referenced are available on TLAB website in fillable PDF format.

## Part 3 – Roles in a Hearing

Hearings are a final step in a TLAB proceeding. In order to take part in a TLAB hearing, you must be a party or a participant. TLAB hearings are generally open to the public, but only a party or participant can have an active role in a hearing. Disclosure of your requested status is required by the TLAB Rules. The Notice of Hearing (Form 2) includes the last date for electing to pursue party or participant status.

### Parties

#### What is a party?

A party is a person or organization that is accepted as a party by the TLAB. When a Notice of Hearing (Form 2) is issued, the parties are considered to be the applicant to the Committee of Adjustment, the City, and any person(s) who filed an appeal against the decision of the Committee of Adjustment, if different. A party is entitled to full rights of hearing participation and is obligated to receive and provide documentation. In rare circumstances, a party may be held liable for costs of unreasonable conduct.

To request to be added as a party to an appeal proceeding before TLAB, please see "How do I ask to be a Party" section below. For some matters, there are conditions to becoming a party. The TLAB may also add a party to a matter if there are good reasons for it.

If an unincorporated group wishes to become a party, the group must appoint one person to speak for it. The person appointed must accept the responsibilities of a party. Legal representation is not required but a party may wish to hire counsel, a representative, or an agent depending on the complexity of the case. Lawyers and representatives question witnesses and make statements and arguments based on the evidence presented. A representative, who can be either a lawyer or a non-lawyer, must have a licence under the Law Society Act to represent a party in a legal proceeding. However, an exemption exists allowing persons who are not in the business of providing legal services to occasionally provide assistance.

### **How do I ask to be a party?**

All individuals and organizations that wish to be a party in a hearing must inform the TLAB that they want to be a party. This must be done by filing a completed "Notice of Intention (Election) to be a Party or Participant" (Form 4) to the TLAB within 20 calendar days of the Notice of Hearing (Form 2) being issued. You can find the due date for filing this form on the Notice of Hearing (Form 2) for your Case File.

The Notice of Intention (Election) to be a Party or Participant (Form 4) is available on the TLAB website in fillable PDF format. A copy of your request will be posted online by TLAB as part of the Case File documents.

Submitting a Notice of Intention to be a Party or Participant (Form 4) does not guarantee party status. The submission of Form 4 does provide party status until there is an order of the TLAB to the contrary. A TLAB Member can decide whether party status should be approved or denied based on established criteria. These criteria include:

- Whether the person's interests may be directly and substantially affected by the proceeding or its results;
- Whether the person has a genuine interest (public or private) in the subject matter of the proceeding;

- Whether the person is likely to make a relevant contribution to the TLAB's understanding of the issues in the proceeding; and
- Whether there are endorsements or objections to party status from established parties.

Member decisions regarding party status that are challenged are made by Motion (Form 7), as described more fully below.

Challenges to party status need to be made in accordance with TLAB Rules, including within the time period allowed for Notices of Motion (Form 7).

### **What are the parties' responsibilities prior to a hearing?**

As a party, you are required to provide a copy of all the Documents and Witness Statements you wish to present as evidence at the hearing.

- Documents (Rule 16) are required to be filed with TLAB thirty (30) calendar days after the Notice of Hearing (Form 2) is issued.
- Any witness statements must be submitted using the Witness Statement (Form 12) within forty-five (45) calendar days of the Notice of Hearing (Form 2) being issued.
- Expert witness statements for an expert witness expected to give testimony at the hearing must be submitted using the Expert Witness Statement (Form 14) along with Acknowledgement of Expert's Duties (Form 6), within forty-five (45) calendar days of the Notice of Hearing (Form 2) being issued.

All forms are available in fillable PDF format on the TLAB website [www.toronto.ca/tlab](http://www.toronto.ca/tlab).

You can find the due date for filing Documents, Witness Statements, and Expert Witness Statements on the Notice of Hearing (Form 2) to be posted, issued, and served.

### **What are the parties' responsibilities at a hearing?**

Parties may participate fully in a hearing by having exchanged documents, by presenting evidence, questioning witnesses, and making submissions to the TLAB. Parties should be prepared to answer questions, cross-examine witnesses and are subject to cost requests. A party may also request costs,

adjournments or a review of the TLAB's decision. For a full description of parties' responsibilities, please refer to the tribunal's Rules of Practice and Procedure.

Generally, parties at the hearing should:

- Describe their point of view on the matter;
- Submit all necessary documentation in electronic format and be prepared to present the documentation in electronic format as exhibits at the hearing (this includes any maps, case law, Documents, etc.);
- Present their case using exhibits, witnesses and other eligible evidence;
- Challenge, by cross-examination and questioning the other parties, participants, witnesses and evidence;
- At the end of the hearing, give final arguments or a summary of all their evidence;
- Follow the Rules of Practice and Procedure for providing Documents to the other parties and other important instructions that are required to be followed before the hearing.

## **Participants**

### **What is a participant?**

A participant is a person or organization that participates in a Case File on appeal by making their views known through filings and a statement to the TLAB, on some or all of the issues. A participant may attend all or only part of the proceedings. Participants are not required to make submissions to Committee of Adjustment before becoming involved in a TLAB matter; a participant is neither an appellant nor a party to the proceeding.

When making a statement to the TLAB during the prehearing and hearing, participants must swear to tell the truth. At the hearing of the matter under appeal, a participant may be questioned by the TLAB Member and other parties. Participants do not question witnesses and cannot ask for costs or file motions.

### **How do I ask to become a participant?**

All individuals and organizations that wish to be a participant must inform TLAB of their wish to be a participant in a hearing. This can be done by submitting a Notice of Intention to be a Party or

Participant (Form 4) to the TLAB via email at [tlab@toronto.ca](mailto:tlab@toronto.ca) within twenty (20) calendar days of the Notice of Hearing (Form 2) being issued. This information is available in fillable PDF format on the website. A copy of your request will be posted online by TLAB as part of the Case File documents.

Submitting an Intention to be a Party or Participant (Form 4) does not guarantee participant status.

The submission of Form 4 does provide participant status until there is an order of the TLAB to the contrary. A TLAB Member can decide participant status should be approved or denied based on established criteria.

These criteria are similar to the party status criteria mentioned above. The assigned Member may also consider whether the person's connection to the subject matter of the proceeding is remote.

Member decisions regarding participant status can be made at any time the TLAB Rules permit.

Participants can withdraw their status at any time.

### **What are participants' responsibilities prior to a hearing?**

All individuals and organizations requesting to be a participant prior to a hearing must submit a Participant's Statement (Form 13) no more than forty-five (45) calendar days after the Notice of Hearing is issued – this due date appears on the Notice of Hearing (Form 2). Participants have the option of not attending the hearing. However, the assigned Member may not give the written statement the same weight as a statement made in person since participants cannot be questioned about their statement if not present at the hearing.

### **What are participants' responsibilities during a hearing?**

Generally, participants at the hearing should:

- Show up on the first day of the hearing at the start time;
- Provide their name and address for the record;
- Give their oral testimony or written statement to the TLAB at the time determined by the Member conducting the hearing.

Participants may be heard at the end of a hearing. It is generally advisable that a participant hear all of the evidence preceding their contribution to ensure appropriate relevance and contribution. During a longer hearing, the TLAB may set a specific time for participants as a matter of convenience to all present.

Participants to a proceeding may **not** call or cross-examine witnesses, claim costs, make closing statements, bring forward motions (except a motion to seek party status), or ask for a review of a decision. A participant may not participate in mediation unless approved by the TLAB.

## **Representatives**

If you are a party or participant in a proceeding, you may choose to be represented by an authorized agent. Legal representatives and authorized agents must confirm authorization to act for a party or participant by either indicating on a Notice of Appeal (Form 1) that he or she is authorized, or by filing an Authorized Representative Form (Form 5) to the TLAB via email at [tlab@toronto.ca](mailto:tlab@toronto.ca). If authorization changes, the TLAB and all other parties must be notified through the service and filing of a new Authorized Representative (Form 5). Representatives who are not lawyers or licensed paralegals may have their qualifications reviewed by the Member presiding.

A representative must be authorized under the Law Society Act. There is an exemption that allows for persons who are not in the business of providing legal services to occasionally assist a friend or relative for no fee.

If you choose to be represented by an authorized representative, all communications related to the hearing will be forwarded to the representative. In addition, if a person testifies as a witness, that person cannot be a representative on your behalf.

## **TLAB Hearings – General Attendance**

TLAB hearings are open to the public. Anyone may attend a hearing to see how the TLAB process works or to be informed of what is happening with a TLAB matter. In some rare cases, a hearing may be closed to the public if the TLAB Member determines that a matter should be heard in private.



## Part 4 – Types of Meetings

There are several types of meetings available to parties in a TLAB proceeding. Throughout, TLAB encourages the persons with an interest in a Case File to resolve any matters in dispute. There are a variety of vehicles, formal and informal, to accomplish this objective. These include off-line discussions, settlement hearings, mediations that are private or with a TLAB member and resolutions reached during the Quiet Zone, a one-month period prior to the Hearing when formal proceedings are generally not available. Once a hearing date is scheduled with the Notice of Hearing (Form 2), you might want to consider your early resolution options as hearing appointments are considered fixed. There are also mechanisms in place in the Rules to organize beforehand complicated matters and request information from other parties (conversely, other parties can request information from you). This section outlines the different types of meetings that may be scheduled in advance of the hearing date designed for early resolution, organization, and information retrieval purposes. It also outlines the different types of hearings.

### Mediation

Once a Notice of Hearing (Form 2) is received, you may consider mediation as a means of addressing possible settlement of the dispute. Unlike a hearing, a mediation is voluntary and includes only the parties to a matter (or those directed by the TLAB to attend). Parties should first contact each other and agree to mediation before requesting it from the TLAB. However, the TLAB Rules provide that TLAB may order non-binding mediation in circumstances it deems appropriate. If the TLAB appoints or agrees to mediation, a TLAB Member will mediate with the parties in an effort to reach an agreement on some or all of the issues in dispute.

If the dispute is resolved, the TLAB may schedule a settlement hearing on an earlier available date. If an agreement is not reached at mediation, a hearing will occur as outlined in the Notice of Hearing (Form 2).

If you want to have a mediation, you should make your intention known to the TLAB by indicating your desire as soon as possible via email.

### Prehearing

In infrequent circumstances, the TLAB may hold a prehearing meeting before a hearing, especially if the matter in dispute is expected to be long, complicated, or engaging multiple parties and participants. Prehearings are open to the public and usually:

- Identify issues, parties and participants;
- Organize complicated matters;
- Decide what documents should be exchanged;
- Determine procedures before and during the hearing.

### **Should a prehearing be held for the matter I am involved in?**

Clarifying the issues is one of the most important reasons for holding a prehearing. Sometimes holding a prehearing can lead to a settlement on some, or even all, of the issues. It also ensures that some, if not all, of the issues are addressed before a hearing takes place. If the matter you are involved in is complicated (i.e. has many issues, parties and types of evidence), a prehearing may be held for your matter or on a motion for consideration.

### **How do I prepare for a prehearing?**

A party must complete and file a Notice of Motion (Form 7) to request a prehearing. A Notice of Motion helps to identify the issues and outlines what the parties want the TLAB to order following the prehearing conference.

### **What happens at a prehearing?**

A TLAB Member presides at the prehearing. One of the key outcomes of the meeting may be to identify the parties and participants. At the meeting, the Member, with the assistance of the parties and participants:

- Identifies the roles and responsibilities of the parties and participants;
- Deals with preliminary issues and motions;
- Discusses procedures for the hearing;
- Clarifies the questions and issues that will be dealt with at the hearing;
- Discusses and possibly settles some issues; or,
- Determines any exceptional circumstances that might affect the length and date of the hearing.

### **Do I have to attend a prehearing?**

If you want to take part in a hearing, you must attend the prehearing (if a prehearing is scheduled). If you are going to be represented at the hearing, your representative should attend the prehearing. Recall that the TLAB expects that representatives have the necessary qualifications required by the Law Society of Upper Canada and have full authority to advance the interest of their principals. If you or your representative does not attend the prehearing, it will continue at its scheduled time and you may not be notified of future proceedings.

### **How will I learn about a prehearing?**

If a prehearing is scheduled, all parties will be notified and the Notice of Prehearing (Form 17) will be posted on the TLAB website.

### **What happens after a prehearing?**

The TLAB may issue a Procedural Order outlining the procedure and issues for the hearing. If appropriate, it can issue a decision or order on motions or agreements reached prior to or during the prehearing.

Prehearings will not be held during the Quiet Zone within thirty (30) calendar days of the hearing date, unless the Member directs otherwise. If you want to have a prehearing conference, you should make your intention known to the TLAB as soon as possible by filing a Notice of Motion (Form 7).

For more information on prehearings, please refer to Rule 21 of the TLAB's Rules of Practice and Procedure.

## **Motions**

A motion is a type of meeting that allows you to ask the TLAB to make an order on a matter before the hearing. Motions are discouraged during the Quiet Zone, a period of thirty (30) calendar days before the scheduled hearing. At a Motion, you will be asked to explain and give reasons for your request. Some types of motion hearings include requesting:

- A settlement hearing
- A mediation or prehearing
- Someone to provide disclosure
- A change of hearing date

- Directions on a procedure that applies to the case.

### **What is the motion process?**

If you want to submit a motion, you should make your intention known to the TLAB as soon as possible. The first step is to contact the TLAB office to receive a date, time, and location for your motion.

Once you receive a date from the TLAB, you must send via email to the TLAB and all other parties:

- The Notice of Motion (Form 7);
- A brief and clear sworn statement in the form of an Affidavit (Form 10) detailing the issues and facts that support your request;
- A statement about what you want the TLAB to order;
- Electronic copies of any documents that will be used to support at the motion.

This must be done no later than forty-six (46) calendar days **before** the hearing date – this date will appear on the Notice of Hearing (Form 2).

Parties taking a position on the Motion have obligations and time limits as set out in the TLAB Rules of Practice and Procedure, Rule 17.

TLAB will post the Notice of Motion (Form 7), the Notice of Response to Motion (Form 8) and any Notice of Reply to Response to Motion (Form 9) received and served by the parties.

### **Where will the motion be held?**

Motion meetings are usually held in-person at the TLAB premises. Sometimes the TLAB will hear a motion by telephone or video conference or consider a written motion. In deciding what kind of motion to hold, the TLAB may look at:

- How many parties are involved;
- If the parties have been notified about the motion;
- How long the motion is expected to last;
- If evidence can be presented over the phone or via video conference.

In the case of an electronic or written motion, TLAB will advise the parties accordingly at its earliest opportunity.

### **When do I deliver a Notice of Motion (Form 7)?**

For a motion meeting in person or by telephone / video conference, you must deliver the Notice of Motion along with relevant documents to all parties and the TLAB via email at least fifteen (15) calendar days before the motion date provided by TLAB.

### **Can a party respond to a Notice of Motion (Form 7)?**

A party can respond to a Notice of Motion. The responding party must deliver a Notice of Response to Motion (Form 8) with supporting Affidavit (Form 10) to the TLAB and all parties at least seven (7) calendar days before the motion date. The party must also file a sworn statement that this was done, before or at the hearing of the motion.

The Notice of Response to Motion should include a reference to any rules or laws to be relied upon; list any attached documents to be used in the response and be accompanied by the Affidavit (Form 10) setting out a brief and clear statement of the facts relied upon.

### **Can I reply to a Notice of Response to Motion (Form 8)?**

You can reply to a Notice of Response to Motion (Form 8) by serving your Notice of Reply to Response to Motion (Form 9) on TLAB and all other parties. The reply can only address and include new issues, facts and documents raised in the Notice of Response to Motion (Form 8) and state your reply, including any additional documents. Your reply must also be accompanied by an Affidavit (Form 10) setting out a brief statement of facts relied upon.

Your Notice of Reply to Response to Motion must be filed no later than four (4) calendar days before the motion date.

## **Hearings**

TLAB Members conduct hearings. These hearings are intended to be conducted in a less formal manner than a court proceeding but are more structured than a City Committee meeting. For example, when you give your evidence you must swear or affirm to tell the truth and other parties may ask you questions (cross-examine you). The witness must prove that all evidence, including

written documents and photographs, is valid before it can be admitted as evidence. Any documents to be referenced are to be accessible in electronic form; this will require a deliberative preparation and loading of evidence in CD/DVD or other display device onto TLAB facilities, to achieve an uninterrupted and timely delivery of your evidence.

If the hearing is complex, it may involve lawyers, many witnesses, and long presentations. Parties can call witnesses who may include local residents, concerned citizens and \*expert witnesses. All witnesses are placed under oath or affirmation to tell the truth. The length of a hearing depends on the complexity of the matter. It can range from a couple of hours to a full day.

\*An expert witness is an individual who has scientific, technical, or other specialized knowledge gained through qualifications, including experience and whom the TLAB agrees is an expert.

A hearing may be oral, electronic, or written.

## Public Meetings

TLAB conducts public meetings throughout the calendar year. The tribunal's Procedural By-law 1 guides public meeting practices.

Information about public meetings is posted online at [www.toronto.ca/tlab](http://www.toronto.ca/tlab). Agendas are posted in advance of the meeting date and minutes are posted after the meetings.

The TLAB will accept public deputations by oral presentation or written submission when it is considering changes to rules, practice directions, or policies of the tribunal if requests are received in the format and time periods outlined below.

The TLAB will accept public deputations by oral presentation on any Business Meeting agenda item if requests are registered with the Secretary one (1) business day before the meeting by 12:00 p.m. noon.

The TLAB will accept public deputations by written submission on any Business Meeting agenda item if requests are registered with the Secretary five (5) business days before to the meeting by 12:00 p.m. noon.

Email your request to [tlab@toronto.ca](mailto:tlab@toronto.ca). Your email must contain the TLAB Business Meeting date and the agenda item in the subject line.

## **Part 5 – Preparing for a hearing**

If you are a party or a participant to a TLAB matter, it is important that you be prepared for the hearing. The following section tells you how you can better prepare yourself for a TLAB proceeding.

### **Review the Rules of Practice and Procedure**

The Rules of Practice and Procedure provide essential details about TLAB processes and procedures. Reading the Rules before appealing to the TLAB may help you to be better prepared for the process.

TLAB Rules of Practice and Procedure, and required Forms are posted on the TLAB website at: [www.toronto.ca/tlab](http://www.toronto.ca/tlab).

From time to time, TLAB may issue Practice Directions to supplement matters ancillary to the Rules and as an aid to the public. As with the Rules and Forms, attention to Practice Directions are important aides to ensure your opportunity to influence the disposition of a matter.

### **Hiring a lawyer or representative**

You do not need to hire a lawyer or licensed paralegal to appeal or participate in a TLAB appeal. Some parties hire a lawyer. Lawyers and qualified representatives can be of measurable benefit to help prepare your case and at the hearing, question witnesses, and make statements. Having a legal representative presents an opportunity for a disciplined and time efficient process where the parties are focused on moving through the process for a disposition based on relevant considerations.

If you do not hire a lawyer or representative, you should be prepared to:

- Do your own research on the matter.
- Find and prepare the presentation of the documents and evidence you need for your case.
- Serve an electronic copy of the Documents, Notices, (Forms), Witness Statement, and Motion materials, if any, on all parties and the TLAB in advance of the hearing and in accordance with the TLAB's Rules of Practice and Procedure.
- Speak on your own behalf at the hearing; and,
- Present your evidence at the hearing.

Generally, a party without a lawyer or representative cannot both question the witnesses of other parties or participants as well as give evidence under oath or affirmation. An election may be required so as to avoid the conflict inherent in being both an advocate and a witness giving evidence to aid the public decision making process.

### **Summoning a witness**

If you want a person to give evidence who would not otherwise be at your hearing, you may ask the TLAB to issue a summons ordering him or her to attend. You may serve a summons on a person (in Ontario) in order to ensure the attendance of that person as a witness, so he or she can give evidence or present or prove documents. A TLAB summons tells witnesses that they must attend the hearing, the details about the hearing, and all relevant documents they need to bring to the hearing.

### **What is the process of requesting and issuing a summons?**

To request a summons:

1. Fill out a Request for Summons (Form 11). This form is available on the TLAB website. There is no fee to request a summons, however, TLAB approval for its issuance and service is required.
2. Return the completed form to the TLAB by email. The TLAB Chair will review your request and either grant or deny your request. If granted, the TLAB Chair will sign it and issue the summons to you with instructions. Follow the instructions provided.
3. The TLAB may ask for more information. If so, please provide the information as soon as possible.
4. Please serve the summons to the witness together with costs at least thirty (30) calendar days before the date of attendance. The witness must receive the summons in person. YOU CANNOT MAIL OR COURIER IT.

### **What happens if the TLAB denies my request to summon a witness?**

If your summons request is denied, the TLAB will notify you of the denial by email.

### **Do I have to pay the witness I have summonsed?**



If you summon a witness, you are responsible for covering the prescribed costs of attendance. The fees are set out in the Courts of Justice Act, Rules of Civil Procedure Tariff A (Part II – Disbursements). Payment must be made to the witness when the summons is delivered.

**Does the TLAB send the summons for me?**

No, you are also responsible for serving the summons. The witness must receive the summons in person. You cannot mail or courier it.

**Should I use expert witnesses?**

Expert witnesses can support your case by answering technical questions and providing non-partisan opinion evidence. If you retain an expert witness, he or she will have to prepare an Acknowledgement of Expert's Duty (Form 6) and an Expert's Witness Statement (Form 14). You will have to serve the other parties or their representatives with your Expert Witness Statement(s) and report(s) within forty-five (45) calendar days after the Notice of Hearing (Form 2) is issued. This date is listed on the Notice of Hearing (Form 2).

**What happens if someone does not attend the hearing after receiving a summons?**

Persons properly served with a summons to attend are required by law to attend in response to the summons. Failure to attend is punishable as contempt of Court.

For more information about requesting a summons, please read Rule 25 of the TLAB's Rules of Practice and Procedure.

**Disclosure**

If you are a party, you are required to serve all other parties with a copy of every document, or relevant portion of a public document, that you intend to rely on at a hearing. These documents must also be filed with the TLAB. The deadline for serving all documentation on other parties and the TLAB by email is no later than thirty (30) calendar days after the Notice of Hearing (Form 2) is issued. Witness Statements, Participant Statements, and Expert Witness Statements are to be served no later than forty-five (45) calendar days after the Notice of Hearing (Form 2) is issued.

The disclosure obligations apply to all parties.

Any document not served within this time period may be disallowed as evidence at the hearing.

At any stage of a proceeding, the TLAB may make orders for:

- The discovery of documents from another party;
- The exchange of witness statements and expert's witness statements and reports;
- The provision of particulars;
- The exchange of a list of issues; and
- Any other form of disclosure.

## **Evidence**

You can give the TLAB evidence in the form of photographs, reports, letters, videos, and digital models. All exhibits must be in digital format and submitted to the TLAB office in advance of the hearing date via email, CD or DVD. Please see digital requirement in Part 7 of the Guide.

All parties and participants are required to regularly consult the TLAB website during the course of a proceeding. All materials that you file with the TLAB before or at a hearing is placed in the public file. Nothing is confidential unless the TLAB orders it.

## **Accessibility**

Most TLAB meetings and hearings are held in hearing rooms located at 40 Orchard View Blvd, 2<sup>nd</sup> floor, Suite 211, in Toronto. Hearing rooms are accessible via elevator or stairs.

Once a Notice of Hearing (Form 2) has been issued for a hearing, anyone who has questions about the accessibility of a hearing venue should contact the Accessibility Coordinator named on the Notice.

The TLAB is committed to providing services as set out in the Accessibility for Ontarians with Disabilities Act, 2005. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible at [tribunalaccess@toronto.ca](mailto:tribunalaccess@toronto.ca) or 416-392-5546.

## **Part 6 – The Hearing Process**

A hearing gives you the opportunity to present your case to the TLAB. The TLAB hears appeals on applications of land use planning matters under section 45 and section 53 of the Planning Act. TLAB hearings are usually open to the public, unless it is not practical as in some electronic or written hearings or if there is an issue with confidentiality.

## **How is a TLAB hearing held?**

A TLAB hearing may be held in person (orally), by telephone or video conferencing (electronically), or in written form. A hearing will be held orally unless TLAB determines otherwise and advises the parties. A Notice of electronic or written hearing will appear on the Case File website address.

### **Oral hearings**

The normal TLAB hearing will proceed orally; these in-person hearings usually follow the established pattern of courtroom practice. They are less formal than a court proceeding but more formal than a Committee of Adjustment meeting.

If the hearing is complex, it may involve lawyers, many witnesses, and lengthy presentations. In addition to local residents and concerned citizens, parties often call expert witnesses to testify about an issue. All witnesses must be sworn in or affirmed and all evidence needs to be digitally presented on available facilities.

All oral and electronic hearings held in TLAB facilities are digitally recorded as described below under Recording a Hearing, with copies available as provided in the Rules. Other recordings are generally not permitted.

### **Electronic hearings**

These hearings take place either by telephone or video conferencing. All relevant documentation must be sent to the TLAB before the hearing event. Cell phones are not allowed for the conduct of hearings that take place by telephone.

### **Written hearings**

A written hearing allows parties to submit to the TLAB all evidence and arguments electronically in writing. Instructions for the hearing will be sent out by email.

## **Recording a hearing**

Hearings are recorded by the TLAB. For a copy of the digital audio recording of a hearing, you must submit a request and pay the required fee. You may arrange, at your expense, for a qualified verbatim reporter to transcribe the hearing or part of the hearing.

## **What usually happens at a hearing**

At a hearing, the TLAB Member presiding will determine the order of who should present evidence (including witnesses).

The first party presents evidence, followed by any other parties who support that position. Then any parties who oppose that position give their evidence. Each witness may be examined and cross-examined by parties with an interest in the evidence heard.

Generally, the first party to lead evidence on the appeal has a right to respond to the evidence presented by those parties in opposition. He or she should only speak to the issues raised in the evidence. Only the first party has the right to reply.

The Member presiding can stop witness testimony if he or she does not present relevant evidence or is unduly repetitive or unresponsive. After all the evidence is presented, the parties can give final arguments orally, or, if directed, in written form within a prescribed period.

## **Presenting evidence**

A witness presenting evidence at a hearing must swear or affirm that their evidence is the truth. Some evidence, including public documents such as the municipality's official plan or a by-law, is accepted without proof through a witness. However, you will have to provide an electronic copy of the relevant parts of any current in force plan or bylaw, unless otherwise presented in evidence by the City of Toronto or other government agency.

Every document in a TLAB proceeding, including all visual evidence, must be provided in advance and available to be shown in electronic PDF format. Digital display equipment and instructions will be provided by TLAB staff to make the process run smoothly. All evidence will be displayed in electronic format during a hearing.

Parties should come prepared with a laptop, electronic tablet, or phone capable of connecting to a digital TV through either HDMI cable, HDMI adaptor or USB. This equipment is required to display evidence in electronic format during a hearing. TLAB will provide a multi-device adaptor compatible with most devices. If you require an adaptor, please call TLAB staff in advance of your hearing date to make arrangements.

All evidence must be related to the issues and on a topic that the TLAB has the authority to deal with. The Member may stop a witness from speaking if the witness is not giving evidence that is related to the issues.

### **Do I need representation at the hearing?**

You do not need to have representation to appear at the TLAB although there may be instances as described above where it is advisable. You may represent yourself. If you decide to hire a planner, architect, or other professional to represent you, you need to ensure that the person is licensed as a representative through the Law Society of Upper Canada (LSUC) or they may not be able to represent you at the hearing. Different rules of representation may apply if you have a friend or relative represent you.

A representative cannot be an expert witness in the same proceeding.

### **Will a decision be made at the hearing?**

The Member may give a decision at the end of a hearing or in writing at a later date (a reserved decision).

The decision comes into effect only when the TLAB issues its written decision and order. When the decision is issued, it will be sent to all the parties and posted on the TLAB website.

An oral decision is not in effect until TLAB issues its written decision and order unless the Member directs otherwise, subject to the Rules.

### **After the hearing – decisions and orders**

The TLAB Member may make a decision at the end of a hearing or the decision may be reserved (issued at a later date). The Member who hears the appeal delivers the decision. The decision may not refer to all of the evidence presented at a hearing, but may only refer to the evidence and issues that the TLAB considers most relevant.

TLAB decisions issued are available to view on the TLAB's website. Generally, decisions are issued within thirty (30) calendar days or less of a hearing. Decisions that are more complex may take longer to issue.

A TLAB decision speaks for itself. It would be inappropriate for the TLAB's administrative or communications staff to paraphrase or attempt to interpret decisions. Letting the written decision speak for itself prevents potential confusion.

Decisions of the TLAB become final only when it issues a formal order. The TLAB usually issues the decision and order in one document. Sometimes, it may issue a decision but delay the order or make the order contingent on certain conditions being met.

## **Decision reviews and appeals**

If you disagree with a TLAB decision, you may ask the TLAB to review it. TLAB will rarely grant a review and/or make changes to a decision. The TLAB will turn down review requests that provide the same evidence or re-argue the issues.

### **Can the TLAB turn down the request for review?**

The TLAB will also refuse a review request if:

- A non-party makes the request;
- It is filed more than thirty (30) calendar days after the TLAB issues a decision;
- The requestor does not supply all of the information within 21 calendar days of any TLAB request (unless there are very good reasons to extend the time); or
- It is a request to review a decision that has already undergone a review.

For the TLAB to consider a review, you need to prove that it made an error that, if known, may have changed the decision. The TLAB would need proof that it:

- Acted outside its jurisdiction;
- Violated natural justice such as by not giving notice of the hearing;
- Made a material error of fact or law which would likely have resulted in a different order or decision;
- Heard false or misleading evidence that could have changed the decision; or
- Should consider new evidence not available at the time of the hearing that could change the decision.

## How do I request a review of a TLAB decision?

To request a review of a TLAB decision:

1. Complete a sworn statement, an Affidavit (Form 10) outlining your reasons; the grounds for the request; any new evidence supporting the request and any applicable Rules or law supporting the request.
2. Serve your request and Affidavit (Form 10) on TLAB and all parties within thirty (30) calendar days of the TLAB's written decision.

## What happens after I send the request?

If it appears there might have been an error that may have changed the decision, the TLAB may exercise one or more of a number of options set out in its Rules. The TLAB may: require a motion; ask the parties to reconvene the matter; decide to schedule a re-hearing; vary, or amend the decision; or it may reject the request.

You may be required to provide the other parties who attended the hearing with the notice of motion along with your sworn statement at least thirty (30) calendar days before the date of any reconsideration.

## How can I appeal or ask for a judicial review of a TLAB decision?

If you think that the TLAB made an error on a question of law in its decision, you may bring an application for judicial review to the Divisional Court. People usually hire a lawyer to seek leave to appeal to the Divisional Court because of the complex procedures and issues. You should contact a lawyer who specializes in this area or the Registrar of the Divisional Court for more information about court processes and procedures. A limitation period applies and needs to be respected.

For further information, please refer to Rule 31 of the TLAB's Rules of Practice and Procedure.

## Part 7 Digital Requirements

Every document in a TLAB proceeding, including all visual evidence, must be provided and shown in electronic PDF format.

- The tribunal recognizes that people may not have technical expertise with computers and may request support. If you have questions related to the electronic filing of forms, documents,

digital signatures, or any other electronic correspondence, TLAB office staff may provide limited assistance on request. Specific directions may require the advice of persons qualified to provide assistance. TLAB support staff cannot assume responsibilities belonging to parties and participants, give advice on responsibilities or provide compliance reporting with the TLAB Rules of Practice and Procedure. TLAB support services can be contacted by telephone at 416-392-4697 or by email at [tlab@toronto.ca](mailto:tlab@toronto.ca).

## Digital email requirements

- All documents and forms which are served by email on other parties (persons) related to a TLAB proceeding must also be copied (Cc'd) to the TLAB at [tlab@toronto.ca](mailto:tlab@toronto.ca).
- All emails related to a TLAB proceeding must include in the subject line:
  - TLAB Case File number
  - Name of Form or title of the Document
  - Property address.
- It must be clear who the sender is and who is the intended recipient(s). The type of matter must be addressed in the body of the email.
- The email message including attachment(s) must not be larger than 10MB or it will be rejected by the system. Alternative service requirements should be discussed with TLAB Staff; however, Rule requirements for service must be met.
- Electronic service and filing of forms and supporting documents and materials may be done by sending more than one email. In the event more than one email is required to serve and file the forms and supporting documents, the emails should clearly identify that the emails relate to the same in the subject line.

## General digital requirements for TLAB documents and evidence

- All drawings must be in metric and drawn to a standard scale (i.e. 1:100, 1:200, 1:500);
- All drawings must contain one diagram, to scale, per page;



- Font of plans and drawings is to be sufficiently legible (if the plans and drawings are not sufficiently legible on a 215 mm x 279 mm (8.5" x 11"), they may need to be resubmitted at the provider's expense);
- Drawings must display the municipal address, TLAB Case File Number, project name, drawing title, preparation date, site and project statistics;
- North arrow with appropriate cross-references to other plans, elevations or cross-sections;
- Legend for all symbols, hatching and shading;
- All files must be submitted in "Portable Document Format" (PDF), version 7 or later;
- Plans/Drawings with multiple pages and sets must be combined into a single PDF file;
- All submission material must be submitted without a password and/or restrictions;
- Drawings must not have any layers;
- Photographs must be digitally unaltered taken through a standard lens, neither telephoto nor wide-angle, and presented as actual size PDF attachments with locator descriptions and identification as above and below described, naming the photographer; and
- Total size for each digital file should be **less than 10MB**.

### **Digital file naming conventions for TLAB evidence**

The Digital file names must describe the digital file including form or document name and subject property address:

Notice of Appeal Application\_100 Main St.pdf;

Survey\_ Plan\_100 Main St.pdf; or

Plans\_100-main-street.pdf (includes floor plans, elevations, site plan, and statistics).

### Digital requirements during a Hearing

During a hearing, digital video display equipment (HDTV) and instructions will be provided by TLAB staff to make the process run smoothly. Parties should come prepared with a laptop, electronic tablet, mobile smart phone or other electronic device capable of connecting to a digital TV through either HDMI cable, HDMI adaptor or USB. TLAB will provide a multi-device adaptor for most devices, if you require an adaptor, please call TLAB staff in advance.

### Part 8 TLAB Fee Schedule

Fees must be in Canadian funds. Certified cheques and money orders should be made payable to the “City of Toronto.”

**Please reference chart below for type of payment accepted for each type of fee.**

Item	Fees	Information
Appeal	\$300.00 per appeal	<p>An appeal under Section 45 of the Planning Act and an appeal under Section 53 of the Planning Act related to the same property and related Committee of Adjustment decisions are considered separate appeals and a fee is payable for each. A \$300.00 appeal fee is due for each appeal filed regardless if related and submitted by the same appellant.</p> <p><b>Appeals fees are payable by cash, certified cheque or money order only.</b></p>
Certified Copy of Decision	\$20.00	<p>Fee is established by Municipal Code Chapter 441: Fees.</p> <p><b>Fees payable by MasterCard, Visa, American Express, or debit card only.</b></p>

Item	Fees	Information
Copying of documents	\$1.00 per page	If photocopying is done by TLAB staff. Fee is established by Municipal Code Chapter 441: Fees.  <b>Fees payable by MasterCard, Visa, American Express, or debit card only.</b>
Service Charge for NSF	\$40.00	Payment must be made by certified cheque or money order. Fee is established by Municipal Code Chapter 441: Fees.

## Part 9 – General information

The TLAB is designed to adjudicate matters in an efficient and cost effective manner. There are specific rules around the calculation of time, hearing dates, format of documents, presentation of visual evidence, and the ways that documents can be served and exchanged. This section provides a summary of these processes in order to help you prepare for your hearing.

### Calculation of time

The TLAB Rules of Practice and Procedure outline several situations where an action must be completed within a specified number of calendar days.

Calendar days are counted by excluding the first day and including the last day. When the time for performing an act falls on a statutory holiday, the act may be done on the next calendar day that is not a holiday. For example, if your Notice of Intention (Election) to be a Party or Participant (Form 4) is due on Labour Day (e.g. September 4<sup>th</sup>, 2017), you have until the next calendar day (September 5<sup>th</sup>, 2017) to submit the required documentation.

Please keep in mind that any document exchanged by email after 4:30 p.m. is considered to be sent the next calendar day.

Each Notice of Hearing (Form 2) issued by TLAB will display the following actual due dates for that specific proceeding:

- Applicant’s Disclosure (Form 3) – fifteen (15) calendar days after Notice of Hearing is issued.

- Notice of Intention (Election) to be Party or Participant (Form 4) – twenty (20) calendar days after Notice of Hearing is issued.
- Document Disclosure – thirty (30) calendar days after Notice of Hearing is issued.
- Witness Statement (Form 12), Participant's Statement (Form 13), and Expert Witness Statement (Form 14) – forty-five (45) calendar days after Notice of Hearing is issued.
- Notice of Motion (Form 7) – forty-six (46) calendar days before Hearing Date.

Additional notable due dates are:

- Notice of Response to Motion (Form 8) – seven (7) calendar days before the motion date.
- Notice of Reply to Response to Motion (Form 9) – four (4) calendar days before the motion date.
- Notice of Motion (Form 7) for Costs or Review of Decision – no later than thirty (30) calendar days after decision date.

### **Fixed Hearing Dates, Settlements and Quiet Zone Inactivity**

The TLAB is committed to fixed and definitive hearing dates. The process is designed to accommodate all motion, mediation, and prehearing conference requests well in advance of the hearing date. Hearing dates will only be changed in exceptional circumstances as determined by the Member.

TLAB has built into its Rules a thirty (30) calendar day 'Quiet Zone' immediately in advance of the scheduled fixed hearing appointment. In the Quiet Zone, no filings, motions, or formal actions are to be brought or taken by the parties, participants or the tribunal. This period is intended for individual final hearing preparation. It is also a period for the parties to explore settlement or, in rare circumstances, to request and conduct mediation with a TLAB Member presiding. Hearing dates will remain fixed despite any such activity.

If a matter settles before or within the Quiet Zone, the parties are asked to immediately advise TLAB staff of the intention to bring the matter forward as a Settlement Hearing, including identifying the disposition to be requested and supported, in electronic and Microsoft WORD format.

If some, but not all, of the matters are settled before or within the Quiet Zone, a hearing will still be held.

## **Format of documents**

Every document in a TLAB proceeding, including all visual evidence, must be provided and shown in electronic PDF format, unless the Member, the Rules, or a Practice Direction directs otherwise. Documents are expected to be completed in a typed format. However, if any document is handwritten, the information needs to be legible.

The TLAB's Rules of Procedure facilitate electronic filing and the use of digital communication. The TLAB's digital requirements include:

- All documents must be sent to the TLAB in PDF format via email.
- All emails sent to the TLAB must be no larger than 10 MB.
- In-person document submissions must be on a CD/DVD. USB sticks will not be accepted for filing documents.

## **Filing, serving, and exchanging documents**

There are many situations where a party is required to file, serve, or exchange documents. In all of these cases, documents will be filed, served, or exchanged by email. The documents must be sent to the individual, authorized representative, corporate authority, or government authority as appropriate. Service, filing, or exchange of documents by email is effective on the day it is sent, unless it is sent after 4:30 p.m. If sent after 4:30 p.m., the email and any attached document will be considered sent on the next day.

## **Electronic services**

This subsection describes the various electronic services available via the TLAB website at [www.toronto.ca/tlab](http://www.toronto.ca/tlab).

### **E-decisions**

TLAB decisions will be posted on the TLAB website: [www.toronto.ca/tlab](http://www.toronto.ca/tlab)

You may also link to the Application Information Centre (AIC) database for TLAB decisions that are issued from 2017 onwards. Search for a decision using the address of the property with the Toronto Local Appeal Body TLAB 'button'. To view and print the decisions returned from this search engine, you need Adobe Reader.

## **Hearing Date Information**

You may view a list of active TLAB case files and scheduled hearing dates on the TLAB website under "Hearings." To find a specific case file and any related documents, you can simply click on the link related to the property. Only active case files are available online. Case Files that are no longer active thirty-one (31) calendar days after the decision is issued are removed from the TLAB website. Decisions will remain on the TLAB website.

## **Publications**

TLAB publications provide up-to-date and important information about the TLAB and its processes. Besides this Guide, you may read our:

Annual Reports (dating from 2017)

Rules of Practice and Procedure

Forms

Practice Directions

Website: [www.toronto.ca/TLAB](http://www.toronto.ca/TLAB)

## **Recovery of costs**

If you believe that another party involved in your matter acted unreasonably, frivolously, or in bad faith, you may ask the TLAB to order that party to pay some or all of your expenses or costs.

Cost awards are rare and exceptional in matters in which public participation is encouraged.

Before the TLAB can consider an award, it must make sure that:

- You are a party in the matter;

- You have filed and served all parties with a Notice of Motion (Form 7) to ask for compensation or an award of costs;
- The party being asked to pay appealed incorrectly or acted improperly;
- The request may be made at any stage and no later than thirty (30) calendar days after a written decision is issued by the TLAB.

Examples of improper activities that may warrant a costs consideration:

- Missing a hearing event;
- Not cooperating during a hearing;
- Changing a position without notice;
- Being unreasonably unprepared for a hearing;
- Not complying with a TLAB directive;
- Causing unnecessary delays;
- Not presenting evidence;
- Presenting false or misleading evidence;
- Continuing to deal with inappropriate issues;
- Not making efforts to combine similar submissions.

Generally, conduct warranting a costs disposition must be egregious and unreasonable according to an ordinary person without an interest in the matter.

**How do I recover my hearing costs?**

Step 1: Prepare a Notice of Motion (Form 7) asking for an award of costs. You must include:

- The reasons for your request;
- The amount requested;

- An estimate and identification of the extra preparation or hearing time caused by the misconduct, including time expended and hourly rates;
- Copies of supporting invoices or a sworn statement (an affidavit) verifying the expenses; and,
- A sworn statement verifying that the expenses were necessary.

Step 2: Serve your motion and support materials on all other parties and TLAB within thirty (30) calendar days after the written decision is issued.

Step 3: Follow the directions of the TLAB. The TLAB may ask you to appear in person or provide written submissions.

Step 4: The TLAB will inform you of its decision.

The party being asked to pay is given a chance to respond by filing a Response to a Notice of Motion (Form 8) within seven (7) calendar days of the Notice of Motion being issued. You will have a chance to reply to the response by filing a Notice of Reply to Response to Motion (Form 9) within four (4) calendar days.

### **What expenses can I include in my request for costs?**

The TLAB may order that you receive payment for your expenses from preparing for and attending a hearing or a relevant part a hearing. These expenses may include lawyers' preparation and hearing time, consultant and witness fees. The TLAB will require documentation to verify that you incurred these expenses.

Note: Appeal fees are not recoverable through the cost recovery process.

## **Part 10 - Glossary**

**Adjournment** – An adjournment means that a motion or hearing will be heard on a different date than the original hearing date. To ask for an adjournment, you must file a Notice of Motion (Form 7), supporting Affidavit (Form 10) and any supporting documentation.

**Affidavit** – Written evidence under oath or affirmation using Form 10.



**Applicant** – An applicant is the person who made an application to the Committee of Adjustment under Section 45 or Section 53 of the Planning Act.

**Appellant** - An appellant is the person or organization that brings an appeal.

**Case File** - The referral number, name, or nomenclature used to identify a TLAB proceeding brought before it.

**Decision** – A decision is a judgment of the TLAB. It may be given orally at the hearing, though a formal and effective written decision will be issued soon after the hearing.

**Hearing** – The stage in a proceeding when TLAB hears evidence and submissions and includes an electronic hearing, an oral hearing, and a written hearing.

**Mediation** - Mediation as described in the Rules.

**Motion** – A request that the TLAB make a decision or issue an order at any stage of the proceeding.

**Oral hearing** – A hearing at which persons attend before TLAB in person.

**Participant** – A person who is a participant under Rule 13.

**Party** – A person or organization who is a party under Rule 12.

**Prehearings** – A prehearing may be scheduled to clarify complicated issues; including identifying parties and participants, and developing procedures to follow during the hearing.

**Representative** – A person who acts for a party or participant in a proceeding and is authorized under the Law Society Act, or is otherwise authorized by law to represent a party or participant in a proceeding.

**Summons** – A legally binding document that compels a person to attend a hearing as a witness. It can also require the witness to bring certain documents and appear on the date and at the place specified.

## Part 11 - Publication Information

The information contained in this Guide is not intended as a substitute for legal or other advice, and in providing this information, the Toronto Local Appeal Body (TLAB) assumes no responsibility for any errors or omissions in this Guide, and shall not be liable for any reliance placed on the information in this Guide. Additional information and specific direction should be had from the TLAB's Rules of Practice and Procedure and prescribed Forms. These are available at [www.toronto.ca/TLAB](http://www.toronto.ca/TLAB) or by emailing [TLAB@toronto.ca](mailto:TLAB@toronto.ca) or calling (416) 392-4697.

The City of Toronto Court Services division includes the Provincial Offences Courts, Toronto Licensing Tribunal, the Toronto Local Appeal Body Tribunal, and the Administrative Penalty Tribunal. The Provincial Offences Courts and Municipal Tribunals operate under specific legislative requirements, share resources, and best practices. The Toronto Local Appeal Body hears appeals on decisions of the Committee of Adjustment on applications under section 45 and section 53 of the Planning Act.

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