

# TORONTO LOCAL APPEAL BODY

## Orientation for Members of the Toronto Local Appeal Body (TLAB)

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# What we will Cover Today

1. Legislative authority for the establishment of the TLAB - *City of Toronto Act 2006*;
2. What matters the TLAB may hear;
3. OMB has jurisdiction, in some instances, to hear same matters;
4. Powers of the TLAB;
5. How Appeals get to the TLAB;
6. The TLAB's Procedural Ground Rules – Rules of Practice and Procedure;
7. The Importance of Ontario Regulation 552/06 and the *Statutory Powers Procedure Act* (SPPA); and
8. Section 45 and Section 53 of the *Planning Act*
9. Other Plan and Policy Considerations

# 1. Legislative authority for the establishment of the TLAB

- During the 2005 round of Planning and OMB reform consultations with the Province, the City requested the Province to:
  - Limit the role of the OMB; and
  - Give Toronto the right to establish a “local appeal body” to deal with appeals of Committee of Adjustment decisions, including minor variances and consents.
- *City of Toronto Act* was amended to include authority to City to establish the TLAB for certain land use planning matters.
- Section 115 of the *City of Toronto Act* is the basis of the TLAB’s authority

## 2. What matters the TLAB may Hear

- TLAB has Jurisdiction to hear:
  - a) Appeals under ss. 45(12) of the *Planning Act* (i.e. minor variances)
  - b) Appeals under ss. 53(14),(19) and (27) of the *Planning Act* (i.e. consents or both consents and minor variances)
- TLAB appeals will concern consents & minor variances
- Appeals relating to these matters must be brought before the TLAB - Not the OMB

### 3. OMB has jurisdiction, in some instances, to hear same matters

- The OMB will continue to hear consent and variance appeals *IF* there is a related appeal over which the OMB retains jurisdiction

eg. Where a minor variance appeal involves an official plan amendment

## 4. Powers of the TLAB

- TLAB has same authority as OMB re: appeals of minor variances and consents from decisions of the Committee of Adjustment
- TLAB has all the powers and duties of the OMB
- Appeals *de novo* - No deference/regard to Committee of Adjustment decision
- TLAB determinations based on evidence and arguments presented at appeal
- City Council appoints TLAB members, sets fees, however, TLAB 100% independent of City Council
- TLAB Rules of Practice and Procedure established by TLAB – not City Council

## 5. How Appeals get to the TLAB

- Someone appeals the Committee of Adjustment's Decision(s)
- **For minor variance appeals:** Person files Notice of Appeal with the Secretary Treasurer of the Committee of Adjustment (s. 45 of *Planning Act*)
- **For consent appeals:** Person files a Notice of Appeal with City Clerk (s.53 of the *Planning Act*)
- Whichever route, municipality prepares appeal package for TLAB Secretary
- File is created and appeal is initiated

## 6. The TLAB's Ground Rules – Rules of Practice and Procedure

- Rules of Practice and Procedure (“The Rules”)
- Grounded in Ontario Regulation 552/06, *Statutory Powers Procedure Act* and Section 45 and 53 of *Planning Act*
- TLAB's Rules similar to other tribunals in Ontario, including OMB
- Practice Directions and Forms part of TLAB's Rules – Practice Directions provide additional authority and guidance
- TLAB's Rules, Forms, Practice Directions, Guidelines and other materials will be available to public on TLAB's website



## 7. The Importance of the *Statutory Powers Procedure Act* (SPPA)

- TLAB Rules and TLAB exercise of powers must be consistent with SPPA
- SPPA applies whenever statutory power of decision exercised
- SPPA and Rules must be interpreted to secure just, expeditious and cost effective determination of proceeding on merits (“liberally construed”)
- SPPA provides or speaks to such things as:
  - Hearings to be open to the public except in some circumstances
  - TLAB with ability to maintain order in hearings
  - Protection of witnesses from self-incrimination
  - Admissibility of evidence at a hearing (what about hearsay?)
  - The awarding of costs and in what circumstances

## 8. Section 45 and Section 53

Section 45(1) of the *Planning Act* (Re: Variances)

“The Four Tests”

- 1) Is the requested variance minor in nature?
- 2) Is it appropriate and desirable development for the area?
- 3) Is it in keeping with the purpose and intent of the Zoning By-law?
- 4) Is it in keeping with the purpose and intent of the Official Plan?

## 8 (Cont'd). Section 45 and Section 53

Section 53 of the *Planning Act* (Re: Consents)

Note – Section 53(12) refers to Section 51(24) for list of considerations

...Regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the municipality and to,

- The effect of development... on matters of provincial interest...;
- Whether the (proposal) is premature or in the public interest;
- Whether the plan conforms to the Official Plan...;
- The suitability of the land for the purposes...;
- (Highways)
- The dimensions and shapes of the proposed lots;
- The restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on the adjoining land...
- (h)-(l) (Natural resources, floods, services, schools, land dedications, energy)

## 9. Other Plan and Policy Considerations

- Growth Plan for the Greater Golden Horseshoe, 2006 (“The Growth Plan”)
- Provincial Policy Statement, 2014
- City of Toronto Official Plan

# Questions