

City of Toronto

Tribunal Rules of Procedure Administrative Penalty

August 16, 2017

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Tribunal Rules of Procedure for Administrative Penalties

For Proceedings under the

City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A, as amended (COTA)

Ontario Regulation 611/06, as amended

City of Toronto Municipal Code, Chapter 610, as amended

Rule 1: General Matters

1.1 Purpose of the Rules

1.1.1

The purpose of these Rules is to provide a fair, open and accessible process for the parties, to increase the efficiency and timeliness of proceedings and to assist the Tribunal in fulfilling its statutory mandate.

1.1.2

These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits.

1.1.3

Authority for the creation of these Rules is provided for under s. 25.1 of the *Statutory Powers Procedure Act*, RSO 1990, c. S.22, as amended (*SPPA*) and under City of Toronto Municipal Code Chapter 610.

1.2 Application of the Rules

1.2.1

These Rules apply to proceedings before the Tribunal relating to a request to review a Screening decision with respect to any matter relating to a review of a Screening Decision where the Tribunal is required to provide the parties to a proceeding an opportunity for a hearing before making a decision.

1.2.2

These Rules are to be read in conjunction with the City of Toronto Municipal Code, Ch. 610, the *SPPA*, *COTA* and any applicable regulations thereunder.

1.3 Defects in Form

1.3.1

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No Proceeding governed by these Rules is invalid by reason only of a defect or other irregularity in form or by reason of any error not affecting the substantial justice of the matter that is the subject of the proceeding.

1.4 Definitions

“Act”, “Statute” or “Legislation” means the *COTA* and the regulations thereunder, as the case may be;

"Administrative Fees" means the fee amounts as set out in City of Toronto Municipal Code, Ch. 610, Schedule "B".

"Administrative Penalty" means the monetary penalty amount as set out in Column 3 of City of Toronto Municipal Code, Ch. 610 Schedule "A" for the contravention of the corresponding Designated By-law in Column 1 of City of Toronto Municipal Code, Ch. 610 Schedule "A".

"Agent" means a representing person who is not authorized under the *Law Society Act*.

“Days” means calendar days;

“Decision” means the finding of the Hearing Officer;

"Electronic Transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval, and reproduction of information by the recipient, such as e-mail or other similar methods.

"Extenuating Circumstances" means a special or specified circumstance, including such types of extenuating circumstances established by the City Solicitor, that partially or fully exempts a person from performance of a legal obligation so as to avoid an unreasonable or disproportionate burden or obstacle.

"Financial Hardship" means a significant difficulty or expense and focusses on the resources and circumstances of the person owing an administrative penalty, including administrative fees, in relationship to the cost or difficulty of paying the administrative penalty or any administrative fees.

“Hearing” means a review of a Screening Decision by a Hearing Officer;

“Hearing Officer" means a person from time to time appointed by City Council in accordance with City of Toronto Municipal Code, Chapter 610, Article 5;

"Notice of Decision" means a notice that contains the decision of a Hearing Officer;

“Oral Hearing” means a hearing where the parties and/or their representatives attend in person before the Tribunal;

“Party” means any person specified as a party by or under the statute under which the proceeding arises or, if not so specified, persons entitled by law to be parties to the proceeding;

"Penalty Notice" means a notice issued to a Person alleging the contravention of a by-law.

"Person" includes a corporation or an individual, and the heirs, executors, administrators, successors and assigns, or other legal representatives of a person to whom the definition can apply according to law;

"Proceeding" means a proceeding that is before the Tribunal, and includes all steps to and including the disposition of a matter that is before the Tribunal;

"Recipient" means the Vehicle Owner and/or a person who receives either: a Penalty Notice, the Screening Decision, or the Decision in accordance with the provisions of City of Toronto Municipal Code, Ch. 610;

"Representative" means a person authorized under the *Law Society Act* to represent a person in a proceeding;

"Rules" refers to these Tribunal Rules of Procedure;

"Screening Decision" means a written decision containing the decision of the screening officer in a form and manner determined by the City Solicitor;

"Screening Officer" means a person from time to time appointed and supervised by the City Solicitor for the purpose of reviewing Administrative Penalties;

"Secretary" means the Tribunal administration supervisor, or his or her designate;

"Tribunal" means a City appointed Hearing Officer, sitting in a panel of one, when exercising a statutory power of decision in respect of a proceeding authorized or required under City of Toronto Municipal Code, Ch. 610;

"Undue Hardship" means circumstances in which payment of administrative penalties and/or administrative fees would cause hardship for purposes of O. Reg. 611/06 and contains the following two classes of circumstances:

- a) extenuating circumstances; and
- b) financial hardship.

"Vehicle Owner" means:

- a) the person whose name appears on the permit for the vehicle; and
- b) if the vehicle permit consists of a vehicle portion and plate portion and different persons are named on each portion, the person whose name appears on the plate portion.

"Written Reasons" means a formal written summary of the Hearing that includes the reasons for decision, provided upon request of a party;

1.5 Calculation of Time

To calculate time under these Rules:

- a) Where there is reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;
- b) weekends and holidays shall be included when counting days;

- c) where the time for doing an act under these Rules expires on a weekend or holiday, the act may be done on the next day that is not a weekend or holiday;
- d) where a document is filed or served after 4:30 p.m. on any day or at any time on a weekend or holiday, the document shall be deemed to have been filed or served on the next day that is not a weekend or holiday;
- e) where a time of day is mentioned in these Rules or in any document or order in a proceeding, the time referred to shall be the time observed locally; and
- f) under these Rules, holiday means:
 - i. any Saturday or Sunday;
 - ii. New Year's Day;
 - iii. Family Day;
 - iv. Good Friday;
 - v. Easter Monday;
 - vi. Victoria Day;
 - vii. Canada Day;
 - viii. Civic Holiday;
 - ix. Labour Day;
 - x. Thanksgiving Day;
 - xi. Remembrance Day;
 - xii. Christmas Day;
 - xiii. Boxing Day; and
 - xiv. Any day on which the staff offices of the Toronto Administrative Penalty Tribunal or Screening Offices are closed.

1.6 Procedural Requirements and Waiver

1.6.1

The Tribunal may with the parties' consent waive any procedural requirements of the *SPPA*.

1.6.2

The Tribunal may waive any provision of these Rules where it is of the opinion that it would be appropriate to do so in the circumstances.

1.7 Decision Not to Process Documents Relating to the Commencement of a Proceeding

1.7.1

Upon receiving documents relating to the commencement of a proceeding, the Tribunal administrative staff may decide not to process the documents if:

- a) the documents are incomplete;
- b) the documents are received after the time required for commencing the proceeding has elapsed;
- c) there is some other technical defect in the commencement of the proceeding; or

- d) the documents are not provided in an approved electronic format.

1.7.2

If the Tribunal administrative staff has made a decision not to process the documents relating to the commencement of a proceeding, the Tribunal administrative staff shall give written notice of its decision to the party who commenced the proceeding, and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents if applicable.

1.7.3

An application for a Request of a Hearing filed with the Screening Office within the time limits specified shall be considered filed with the Tribunal within the specified time.

1.8 Dismissal of a Proceeding without a Hearing

1.8.1

The Tribunal may dismiss a proceeding without a hearing if:

- a) the proceeding is frivolous, vexatious or is commenced in bad faith;
- b) the proceeding relates to matters that are outside the jurisdiction of the Tribunal; or
- c) some aspect of the statutory requirements for bringing the proceeding has not been met.

1.8.2

Before dismissing a proceeding under this section, the Tribunal shall give notice of its intention to dismiss the proceeding to all parties to the proceeding, if the proceeding is being dismissed because it relates to matters outside the jurisdiction of the Tribunal, or to the party who commenced the proceeding if it is dismissed for any other reason.

1.8.3

The notice of intention to dismiss a proceeding shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the Tribunal with respect to the dismissal within thirty (30) days of the date of the notice.

1.8.4

The Tribunal shall not dismiss the proceeding until it has given notice under 1.8.2 and considered any submissions made within the time allowed under 1.8.3.

1.9 Disposition without Hearing

1.9.1

If the parties consent, a proceeding may be disposed of by a decision of the Tribunal given without a hearing.

1.9.2

Where an Owner fails to attend at the time and place scheduled for a review by the Hearing Officer, the Hearing Officer shall, without a hearing as permitted by section 7(1) of the *Statutory Powers and Procedures Act*, affirm the Screening Decision.

1.9.3

A Hearing Decision affirming the Screening Decision and establishing the Owner's liability to pay to the City a Hearing Non-Appearance Fee shall be served upon the Owner of the vehicle

Rule 2: Representatives and Agents

2.1

A party to a proceeding or a witness at an oral hearing may be represented by a representative or by an agent.

2.2

A representative or agent of a witness at an oral hearing may advise the witness, but shall take no other part in the hearing without leave of the Tribunal.

2.3

Where an oral hearing is closed to the public, a witness's representative or agent is not entitled to be present except when that witness is giving evidence.

2.4

The Tribunal may exclude from a hearing any person appearing as a representative or agent of a party or a witness, other than a person authorized under the *Law Society Act* to practise law or to provide legal services, if the Tribunal finds that such person is not competent properly to represent or to advise the party or witness, or does not understand and comply at the hearing with the duties and responsibilities of an advocate or advisor.

2.5

If a representative or agent ceases to represent a party, the representative, agent or the party shall promptly notify the Tribunal in writing.

Rule 3: Communication with the Tribunal

3.1

Tribunal staff shall communicate with both a represented party and the party's representative or agent.

3.2

A party that communicates with the Tribunal must provide a copy or notice of the communication to the other parties prior to the Tribunal dealing with the matter.

Rule 4: Disclosure

4.1 Disclosure of Documents

The Tribunal may, at any stage of the proceeding make orders for:

- a) the exchange of documents, provided the documents are not subject to a claim of privilege;
- b) the oral or written examination of a party;
- c) the exchange of witness statements and reports of expert witnesses;
- d) the provision of particulars; and
- e) any other form of disclosure.

4.2 Disclosure when Character, Conduct or Competence Questioned

Where the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto.

Rule 5: Hearing Procedures

5.1 Combining Proceedings

Where a recipient has requested a hearing on multiple administrative penalties that involve the same or similar questions of fact, law or policy, the tribunal may hear the proceedings at the same time.

5.2 Types of Hearings

5.2.1

A hearing may be conducted in its entirety as an oral hearing.

5.2.2

Where the City is being represented at a hearing, the City's representative may attend the hearing via video conference.

5.3 Factors to Consider for Determining Type of Hearing

In deciding whether to conduct an oral, written or electronic hearing, the Tribunal may consider any relevant factors, including:

- a) the suitability of conducting a written or oral hearing considering the subject matter of the hearing;
- b) whether the evidence is appropriate for a written, electronic or oral hearing, including whether credibility is an issue;
- c) the extent to which facts are in dispute;
- d) the convenience of the parties, including any anticipated prejudice to a party;
- e) the avoidance of unnecessary delay;
- f) whether all the participants in an electronic hearing will be able to hear each other;
- g) the fulfillment of the Tribunal's statutory mandate; and
- h) any other possible effects on the fairness of the proceedings.

5.4 Notice of Time and Place of Hearing

5.4.1

The parties shall be given notice of the hearing at least 15 days before the hearing.

5.4.2

The notice of hearing shall be served on the party or person to be served:

- a) by regular mail addressed to the Owner at the Owner's last known address;
- b) by electronic transmission to the Owner at the Owner's last known electronic transmission address; or
- c) by electronic transmission to the Owner's authorised representative or agent;
- d) by electronic access to the case records by City representatives;
- e) in person

5.4.3

All notices of hearing shall include:

- a. a reference to the statutory authority under which the hearing is to be held;
- b. a statement of the purpose of the hearing;
- c. a statement that where the party notified does not object to a written or electronic hearing or does not attend at or participate in an oral, written or electronic hearing, as the case may be, the Tribunal may proceed in that party's absence and the party will not be entitled to any further notice in the proceedings;

- d. any other information or directions the Tribunal considers necessary for the proper conduct of the hearing.

5.4.4

For an oral hearing, in addition to the requirements in 6.5.4, the notice of hearing shall include a statement of the date, time and place of the hearing.

Rule 6: Summons

6.1

The Tribunal may summon any person, including a party,

- a) to attend an hearing and give evidence on oath or affirmation; and
- b) to produce in evidence at an hearing documents and things specified by the Tribunal, relevant to the subject-matter of the proceeding and admissible at a hearing.

6.2

A summons issued under 6.1 shall be in the form prescribed under the *SPPA* and shall be signed by the Tribunal.

6.3

A party who wishes to summon a witness shall advise the Tribunal of the name and address of the witness to be summoned and the details of any documents or other things to be summoned with the witness, and the Tribunal shall prepare and issue the summons.

6.4

A summons shall be personally served on the person summoned. It is the responsibility of the party that requested the summons to ensure that it is served and to pay to the person summoned, at the time of service, the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice.

6.5

Where a person has been summoned as a witness at a hearing and, without lawful excuse,

- a) does not attend the hearing;
- b) attends the hearing but refuses to
 - i. take an oath or make an affirmation;
 - ii. produce any document or thing in his or her power or control as required by the Tribunal; or
 - iii. answer any questions to which the Tribunal requires an answer; or

c) does any other thing that would have been in contempt of a court of law, the Tribunal may state a case to the Divisional Court setting out the facts, and that court may inquire into the matter and after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court.

6.6

Rule 6.5 also applies to a person who has objected to a hearing being held as a written hearing and fails to participate, without lawful excuse, or a party that fails without lawful excuse to attend a pre-hearing conference when so directed by the Tribunal.

Rule 7: Submissions at a Hearing

7.1 Examination of Witnesses

7.1.1

Evidence under these rules shall be given under affirmation.

7.1.2

A party to the proceeding in an oral hearing before the Tribunal may:

- a) be questioned by the Tribunal and other parties;
- b) call and examine witnesses at the hearing;
- c) cross-examine other parties and witnesses; and
- d) present evidence and make submissions, including final argument.

7.1.3

Oral evidence shall be recorded and, at the request of a party to the hearing, a copy of the recording shall be furnished to the party upon payment of the required fee.

7.2 Witness Panels

A Tribunal may receive evidence from a panel of witnesses composed of two or more persons, if the parties have first had an opportunity to make submissions in that regard.

7.3 Protection for Witnesses

A witness at an oral or electronic hearing shall be deemed to have objected to answering any question asked of him or her upon the ground that the answer may tend to incriminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable

in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence at the hearing.

7.4 Exclusion of Witnesses

7.4.1

The Tribunal may order that a witness be excluded from the hearing until called to give evidence. An order for exclusion will not generally be made against a party to the proceeding.

7.4.2

Where an oral hearing is held, a witness that is not a party to a proceeding is entitled to be advised by a representative or agent as to his or her rights, but such representative or agent may take no other part in the hearing without leave of the Tribunal.

7.4.3

Where an oral hearing is closed to the public, the witness's representative or agent is not entitled to be present except when that witness is giving evidence.

Rule 8: Hearing Documents

8.1

A Request for Review is to be filed with the Screening Office within 15 days of the Screening Decision either in person or through the Screening Office online application.

Notices or any other documents or communications relating to a proceeding may be filed with the Tribunal by delivery to its office by any of the following methods at least 10 days before the hearing date:

- a) in person
- b) by electronic transmission;
- c) by mail or registered mail;
- d) by courier; or
- e) by any other means that may be permitted by the Tribunal from time to time.

8.2

All communications with the Tribunal, including any documents relating to a proceeding that are filed with the Tribunal, must be copied to all parties to the proceeding.

Rule 9: Adjournments

9.1 Rule on Adjournments

A hearing may be adjourned from time to time by the Tribunal of its own motion or where it is shown to the satisfaction of the Tribunal that the adjournment is required to permit an adequate hearing to be held.

Parties may request an adjournment of the proceedings by filing a Motion to Adjourn with the Tribunal 5 business days in advance of the Hearing date.

9.2 Direction to Adjourn

The Tribunal may direct the administrative staff to reschedule a hearing under the following conditions:

- a) no prior requests for adjournment have been made;
- b) there is sufficient time to notify all parties of the new hearing date; and
- c) if the length of the adjournment is 6 months or less.

All other requests must be heard by the Tribunal. The Tribunal is to consider any relevant factors, including:

- a) the reason for the adjournment request;
- b) the extent to which prejudice will be suffered by the party requesting the adjournment, if the adjournment is refused;
- c) the extent to which any other party will suffer prejudice if the adjournment is granted;
- d) the extent to which the party requesting the adjournment gave advance notice to other parties and to the Tribunal of its request for an adjournment;
- e) the consent of other parties to the request for adjournment;
- f) whether the party requesting the adjournment previously consented to the hearing proceeding on the scheduled date;
- g) the length of adjournment;
- h) previous delays including the number and length of previous adjournments granted at the request of or with the consent of the party now requesting an adjournment;
- i) the public interest in the efficient and timely conduct of proceedings; and
- j) any other possible effects on the fairness of the proceedings.

The Tribunal may, in unforeseen and exceptional circumstances, adjourn a matter and may instruct administration staff on the processing of such adjournment requests.

9.3 Denial of Adjournment

The Tribunal may refuse to grant an adjournment where:

- a) the adjournment was not requested at least 3 business days in advance of the scheduled hearing date;
- b) the Tribunal is not satisfied that the adjournment is necessary;
- c) the only ground for the adjournment is that the party unreasonably delayed retaining a representative;
- d) the party consented to the original hearing date;
- e) the adjournment would negatively affect the fairness of the proceedings; or

- f) the Tribunal is of the opinion that it would be inappropriate to grant the adjournment in the circumstances.

9.4 Conditions of Adjournment

In granting an adjournment, the Tribunal may impose such conditions as it considers appropriate.

Rule 10: Public Access to Hearings

10.1 Hearings Open to Public

10.1.1

An oral hearing shall be open to the public except where the Tribunal is of the opinion that

- g) matters involving public security may be disclosed; or
- a) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public;

in which case the Tribunal may hold the hearing in the absence of the public.

10.2 Conditions of Public Access

The Tribunal may impose such conditions as it considers appropriate for the conduct of that part of a hearing that is closed to the public.

10.3 Conduct of Closed Hearing

10.3.1

Unless otherwise ordered by the Tribunal, where part of an oral or electronic hearing is closed to the public, it may be attended by:

- a) parties and their representatives;
- b) witnesses and their representatives when they are testifying in the case of an oral hearing;
- c) Tribunal staff; and
- d) such other persons as the Tribunal considers appropriate.

10.3.2

Exhibits, documents, submissions and Tribunal orders relating to that part of the hearing that is closed to the public shall be marked confidential and kept separate from the public record.

Access to that material shall be made available only by order of the Tribunal or as otherwise authorized by law.

Rule 11: Accessibility and Accommodation

11.1

Parties requiring accommodation of a disability in order to participate in Tribunal proceedings, whether as a respondent, witness, or agent representing the respondent, must notify the Tribunal as early as possible in order that accommodation requests can be addressed in advance of the Hearing date.

Rule 12: Evidence

12.1

Subject to Rules 12.2 and 12.3, the Tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court, any oral testimony and any other document or other thing that is relevant to the subject matter of the proceeding.

12.2

Nothing in Rule 12.1 overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

12.3

Nothing is admissible in evidence at a hearing that would be inadmissible in a court by reason of any privilege under the law of evidence, or that is inadmissible by the statute under which the proceeding arises or any other statute.

12.4

The Tribunal may receive and act on any facts agreed on by the parties without proof or evidence.

12.5

The Tribunal may treat evidence previously admitted at a Screening Review as if it had been admitted in a proceeding before the Tribunal if the parties to the proceeding consent.

12.6

The Tribunal may take notice of facts that may be judicially noticed, and may take notice of any generally recognized facts, information or opinions within its specialized knowledge.

12.7

The Tribunal may request, consider and rely on information from an Enforcement Officer, other City/Agency Staff, or staff of the Toronto Police Service as the Tribunal deems relevant, including a certified statement of an Enforcement Officer, other documents respecting a contravention created by an Enforcement Officer including, but not limited to, a photograph taken by an Enforcement Officer, any other written document prepared by an Enforcement Officer, other City/Agency Staff, or staff of the Toronto Police Service, and materials prepared by, or presented to, the Tribunal.

12.8

If evidence referred to in Rule 12.7 is being admitted at Proceeding, the Tribunal shall not adjourn the Proceeding for the purpose of having an individual attend to give evidence, unless the Tribunal is satisfied that the oral evidence of the individual is necessary to ensure a fair hearing.

12.9

All parties to a hearing shall file with the Tribunal copies of all documents, including photos and electronic materials, to be entered as evidence at least 10 days before the hearing date.

12.10

The Tribunal may, in its discretion, refuse to allow into evidence any document, including photos and electronic materials, not filed in accordance with Rule 12.9.

Rule 13: Photographic, Audio or Video Recording

13.1

No Person shall take or attempt to take a photograph, video or audio recording by any means, at any Proceeding of the Tribunal, unless the presiding Member authorizes such recording, on such terms or conditions as the presiding Member may direct.

Rule 14: Decisions and Orders

14.1 Interim Decisions and Orders

14.1.1

The Tribunal may make interim decisions and orders.

14.1.2

The Tribunal may impose conditions on an interim decision or order.

14.1.3

An interim decision or order need not be accompanied by reasons.

14.2 Oral and Written Decisions

14.2.1

The Tribunal may indicate its decision orally at the end of the hearing.

14.2.2

Upon rendering its decision, the Tribunal shall electronically record that decision, and comments, to the case record on the City's case management system and shall issue a Notice of Decision.

14.2.3

The Tribunal may or may not issue Written Reasons with its decision, but shall provide Written Reasons when requested by a party.

14.2.4

If there is a discrepancy between an oral decision and a Notice of Decision, the oral decision shall prevail.

14.2.5

When the Tribunal includes an order for the payment of money in its Notice of Decision, it shall set out in the order the total sum, the date on which the payment is due and the consequences of non-payment.

14.2.6

Any decision by a Hearing Officer is final.

14.3 Effective Date of Decision or Order

The Tribunal's decision or order is effective from the date on which it was made.

14.4 Notice of Decision or Order

14.4.1

The Tribunal shall issue a copy of the Notice of Decision or order, including the reasons if any have been given, to each party who participated in the proceeding, or the party's representative or agent, if any,

- a) in person
- b) by regular mail;
- c) by electronic transmission;
- d) by some other method that allows proof of receipt.

14.4.2

If the copy of the decision or order is sent by mail, it shall be sent to the party's most recent address known to the Tribunal, and shall be deemed to have been received by the party on the fifth (5) day after the day it is mailed.

14.4.3

If the copy of the decision or order is sent by electronic transmission, it shall be deemed to be received on the date it was sent.

14.4.4

If the copy of the decision or order is sent by a method referred to in 14.4.1 (d), it shall be deemed to be received on the date contained in the proof of receipt.

Rule 15: Correction of Errors

15.1

The Tribunal may at any time correct a typographical error, error of calculation or similar error made in its decision or order.

Rule 16: Power to Review

16.1

Where an Administrative Penalty is affirmed by the Tribunal in the absence of the owner or their agent or representative, the Owner may file a Motion to Set Aside a Decision within 20 days of the date the Decision was made.

16.1.1

The Owner must demonstrate in writing that the failure to attend the Hearing was through no fault of their own.

16.2

Upon review of a Motion to Set Aside a Decision, the Tribunal may,

- a) grant the motion, and direct a new Hearing to be scheduled; or
- b) deny the motion.

16.3

If the motion is denied, the original Decision of the Hearing Officer stands, including the assessment of the Hearing non-appearance fee, and a new Hearing will not be granted.

Rule 17: Publication of Decisions

17.1

The Tribunal may publish its decisions and orders on the City of Toronto website.

Rule 18: Tribunal's Control of Its Process

18.1

Notwithstanding anything set out in these Rules the Tribunal may,

- a) for the purpose of determining its own procedures and practices, make orders with respect to the procedures and practices that apply in any particular proceeding; and
- b) to prevent abuse of its processes, make such orders or give such directions in proceedings before it as it considers proper.

Rule 19: Language of Proceeding

19.1

All Hearings will be held in the English language. Where an interpreter is required the party requiring an interpreter may provide an interpreter, or an over-the-telephone interpretation service may be used.

Rule 20: Business Meetings of all Members

20.1

Rule 20 applies to meetings of all Hearing Officers, for the purposes of conducting Tribunal Business and not for the purposes of conducting a hearing in accordance with the *SPPA*.

20.2

The Chair presides at all meetings of the Committee, follows the agenda, rules on all procedural matters and whether motions are in order and maintains decorum.

20.3

The Committee holds its inaugural meeting on a date and time to be determined by the Secretary, in consultation with the Chair, following the appointment by Council of the Hearing Officers and Chair.

20.4

Special meetings of the Committee may be held at the request of the Chair on 24 hours' notice, whenever the Chair considers it necessary to do so.

20.5 Quorum

20.5.1

A majority of the membership (13 Members) constitutes a quorum, subject to Subsection 20.5.3.

20.5.2

If no quorum is present 15 minutes after the time set for the beginning of the meeting, the Secretary takes down the names of the Members who are present and the meeting is adjourned. Any unfinished business carries forward to the next scheduled meeting, or to a special meeting called for that purpose.

20.5.3

A vacancy in the Membership or the absence or inability of a Member to act does not impair the powers and duties of the Tribunal nor the remaining Members, except if the vacancy results in a failure to meet quorum. If the vacancy is a result of the disclosure of a conflict of interest, then two Members may be considered a quorum as set out in the *Municipal Conflict of Interest Act*.

20.6

Except for meetings described in Subsection 9(1) of the *Statutory Powers Procedure Act* and Chapter 27 of the Toronto Municipal Code, Subsection 27-38, all meetings are open to the public.

20.7 Declaration of Interest

20.7.1

A Member advises of any direct or indirect pecuniary interest in a matter under consideration at a meeting and declares the general nature of the interest. The Member must leave the meeting room during discussion of the matter.

20.7.2

Every declaration of interest and the general nature of the interest are recorded in the Minutes of the meeting.

Rule 21: Records

21.1

The Tribunal administration supervisor shall maintain a record, in an electronic format, of the Hearing Review for a period defined by Chapter 219, or other applicable retention period, which shall include;

- a) The penalty notice
- b) the application by which the proceeding was commenced;
- c) the notice of the hearing;
- d) all orders and decisions made by the Hearing Officer;
- e) all documentary evidence filed with the Tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any hearing;
- f) the digital audio recording of the hearing; and
- g) any other documents that in the opinion of the supervisor or the Hearing Officer should be included in the record of Hearing Review.

Rule 22: Forms

22.1

The following are the forms used by the Tribunal;

Form 1, Request for Hearing;

Form 2, Notice of Decision Not to Process;

Form 3, Notice of Intention to Dismiss Without a Hearing;

Form 4, Notice of Time and Place of Hearing;

Form 5, Order;

Form 6, Notice of Decision – Affirmed or Varied;

Form 6.1, Notice of Decision – Cancelled;

Form 7, Change of Hearing Date;

Form 8, Request for Recording;

Form 9, Request for Written Reasons;

Form 10, Written Reasons for Decision;

Form 11, Motion to Set Aside Decision;

Form 12, Notice of Adjournment

Form 1 of O. Reg. 116/95 of the *SPPA*, Summons issued under Rule 6;

Form 2 of O. Reg. 116/95 of the *SPPA*, Warrant for Arrest (Defaulting Witness) issued under subsection 12 (4).