

## **TLAB Scarborough Civic Centre Presentation:**

My name is Robert Davis and I live on 36<sup>th</sup> Street in South Etobicoke in a neighbourhood known as Long Branch.

My wife and I have spent almost an entire year on a consent to sever and multiple variance applications because of a builder who bought the house next door to us. While we are happy with the decisions made by both the Etobicoke York Committee of Adjustment and Toronto Local Appeal Body, we are unhappy with a few aspects of the ultimate ordeal.

Like most homeowners in Long Branch and throughout Toronto, we just want to and enjoy living in our houses and raising our families, take care of the property and gardens, pay our taxes and utilities. The previous enjoyment of living in Long Branch ceased when a multitude of small time builders discovered our community as a great way to make a lot of money, by severing 50 foot lots and into two 25 foot lots and building oversized houses—we call them soldier houses--often 3 storey houses onto these smaller lots. Oh, and if a few mature trees got in their way, have them removed. All they had to do was convince the appropriate Committee of Adjustment for permission to do this and if they were refused, appeal to the OMB in the past and now TLAB.

Many of them got exactly what they wanted, and the easiest way was to present their cases to these bodies without any opposition from members of the neighbourhoods. I can only speak on what I've personally experienced in Long Branch which has had an avalanche of such applications and builds just in the past few years.

Once neighbours got more organized, things started to get turned around. But the fact remains that a neighbor or neighbours must oppose these builder's applications—and overwhelmingly the applications are made by builders who have no intention of living in these houses or the community.

Unfortunately, the hardest part of this ordeal was dealing with the OMB which in the past had been criticized for favouring developers. Now the appeal is with

TLAB. Thus, today's discussion of TLAB's Rules of Practice and Procedures and related documents

I had just endured a second day of a TLAB appeal hearing for my particular case with a builder/neighbor when another TLAB Rules and Forms deadline loomed for another TLAB appeal on my street not to mention multiple hearings at the EY-COA.

One:

The way Rules and Practices are set up with TLAB is that when a developer or builder cuts a cheque and signs a TLAB appeal application, the daily operation of the City of Toronto must STOP until their TLAB appeal is heard. Let me explain, with such tight deadlines for TLAB witness statements, disclosures and documents, most of which are shot down by developer lawyers at the hearings as hearsay which is the case for newspaper articles, or transcripts from the actual Committee of Adjustment hearing, the timeline from the deadline to the actual appeal hearing could be several weeks or months. So, if there's a municipal election, or a new Tree By-Law enacted by Toronto City Council, or anything else relevant to the case, it cannot be mentioned or presented at the TLAB hearing because these things didn't happen before the TLAB deadline. I suggest the Rules and their timelines must be adjusted for major applicable political, legal and community changes that take place while waiting for the TLAB hearing.

Two:

TLAB Panel members, TLAB staff, City Lawyers, Planners, Urban Forestry Managers, Developer Lawyers, Developer Planners and Arborists, even the cleaning staff at TLAB, are all paid. The participants however are not. Or to be more succinct, the neighbor or neighbours. Yet, we have to act like we too are lawyers or planners or Urban Foresters or experienced jurists and present lot study plans, testimony, data from architect plans and so on AND take days off work to prepare and present at CofA and TLAB hearings.

Residents cannot show up at hearings and say, "We don't like it." We have to have good reasons. The time involved for a layperson to become familiar with planning concepts and rights and procedures is enormous. A lot of background

and review of similar situations in the neighbourhoods is necessary in order to present a coherent and articulate argument against the applications. Thankfully, others in the neighbourhood were very helpful to us.

As it states in TLAB's Participant Statement Rule 13.8 we cannot claim costs.

There is a cost to taking a full day or two or more off work for attending the initial CofA hearing and future TLAB appeal. There is a cost to gathering data from city planning, there is a cost for family care, driving, parking, cost of participants time taking pictures, studying plans, crunching numbers and following TLAB's strict rules. Therefore, I believe with the hundreds of neighbours and community organizations participating in multiple TLAB hearings, we must be compensated for all this, either by TLAB, the City of Toronto, or in the case of a Committee of Adjustment appeal by the developer or builder, by the developer or builder.

Unpaid neighbours/participants are going head to head with extremely well paid developer lawyers, expert witnesses such as private planners and arborists and others, and although salaried City Lawyers are often assigned to cases, their principal job is to defend the position of the City, not the taxpaying, put upon neighbor.

Three:

The time pressure for Participants to file Form 4s, Form 13s, Document Disclosures and Participant statements is fine unless there are multiple Committee of Adjustment and TLAB applications and appeals all happening at the same time. Paid lawyers and such who charge for their time can hustle to make deadlines and subsequent costs because they get paid for doing so, participants are not.

Of course, it can be difficult for an older resident to provide pdf copies of everything and could TLAB's IT people find a way for us to insert a signature into their Forms to avoid the extra tedious steps to do so.

My example is that I was attending and participating at a TLAB Hearing which required my full day attendance and absence from work and family to participate

fully. The emotional and physical stress of this for me was palpable. I didn't have time to address other deadlines for the several CofA and TLAB applications and appeals on my own home's block and blocks within a short walking distance from me.

In South Long Branch in particular, this has become overwhelming and burdensome. When I finished my own TLAB appeal involvement I was asked to help out neighbours for another TLAB appeal which involved getting Form 4s or Form 13s signed, pdfed and sent to TLAB before the deadlines. In the meantime, I also had the same day deadline to file expert witness statements. This proved impossible for me to do all the necessary research, legwork and document gathering I needed to do. I also don't believe participant's statements and documents are equivalent to Expert Witness Statements since unlike Participants, Expert Witnesses are generally paid for their time and efforts. Participants are not and cannot according to 13.8 section e claim costs.

Tell me why Participant Statements as per Rule 16.5 (Form 13) Witness Statements as per Rule 16.4 (Form 12) and Expert Witness Statements as per Rule 16.6 (Form 14) are ALL due on the same day! I have experience here and I'm unsure what a participant is supposed to do here. If this is the deadline for uploading document disclosures then I am out of luck as a citizen to participate fully in this appeal. We understood there is a 30 day deadline aka the Quiet Zone before the hearing date to upload material. Please confirm or deny this in layperson's terms not legalese.

The most involved Participant would also like to be a Party as well since a Party is always involved and notified of important TLAB decisions and issues as simple as a negotiable hearing date changes. Participants are not. Participants' work and family time is in the hands of the Party members which automatically includes the appellant. Most importantly, a Party member cannot give evidence or testimony during the hearing and that particular Participant I've just outlined is the most heavily involved in the evidence gathering and presentations. This conundrum has made it necessary for another person to sign on as a Party who may or may not

be actively involved or adversely affected by the applications of the appellant. This conundrum must be fixed.

In conclusion, many, too many of my neighbors have been involved in CofA, OMB and TLAB hearings. Every one works hard to fight these applications but ultimately the participants who end up attending TLAB hearings are usually the next door neighbor, closest neighbor or two and occasionally community organizers. Many neighbours keen on signing Letters of Objections, Proxy Letters and often attending the CofA hearing in support, tend to drop off the radar for the more complicated and legalese structured TLAB appeal. Your letters come from Court Services; some are scared, some can't be bothered, some are overwhelmed and tired of the rapid flurry of applications and the door knocking.

The cross examination by a highly experienced and highly paid developer lawyer is highly stressful for most people and as lay people we do not have any coaching to help us through this, unlike the paid expert witnesses. For this reason alone, the majority of people are not able to handle going through a procedure like TLAB.

Also, when my wife and I left the second day's TLAB hearing I said to her, "Did you ever think that when we bought our house that 16 years later we'd be sitting in a court room seeing and hearing our beloved house and property be insulted and criticized by developer lawyers, planners and arborists just because their client wants to do something glaringly different to their recently purchased house."

I and most of my Long Branch neighbours just want to live in their homes and neighbourhood in peace and respect for their neighbours. The small time builders now clogging up the CofA and TLAB hearings have destroyed that peace and respect at least in my quiet neighbourhood.

Respect for the Participants is all that I'm seeking with an adjustment of the Rules and Practices of this Body. Thank you.