

TLAB Appeal March 7 2018, 17 201220S45 06 TLAB et al
LONG BRANCH URBAN MYTHS - Hearing 38 36th Street
Evidence of David Godley 401 Lake Promenade, M8W 1C3

Official Plan policy 3.1 “Good urban design is not just an aesthetic overlay, but an essential ingredient of City Building. Good urban design is good business and good social policy” I have crystalised my comments relating to 20 Long Branch Urban Myths.

- 1) **The distinctive character of the neighbourhood is defined by an area of several hundred houses surrounding.** The broad character of the neighbourhood is defined by the overall heritage tenor, the unique physical character of the neighbourhood. This includes proposals that reflect and reinforce the 1 and 2 storey housing, low density, generous setbacks, recessed or rear garages, grade related entrances, sloping roofs and a heavy tree canopy. (Long Branch Character Guidelines –p27 Defining Conditions adopted by Council Jan 31st 2018). The closer a street property is to the proposal, the more weight it should be given in determining the design of the proposal. Those at the end of the block cannot easily be seen in conjunction with the proposal so are less important. The nearby properties (the micro-neighbourhood) are of prime importance within the block and the next door properties are critical for urban design harmony. Analysis map ^Witness Statement Visual (4) posted Nov 9 2017. Urban Forestry regards intensification to be a major threat to the tree canopy. Long Branch has already lost at least 30 beautiful trees to development both legally and illegally. Eliminating the incorrect method of evaluation will save vast amounts of time at a hearing arguing about study areas, what is prevailing in the study area and its various features,
- 2) **The 100 or so soldier houses are part of the character of the neighbourhood.** This generic type of house is an alien invader found all over the City and especially in rows in new subdivisions in the GTA; they are often computer generated to maximize profit and are contrary to distinctive features and defined character of Long Branch and are incongruous “sore thumbs”. In land use terms having autobody shops in a neighbourhood does not mean there should be more.
- 3) **The City ensures a comprehensive review of severances.** All severances so far have involved major change and should have been dealt with by zoning amendment with fuller public participation including a community meeting before the application reaches the Committee of Adjustment. Time frames are far too short such that double density has been notified and an application approved while residents are on vacation. Residents need to plan their time away around Committee of Adjustment meetings! No urban design input is formally introduced despite the issues being primarily or totally urban design even though urban design staff work for the City. In other words, so far, it has been plumbers doing dentistry! No data such as showing the façade of the houses abutting the proposal is ever done and no 3D bird’s eye view is required. The City do not comment on impacts on private owners so they are left to defend for themselves despite the issues of overlooking, overpowering, overshadowing and sky views (all part of the OP) or the size of minor variances. The City has only staff to defend the most egregious of proposals or they would be tied up at the

appeal body permanently. However they do comment on all the severances in Long Branch, a service not rendered by Community Planners in North York. In supporting around double density they are inviting builders to visually mar the neighbourhood. If TLAB turn down the first few applications this will stem the flow and restore greater confidence in the future of the neighbourhood.

- 4) **Provincial Policies mandate higher densities.** Provincial policies must be considered but are irrelevant as they are implemented through the Official Plan whose policies deter intensification in neighbourhoods. That is unless they reflect and reinforce the distinctive or defining character. As Jeffrey Cantos (a City expert on Official Plan matters) stated to the TLAB briefing session Feb 2017, “neighbourhoods are not intended for intensification”. The proposal is anyway too small to be of concern to the Province although “Sense of Place” has been added recently to the Planning Act as a Provincial interest. Approval by the Province of OPA 320 clarifying the Neighbourhood policies attests to Provincial support for the City strategy.
- 5) **Demand should be accommodated wherever possible.** Demand is to be resisted according to the OP to ensure that quality of life is retained or enhanced. Citizens are the clients of the planning system and are supposed to shape their own neighbourhood according to the OP. Builders implement policy rather than dictate policy. (p 2.1 OP)
- 6) **There is a shortage of land for development.** All planned development can be accommodated within the Avenues like Lake Shore Blvd. according to Jennifer Keesmaat, former Chief Planner. Designation within the downtown, port lands (which are as large as the downtown) and Centres allow for any additional need. Toronto is half the density of London, UK and New York. Long Branch has well over 1000 residential units fairly recently approved in a neighbourhood with another potential 1000 in the works. All with a population of around 10,000 people. About a decade ago the community encouraged the developer of a mid rise building next to the GO station to build much higher and they did producing about 40 extra units, roughly the same number that have been added by severance in South Long Branch. The latter though took years of people’s cumulative time and , created anxiety..
- 7) **The Committee of Adjustment follows the legal and planning framework.** The Committee of Adjustment follows their own convictions based on values contrary to good planning – accommodating demand and adding density. The OMB overruled the COA and the Planning Dept 70% of the time by May 2015. Since then and especially recently the COA act more like the OMB.
- 8) **OMB decisions approving soldier houses are based on facts and logic.** OMB decisions are based on false evidence supported by legal advocacy without rationality.
- 9) **All services are fully available in Long Branch.** The neighbourhood has good soft services but has underground streams and wet/flooded basements issues that concern insurance companies. New drainage is not planned to be installed until the 2020s.
- 10) **The building envelope of setbacks and heights can be filled in with higher densities without impact.** Increase in densities like soldier houses create severe impacts even within the building envelope (PL160520, 30 36th St). While the hearing officer made this logical point he had no

understanding of urban design. This was the reason the severance was approved.

- 11) **The Long Branch Area is stable.** Long Branch area is unstable because of the pace of redevelopment and the severe impacts which follow from proposals from soldier houses and other inappropriate house forms.
- 12) **Size of variance does not matter.** The Divisional Court and City says that size (as well as impact) must be small; this is critical in relation to density. The Toronto website definition of minor is “Small changes or exceptions to existing land use or development restrictions contained in the zoning bylaw are called minor variances.” The word “Adjustment” defines the Committee’s role. A further recent clarification is included in the Blue Brochure “Getting to know the City of Toronto, Committee of Adjustment” produced by the Planning Department which states “Whenever your project or development largely complies with the rules in the Zoning Bylaw but does not quite, you need to have to apply to a minor variance. Example. The maximum permitted height for the building is 10m. The altered building is proposed to have a height of 10.5m.” Doubling of density cannot be seen as small or minor especially in relation to doubling salary, weight or cost. Planning decisions are to determine the public interest and decisions need to be in line with City policies. The North Barrie case had nothing to do with size being relevant. Rather it related to how it is addressed in decisions. In other words De Gasperis rules. The variance system has been undermined by putting increasingly large changes through a now heavily overused opaque system because of its complexity. The system is hugely over-extended leading to poor planning by people who are working against City policy.
- 13) **There is a balanced playing field between the Development Sector and Citizens.** The reality is that the investment in a hearing for the development sector is part of the cost of doing business and the top lawyers and planners are hired. Residents have unwanted intrusions into their lives through proposals that are reducing their quality of life and in some cases negatively affecting health. One resident has had to attend 12 OMB hearings. All OMB hearings are traumatic experiences partly because of their reputation. The COA/OMB process is radically unfair not necessarily because of the legal and planning framework but by the people who abuse it. If the City decide to be represented they have recently qualified planners on whom the OMB place little weight. No citizen has been able/willing to afford either a planner or a lawyer to represent them at severance hearings in Long Branch. The severance/variance system is incredibly difficult to understand and is constantly changing. It is Goliath versus David without a sling. Most people involved for the first time have never heard of the Official Plan. Learning curves have to be steep for credible submissions and taker months.
- 14) **Notifications are clear.** Not only are notifications times too short but the materials are incomprehensible to the average citizen. Variances mean nothing to most householders and no elevations or bird’s eye views to illustrate impact are circulated. One resident calls them similar to dishwasher manual! Often they are discarded through lack of time or knowledge of the householder. That is partly why an incorporated Neighbourhood Association has been set up recently.
- 15) **The intent of the OP is the basis for approval decisions.** I was directly involved in the creation of OPA 320 and an aware of the aims of the 2006 approved OP. The OPA has been approved by the Ministry showing support for directing intensification away from neighbourhoods but appealed to the

OMB by many development interests. The new legislation would take away the right to appeal in similar situations.

- 16) **The zoning and severance can be considered separately.** Building designs are created through Section 53 and 45 of the Planning Act. It is the urban design impact to which people relate. The circulated site maps are helpful but the facades bring the buildings to life. Rarely are these elevations related to the next door properties and even more rarely are bird's eye views shown, both of which are required for analysis.
- 17) **The zoning bylaw is out of date.** The zoning bylaw reflects the defined or distinctive character of the area and as noted in PL 160520 OMB decision on 30 36th Street and is relevant today.
- 18) **Soldier house proposals are judged on their own merits.** All soldier house approvals by the OMB in Long Branch have been approved on precedent, sometimes by a single development at some distance.
- 19) **Long Branch is eclectic so soldier houses fit harmoniously into the neighbourhood; soldier houses are modest forms of intensification and have acceptable impact.** These are the problems that has dogged Long Branch for 5 years and are becoming increasingly ruinous of the character of Long Branch. It has destroyed the system which TLAB are here to correct. Long Branch is eclectic but within well defined parameters. Soldier houses so far have all been bad fits and are out of synch with the character of the neighbourhood as well as nearby properties. The higher the density the greater the massing and scale and the more dramatic the impact in terms of light, privacy, views and large blank walls. A detached house on the property similar in design to the houses in ^Witness statement Visual 3 posted November 9 2017 would be appropriate and desirable or a modern version of one of the heritage listed houses of which there are many. These houses respect and reinforce the broad character of the neighbourhood, their street characters and their impact on neighbours is positive.
- 20) **Land Use development planners are experts in Urban Design** (the third dimension of planning and what you see on the street). Such planners are usually not trained in urban design; urban design is an option for OPPI membership. They do not necessarily understand urban design such as the heights, scale, massing, and façade expression of soldier houses (roughly double density, 3 storey on narrow lots with prominent garages.). They are devoid of knowledge on how to evaluate harmony. They invent fallacious methods to justify their stance. Context is clearly key. Since severances in Long Branch are principally about urban design this is a fatal flaw in the process. If they had an inkling of urban design expertise, they would not support the proposal. All sides of the land use issue agree on detached housing.

David Godley 7 March 2018

Toronto Local Appeal Body

From: David Godley [REDACTED]
Sent: March-13-18 3:40 PM
To: Toronto Local Appeal Body
Cc: [REDACTED]
[REDACTED]
Subject: Rules of Practice and Procedure and Related Documents
Attachments: tlab3638.doc

Dear TLAB staff,

I am writing in response to the notice asking for submissions by 6 April 2018 (see below).

I do not intend to give a presentation on April 18 as I have been assured that written representations will be treated equally.

As you know I have been involved with TLAB from the start attending business meetings and previously commenting as well as now having given evidence at my first hearing.

I submit then that the rules and procedures be changed to exempt the public except having their material sent by pdf (or other medium to be decided) 30 days before a hearing.

I am a strong supporter of TLAB as I feel the OMB was broken and planning was suffering.

TLAB have the potential to put rational planning back on the rails for severances and variances.

I have submitted two pieces of material to give background to the issue, my evidence for the hearing at 38 36th St Long Branch is attached and my previous letter is below.

I recognise TLAB has a tough mandate with huge numbers of appeals coming their way.

I have been most impressed by the enthusiasm and efficiency of staff and have confidence in hearing officers' ability to improve decision making.

From the perspective of an organisation that values fair play and prompt submissions and disclosures I can see why the rules and procedures were developed as they now stand.

My main concern is that the rules and procedures are designed for full service legal firms but even the current requirements is putting strain on them.

I support Mary Flynn Guglietti's approach that the deadlines should work backwards from the date of the hearing.

Three weeks to register as participant is too short even for them. Working backwards with plenty of time between notice and hearing date will allow a less rushed and chaotic approach to submitting material.

As for the public this is a nightmare. Absorbing all the rules and procedures in this time frame and making decisions about Participant and Party is not realistic to expect.

It actually takes months rather than weeks to know the ins and outs of a process totally strange to them.

Finding the right browser, how to convert to pdf (I always use fax) and how to do the signature was headache making for me as a planner and other people as referenced in the letter below

I therefore believe that the public should be excused from all the rules and procedures apart from having material in pdf form 30 days before the hearing. No signatures should be required.

TLAB are to be congratulated for eliminating the practice used by a number of applicants who change their submission just before a hearing.

This takes the wind out of the sails of all those who prepared based on the appealed decision and is equivalent to a surprise attack.

Tremendous time is wasted by the public trying to figure out what they are supposed to be doing and then doing it when their life as been invaded by bureaucratic quagmire which drags them down. Anxiety in the neighbourhood is already high.

Also time is wasted at hearings by correcting all the mistakes and late filings which are made through misunderstanding, shortage of time or inability to respond. I had to file late on 70 36th as I had been away for 3 weeks and time was up before I

saw the notice. This would also achieve a better balance between moneyed applicants and the public who so far have had a huge disadvantage at hearings and in Long Branch have never had the facilities to hire a planner or lawyer at OMB hearings.

Expert evidence which can be false is often relied upon by the OMB. The public rely on the Planning Dept which itself is stretched to the limits and is unable to provide a comprehensive service.

So far the dual has been between the applicant with a gun and the public with a sword.

Since the issues are nearly always clear from the Committee of Adjustment file there seems to be no reason for the various deadlines. They are often similar and the evidence given by applicants follows the same pattern. My oral evidence is almost the same for each 3 storey split in Long Branch. The applicants have concern and the City does too. Sometimes the City have not been able to find an outside planner to represent the City's interest by the time a hearing rolled around. While I have heard the Chair say that justice delayed is justice denied this needs to be balanced against achieving a quality decision. In planning one mistake lasts 100 years or so. We are not dealing with guilty or not guilty. There are hundreds of options between refusal and approval in the larger of cases. The OMB have not found it possible to find middle ground based on sound planning.

Every strategy which enables the public to negotiate the complex procedures should be considered including starting hearings at 10am to avoid rush hours and dark morning expeditions to what os the wild beyond from Long Branch and alternative venues that do not involve a struggle to reach. Enabling those most affected to be available for a hearing is central to fair hearings. Many people have work or have other commitments and may not be able to attend on a day which is convenient for TLAB. There fore it is essential for these people and the applicant to be consulted prior to a hearing date being set. Mediation facilities will help as would intervenor funding.

Thank you for the opportunity to have input into your Rules and Procedures.

I look forward to seeing other submissions posted online.

Yours truly,
David Godley



TLAB NOTICE

Toronto Local Appeal Body Telephone: 416-392-4697
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Toronto, Ontario M4R 1B9 Email: tlab@toronto.ca
Website: www.toronto.ca/tlab

1 of 1

Toronto Local Appeal Body (TLAB): Public Consultation Notice
Review of TLAB Rules, Practice Directions, Forms and Public Guide

Members of the public, stakeholders and interested individuals are invited and encouraged to provide contribution to a review of the Toronto Local Appeal Body's (TLAB) Rules of Practice and Procedures and related documents.

There will be a one-day opportunity to make public oral presentations. If you wish to make an oral presentation, you must register by submitting a completed Registration Form and provide a Written Submission.

The Public Consultation session will take place on:

Date: Wednesday, April 18, 2018

Time: 2:00 to 5:30 PM and 6:30 to 8:30 PM

Location: Scarborough Civic Centre

150 Borough Drive

Scarborough, Ontario M1P 4N7

Room: Council Chambers

Information on the Presentation Process:

1. The TLAB wishes to hear submissions related to any Rule, Practice Direction, Form, or the Public Guide. Oral presentations should be organized by specific topic, such as the number of the Rule, Practice Direction, or Form, or section of the Public Guide.

2. The scheduling and time limits of oral presentations will be at the discretion of the TLAB Chair.

3. If you wish to make an oral presentation, please REGISTER and provide WRITTEN SUBMISSIONS.

4. Registration forms may be obtained from the Toronto Local Appeal Body's Website at www.toronto.ca/tlab

We would like to hear from you: To comment in writing, send your written submissions via email, fax or mail. Written submissions without an accompanying oral presentation will receive the same serious consideration as those accompanied by an oral presentation.

Completed registration forms and written submissions may be submitted by:

Email: tlab@toronto.ca

Fax: 416-696-4307

Mail: Toronto Local Appeal Body
40 Orchard View Boulevard, Suite 211
Toronto, Ontario M4B 1R9

Deadline for Submissions: All submissions must be received by the Toronto Local Appeal Body no later than Friday, April 6th, 2018.

For further information on the process, please contact the Toronto Local Appeal Body at tlab@toronto.ca or by phone at 416-392-4697.

PREVIOUS CORRESPONDENCE

From: David Godley [REDACTED]
Sent: July-04-17 7:00
To: Toronto Local Appeal Body
Cc: [REDACTED]

Subject: 17 165408 S45 06 TLAB, 9 THIRTY EIGHTH ST hearing Oct 13 2017- Request to Suspend Rules

Dear Hsing, Thank you for your information so far. Please can you forward this material to the Toronto Local Appeal Board (TLAB) body for their response to the recommendations. I am hoping they can easily satisfy the TLAB rules. Attached is my March 1 2017 letter and our correspondence. My material for the summary of evidence will follow. I am also asking that this letter be transferred to pdf and placed on file. (I have found that my computer system will not operate your pdf system). I would suggest conferring with Bruce Krushelnicki, Executive Director of ELTO (and in charge of the OMB) to validate my points. Please acknowledge and reply to the substance as quickly as possible. I also imagine my criticisms affect all your files, see scheduled hearings attached. Thanks, David

SUBJECT Request to lift all deadlines relating to the file and proceed along the simpler lines operated by the OMB.

RECOMMENDATIONS

1) TLAB suspend the deadlines and submission by pdf. The latter can easily be done by having TLAB transfer material to pdf as the Committee of Adjustment does.

The deadlines can be removed by the simple realisation that you do not have to follow them because they are contrary to natural justice. In effect the recommendations would formally suspend their rules for this hearing.

2) It is recommended that the hearing take place in Etobicoke Civic Centre to increase accessibility for a hearing with such great interest.

SUMMARY

TLAB's rules and procedures are (1) grossly unfair to the general public who are most impacted by appeal decisions, (2) they are much worse than the OMB's protocol and (3) are awash with bureaucratic red tape.

INTRODUCTION

I have spent approximately a full working week (at least 40 hours) since the June 21 notification working on this file and the new Early Disclosure processes of TLAB.

I am not yet close to being able to submit material in accordance with rules and procedures for the deadline on July 11. However the fax suggestion looks hopeful. (see attached hsing correspondence in blue)

Since I have the benefit of years of urban planning experience especially in the field of Committee Adjustment matters, I have a distinct advantage over the average citizen.

Also I keep up to date with what is a dynamic system and have a time perspective.

SUPPORT FOR TLAB

I am a strong supporter of TLAB and feel the City should be making these smaller decisions itself with only a legal appeal to the Provincial level.

And we need to get away from the strongly pro development stance of the OMB and re-balance the power between people and profit.

TLAB's local knowledge and planning oriented hearing officers will help. We need skills in planning and urban design which are mostly absent at the OMB.

TLAB have taken up an impressive challenge and the work put in is amazing.

THE ISSUES

I have learned a lot during the past two weeks but unfortunately I have discovered TLAB is not operating a fair system of deciding planning appeals, certainly not in this case. This is a requirement of the Planning Act.

In their eagerness to set up an orderly and paperless process, they have overlooked the major participants in the issues - the public.

To allow special processes to trump good planning is wrong.

It is as if TLAB thinks everyone involved is part of a lawyer team.

The OMB may be court-like but it has flexibility. TLAB seem to view their role as a court with rigid rules rather than a forum for achieving good planning. None of the protagonists has done anything wrong!

Residents are supposed to be competing on at least equal terms with the City/Planning Department and applicants, both of whom are paid. The market and the wishes of the applicant are not considerations, something ignored by most decision makers.

The OMB and Committee of Adjustment approvals in Long Branch have resulted in permanent loss of quality of life for residents of nearby soldier houses (alien 3 storey houses on narrow lots) of which 100 have been approved in the last 5 years.

Views of foliage and the sky are lost, light and sunshine into yards and houses are lost, getting on for one significant tree per severance is lost and large blank walls become eyesores. These are effectively changes forever.

As for the street scene the rhythm of the public realm is destroyed because the new houses are out of scale and massing with their context and do not conform to urban design policies of the Official Plan.

This is all for maximising the profit of the applicant. Development planners are not qualified in urban design in more than a dozen hearings I have attended. They always advocate that if there is a similar house in the neighbourhood their proposal must fit in.

That destabilises the neighbourhood in that all 50 feet wide lots are suitable for severance according to them. The is course is illogical and false and it clear in OPA 320 which clarifies the intent of OP.

The Provincial Government is proposing a group to even out power for the proposed Local Planning Appeal Board.

This needs to happen for Committee of Adjustment appeals and was the aim for TLAB. The opposite is happening.

I warned TLAB about early disclosure not being appropriate for the more complex files in a letter in February. (see attached letter tlabearyld)

Requiring pdf submissions and signatures has made participation even more burdensome.

The rules and procedures are awash in bureaucratic red tape. For 9 38th Street I have to fill out 9 forms mostly repetitive to engage in the process when with the OMB, none were required. If I have to go to affidavits it will be even more forms. More forms will be needed

for changes of status.

Another aspect of Early Disclosure is that repetition is created by having to go through a similar process soon after the notice and again 3 or 4 months later when availability of personnel and the issues are clearer perhaps even changed. Everything will have to be refreshed

when the time of the hearing approaches. Since over 50% of workers in Toronto have precarious jobs they have no ability to plan ahead. With completely new rules I would have hoped TLAB would be out in the community educating potential parties and participants. The

OMB has a community liaison officer. If TLAB did this before taking on files the predicament would have been avoided.

The situation at the moment with most Long Branch hearings is that a week or so before the hearing, the City's lawyers, the planners (if on the same side as the City) and interested members of the public meet to go over procedures and clarify planning issues. They give no

legal advice to the public. The City's interests are different from residents and are more focussed on the public realm.

Without this citizens are going to be disorganised and apparently under TLAB can have costs ordered against them for this. The cases where costs can be awarded appears to have expanded. The most chilling deterrent for the public to be a party is the award of cost

potential. People do not want or often cannot go through this at the beginning of the process and again at the end.

As well changes in anticipated participant, party, non- involvement role is going to generate a spate of emails all on complicated forms in accordance with 44 pages of Public Guide, approximately the same with legal jargon in the rules and procedures and referencing about

30 items on the Applications Information Centre web site. As well the public must keep checking the website and do all sorts of research around the TLAB and AIC websites as well as formulate analysis and strategies.

And this is just the bones of the of the issues. Lots more consultations, formal and informal will be needed.

My experience has shown that TLAB material and correspondence has deficiencies some based on that received from the Committee of Adjustment.

Although TLAB have revealed several pieces of useful information in correspondence, these are nibbles at the overarching issue.

The problem is the rules and procedures are unreasonable, grossly unfair, and unworkable in this case, probably one of the more complex and controversian cases with which TLAB will deal. The rules and procedures do not accord with due process or natural justice

according to conversations I have had.

A hearing officer working under these rules would not meet the City Code of Conduct because Council policy on public input is not followed.

Accessibility to justice has been sadly missing for the public at the OMB and has been recognised by the Province.

People who want to be involved in this file simply have not the time or inclination, especially at this time of year, to look into reams of information and they do not even understand the basics of the planning or the system in which it operates.

The Committee of Adjustment only provides basic information in their notice which is mostly meaningless to a householder and often discarded.

The few people who make it through to the Application Information Centre are deprived of any context analysis which is basic to decisions.

There are no street facades showing the proposal in relation to the two abutting street properties, there is no bird's eye view showing the proposal in relation to the houses around and illustrating impacts, and there is no neighbourhood character analysis. Densities are not

analysed: these relate to massing and are critical to understanding nearby context in accordance with the OP.

All these matters are essential for making good judgments and I have been pushing for the applicant to provide these over several years. The Planning Department do not provide these either. So the Committee of Adjustment members at the moment go with their

development oriented instincts in the category of "if an application is worth submitting it is worth approving". There are no planners or lawyers on this Committee. However the Committee is influenced by members of the public especially when they arrive in large numbers.

This pro development thinking has been enhanced in the last year because of all the poor planning decisions of the OMB. The Planning Department too is now supporting much higher densities through expediency. The whole system would break down if they commented on

all applications and analysed information as in in other municipalities. There is a staff shortfall. As you will have found out there is a huge workload in Toronto with so many applications. The TLAB process would, I expect, be struck down by the courts on due diligence.

A major step forward would be to have community meetings prior to a Committee of Adjustment hearing with full facts and analysis.

TLAB simply post (and I have found a few omissions) what the Committee of Adjustment post, thus perpetuating a system that is not in working.

It also appears that no document larger than the regular 8 x11 inches is permissible and I am not sure if colour can be used. This would curtail essential information from being used as evidence. For example I submitted a lot size plan to an OMB hearing at double the regular

size. Details on maps would be lost especially if in black and white. Maps and plans at large scale are an essential part of an OMB hearing so that all involved can see clearly the points that are being made. Perhaps projection on to a screen would help.

THE GENERAL PUBLIC

Not only is the average public seriously disadvantaged by lack of information, which means any application is premature, those who are less than average are even more disadvantaged.

Federal judges are being educated on diverse life situations. Hearing officers need to be fully conversant with urban design, the third dimension of planning, to enable them to make sound decisions. If they are not they need training. Many files are completely urban design

oriented such as this one. Land Use is not at issue.

Part of the reason that the OMB's is being reformulated is that the balance was so far tipped against the public and for the applicant.

The public do not have access to legal and planning experts unless they are able to pay out \$15,000 to \$25, 000. This has not happened in Long Branch.

Therefore party status is out of the question for residents yet they are the major stakeholder. Stakeholders are required to be at the table for planning in order to be fair. TLAB have diminished and minimised the public's participation which gives extra leverage to those who

can afford Bay Street lawyers and their attendant planners. The OP includes the following statements :

"The OP is set up so citizens should shape their neighbourhood without yielding to the pressures of development." "it encourages decision making that is long range, democratic, **participatory, and respectful of stakeholders** (my emphasis). In Principles for a Successful City it is stated that "individuals and communities actively participate in decisions affecting them. And people are inspired to become involved in affecting positive change." See policy 5.5 the Planning Process.

This is the basis for all policies. It could not be clearer that the TLAB process is contradictory to the City's intent.

The City do not usually get into private property impacts. That is left to citizens. So the public are left to fend for themselves and therefore are an essential part of any decision all the way through the process.

Participants not being able to join in mediation, for example, may be the legal way of thinking but it is thoroughly anti planning. And we are dealing with planning within a framework of law and not law itself.

The very issue which led to the weakening of the OMB has been even more strongly imposed by TLAB. It amounts to a lack of understanding as to who they serve and a contempt for the general public.

A member of this group describes herself as average when in fact she is a well qualified professional with strong computer skills and a conscientious nature. As the person most affected she has spent more energy than other nearby residents trying to untie the Gordian Knot.

It may be easy for lawyers, certain other professionals and techies as this is what they deal with daily. Few would be able to take the challenge as far as she has. She is a victim of TLAB's establishment views. Here is her letter:

LETTER FROM A CITIZEN

I am that regular citizen you mention. This process is a huge stress on me because I simply am unfamiliar with how the appeals work, I have a full time job, a family and an ailing mother I take care of.

So I spent a few hours today reading through the Public guide and the Rules. Much of it I do not understand- I am not a lawyer- I kept having to flip back and forth to interpret some of the who is who. I am even more confused. (I believe my eyes glazed over around page

30)

1. Are we a party? or am I a participant?
2. is the city lawyer representing us? (Miss Amini) All the legalise jargon is too much for me.
3. I have not officially received the letter
4. The dates are a concern for me- Since I am not sure which form to fill out- Is the form 3 due July 6 even for ME to fill to fill out- City lawyer? .Form 4 - Notice of attention- well since I do not know if we are a party or a participant - how do I fill out this form?
5. I will be on a long awaited vacation From July 4 to July 23. We will be out of the country. That gives you about a week more. This is unreasonable in view of the lack of information available right now.

I am awaiting word from Councillor Grimes and his office to advise us- I thought it was a good idea to meet prior to the Aug 8 date to discuss the process. This is important ,we want to have everything in order so the next appeal isn't set on a precedent.

Your short answer- I am confused, bewildered and stressed.

Here are examples of some of the many hundreds of citizens (in Long Branch mainly) I have been assisting over the last few years:

1) In an area of 27th Street and Shamrock there have been 7 OMB hearings for severance/variances such as this and there will be more. There have been many more Committee of Adjustment and Community meetings. The people of this area have been traumatised and

abused by the planning system and nobody seems to care. If the OMB had been knowledgeable they would have refused the first severance and any successors. This is the sort of role expected from TLAB.

These people now have lost all faith in the system and have little fight left in them. Their environment has been ruined with loss of trees, sunlight, light, privacy, views and overpowering development; and development that destroys street character rather than respects and

reinforces it. They have had to live in a building site for years as these individual properties take small builders a long time to develop. The developers also go out of their way to intimidate established neighbours.

Residents of this area have been made both physically and mentally unwell.

2) Many people cannot read plans well and the poor illustrations means they do not fully understand impacts or perhaps not at all.

3) Some people cannot separate the proposal from the bad tenants developers tend to rent to during application processing.

4) Many homeowners do not own computers, are not computer literate and therefore are unable to communicate digitally without help.

5) People have full time jobs and many other responsibilities and simply do not have the time or inclination to get involved. Some people even become sick!

6) Some cannot get time off so the initiative of TLAB to allow written submissions is very welcome but not as effective as attending a hearing. This can be overcome by fully written appeals as common in UK.

7) Lots of people go away for a couple of weeks and therefore cannot become parties/participants. 14 days written notice from 27 June to 11 July yells inadequacy.

8) Many people ditch notices without reading them. It is usually up to few people to do all the "donkey work" to inform the others of the issues, procedures and relevant information. Often they consult and meet with me. I have discovered that those within 60m of the

subject site do not receive notification unless their names are on file. This is a breach of natural justice as within the hearing time there are changes of residents , resident's time available, residents discovering the issue and other matters because of tight time lines. Their

chance to participate is gone after a couple of weeks unlike through the OMB rules which allow these decisions at the actual hearing.

9) Many people fear speaking in public and many people do not know how to express themselves in writing. They all need assistance.

10) Many people are rightly angry and frustrated and believe they cannot fight "the establishment". TLAB was seen as the enlightenment. Decisions are expected similar to that on 9 Meaford by the OMB - reasoned rather than repeating the most established planner's

conflicted evidence. This will enable protection of the quality of life people have trustingly bought into.

As an added concern, in the hearing itself, it seems the public are excluded from information by not being digitally plugged in. TLAB needs to fully

involve participants so witnesses can illustrate their points with full view by the public. Participant evidence is often modified (especially by me) after hearing a development planner speak sometimes to correct wrong information. Large maps such as the lotting in the whole

neighbourhoods (essential to analysing character) cannot seem even to be used.

Further small barriers to participation by the public are the 9 am start which means travelling through rush hour and the out of the way hearing offices from Long Branch and much of Etobicoke. Last week a similar application just round the corner from these applications

attracted over 20 residents and 30 submissions. Because the residents spent much time organising, there were only 6 speakers. This type of effort takes time and consultation and needs to be done just before the hearing to decide all the matters that TLAB have scheduled at

the beginning of the process. It is probable that 38 36th Street will land up at TLAB. It is impossible to do this properly within 14 days after the notice.

9 38th Street is likely to attract more attention particularly from across Long Branch. The OMB used to conduct evening hearings for the public and this is another idea to make their process more accessible. While the OMB were a monument to injustice they had many

well honed and helpful procedures.

CONCLUSION

The public are sometimes being deprived of all or full participation by TLAB rules. The process has been convoluted by TLAB for their own benefit of making their life simpler and putting all the work on to those they serve. The major reason for TLAB taking OMB responsibilities was

unfair discrimination against the public because so many OMB decisions were overly influenced by development considerations. The legalistic approach to planning was the death knell of the OMB's role. TLAB have stepped up the legalistic unfair requirements.

This needs nipping in the bud. The rules discriminate against the public even more than the OMB. TLAB's needs to maximise accessibility to hearing officers and give greater credibility to the public. Experts have succeeded in corrupting the system.

This can be avoided if TLAB's rules are suspended and the hearing officer uses their own urban design/planning skills as a basis for judgment as in the OMB hearing for 9 Meaford PL161048. Citizens are being overwhelmed by a process completely unsuited for planning appeals

such as 9 38th Street in Long Branch.

Yours truly,

David Godley

[REDACTED]

[REDACTED]

[REDACTED]

Toronto Local Appeal Body

From: David Godley [REDACTED]
Sent: March-18-18 10:17 AM
To: Toronto Local Appeal Body
Cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: Rules of Practice and Procedure and Related Documents, April 18 Meeting

Hi Again Hsing,

Just a couple of more points I would like to add.

Firstly, to reinforce my contention that participants should not be subject to the rigorous requirements of parties I mention the following.

Sheila Carmichael has been in the Dominican Republic dealing with Form 4 and 13 requirements and I have been helping her.

Because of the complexity this will have messed up her holiday and she may wish to add something of her own by the deadline of April 6 to describe how it impacted her trip.

Secondly, there is a justice notion that those who have limited resources challenging those who are rich in resources should be given all the breaks they can, to even out the playing field.

The opposite happens with the party/participant divide so I suggest that the weight assigned to each be adjusted to a fairer balance in consideration of all matters.

Thirdly my own circumstance and those of some citizens as well as Community Associations is that large amounts of time are used up by unpaid people.

In my own case I have given similar evidence this year on two hearings (one OMB) and may have half a dozen more this year.

With the OMB I started at 10am, a much more amenable time coming in from Long Branch and was accommodated on the first day.

With TLAB hearings I had 2 days at 9am and will have 2 or 3 days for the next hearing.

Since my strategic testimony is almost the same each time and I have heard the same (mistaken) evidence from planners over a score of times, I would ask for greater consideration.

I would like to point out also that the Planning Department does not give a comprehensive review of the planning cases in particular having no input into critical urban design matters, especially using wrong evaluation methods, De Gasperis as

indicated in the City's written material, abutting neighbour impacts or tools necessary for judgment eg birds eye views or facades including next door properties. Essentially the residents and City case is exactly the same because of the strategic

Official Plan policy of steering extra density that mars distinctive character to other areas. There are no other higher order issues to weaken the basic thrust of the legally binding policies of Province and City (The Minister has confirmed that Provincial policies are implemented through Official Plans.

(Robert please could you forward this to TLAB)

TLAB have the chance to put planning back on an even keel so I am submitting these ideas to assist.

Thank you for the opportunity to comment, something that was seemingly impossible with the OMB, in decision terms, a broken system.

David

On 16/03/2018 9:17 AM, David Godley wrote:

Great, David

On 16/03/2018 9:15 AM, Toronto Local Appeal Body wrote:

Good morning Mr. Godley,

Apologies for the late reply. Yes, we have received your submission and all is in order. We will forward your submission to the Panel Members in due course.

All submissions will be posted as part of the agenda and posted a week prior to the meeting.

Thanks,

Hsing Yi Chao

Supervisor, Toronto Local Appeal Body

40 Orchard View Boulevard

Second Floor, Suite 211

Toronto, Ontario M4R 1B9

Telephone: 416 – 392 - 5546

Email: HsingYi.Chao@toronto.ca



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From: David Godley [<mailto:mhairig@pathcom.com>]

Sent: March-16-18 9:01 AM

To: Toronto Local Appeal Body <TLAB@toronto.ca>

Subject: Re: Rules of Practice and Procedure and Related Documents, April 18 Meeting

Hi Hsing/Angela,

I have not yet received an acknowledgment of my submission and hope that all is in order.

Can you also let me know if submissions will be posted including the oral submissions.

I may wish to attend on April 18 (but not make a presentation) and would like to know the agenda.

Thanks, David

On 13/03/2018 3:39 PM, David Godley wrote:

Dear TLAB staff,

I am writing in response to the notice asking for submissions by 6 April 2018 (see below).

I do not intend to give a presentation on April 18 as I have been assured that written representations will be treated equally.

As you know I have been involved with TLAB from the start attending business meetings and previously commenting as well as now having given evidence at my first hearing.

I submit then that the rules and procedures be changed to exempt the public except having their material sent by pdf (or other medium to be decided) 30 days before a hearing.

I am a strong supporter of TLAB as I feel the OMB was broken and planning was suffering.

TLAB have the potential to put rational planning back on the rails for severances and variances.

I have submitted two pieces of material to give background to the issue, my evidence for the hearing at 38 36th St Long Branch is attached and my previous letter is below.

I recognise TLAB has a tough mandate with huge numbers of appeals coming their way.

I have been most impressed by the enthusiasm and efficiency of staff and have confidence in hearing officers' ability to improve decision making.

From the perspective of an organisation that values fair play and prompt submissions and disclosures I can see why the rules and procedures were developed as they now stand.

My main concern is that the rules and procedures are designed for full service legal firms but even the current requirements is putting strain on them.

I support Mary Flynn Guglietti's approach that the deadlines should work backwards from the date of the hearing.

Three weeks to register as participant is too short even for them. Working backwards with plenty of time between notice and hearing date will allow a less rushed and chaotic approach to submitting material.

As for the public this is a nightmare. Absorbing all the rules and procedures in this time frame and making decisions about Participant and Party is not realistic to expect.

It actually takes months rather than weeks to know the ins and outs of a process totally strange to them.

Finding the right browser, how to convert to pdf (I always use fax) and how to do the signature was headache making for me as a planner and other people as referenced in the letter below

I therefore believe that the public should be excused from all the rules and procedures apart from having material in pdf form 30 days before the hearing. No signatures should be required.

TLAB are to be congratulated for eliminating the practice used by a number of applicants who change their submission just before a hearing.

This takes the wind out of the sails of all those who prepared based on the appealed decision and is equivalent to a surprise attack.

Tremendous time is wasted by the public trying to figure out what they are supposed to be doing and then doing it when their life has been invaded by bureaucratic quagmire which drags them down. Anxiety in the neighbourhood is already high.

Also time is wasted at hearings by correcting all the mistakes and late filings which are made through misunderstanding, shortage of time or inability to respond. I had to file late on 70 36th as I had been away for 3 weeks and time was up before I

saw the notice. This would also achieve a better balance between moneyed applicants and the public who so far have had a huge disadvantage at hearings and in Long Branch have never had the facilities to hire a planner or lawyer at OMB hearings.

Expert evidence which can be false is often relied upon by the OMB. The public rely on the Planning Dept which itself is stretched to the limits and is unable to provide a comprehensive service.

So far the dual has been between the applicant with a gun and the public with a sword.

Since the issues are nearly always clear from the Committee of Adjustment file there seems to be no reason for the various deadlines. They are often similar and the evidence given by applicants follows the same pattern. My oral evidence is almost the same for each 3 storey split in Long Branch. The applicants have concern and the City does too. Sometimes the City have not been able to find an outside planner to represent the City's interest by the time a hearing rolled around. While I have heard the Chair say that justice delayed is justice denied this needs to be balanced against achieving a quality decision. In planning one mistake lasts 100 years or so. We are not dealing with guilty or not guilty. There are hundreds of options between refusal and approval in the larger of cases. The OMB have not found it possible to find middle ground based on sound planning.

Every strategy which enables the public to negotiate the complex procedures should be considered including starting hearings at 10am to avoid rush hours and dark morning expeditions to what is the wild beyond from Long Branch and alternative venues that do not involve a struggle to reach. Enabling those most affected to be available for a hearing is central to fair hearings. Many people have work or have other commitments and may not be able to attend on a day which is convenient for TLAB. Therefore it is essential for these people and the applicant to be consulted prior to a hearing date being set. Mediation facilities will help as would intervenor funding.

Thank you for the opportunity to have input into your Rules and Procedures.

I look forward to seeing other submissions posted online.

Yours truly,
David Godley



TLAB NOTICE

**Toronto Local Appeal Body Telephone: 416-392-4697
40 Orchard View Blvd, Suite 211 Fax: 416-696-4307
Toronto, Ontario M4R 1B9 Email: tlab@toronto.ca
Website: www.toronto.ca/tlab**

1 of 1

**Toronto Local Appeal Body (TLAB): Public Consultation
Notice**

**Review of TLAB Rules, Practice Directions, Forms and Public
Guide**

**Members of the public, stakeholders and interested individuals
are invited and encouraged to provide contribution to a review
of the Toronto Local Appeal Body's (TLAB) Rules of Practice
and Procedures and related documents.**

**There will be a one-day opportunity to make public oral
presentations. If you wish to make an oral presentation, you
must register by submitting a completed Registration Form
and provide a Written Submission.**

The Public Consultation session will take place on:

Date: Wednesday, April 18, 2018

Time: 2:00 to 5:30 PM and 6:30 to 8:30 PM

Location: Scarborough Civic Centre

150 Borough Drive

Scarborough, Ontario M1P 4N7

Room: Council Chambers

Information on the Presentation Process:

- 1. The TLAB wishes to hear submissions related to any Rule, Practice Direction, Form, or the Public Guide. Oral presentations should be organized by specific topic, such as the number of the Rule, Practice Direction, or Form, or section of the Public Guide.**
- 2. The scheduling and time limits of oral presentations will be at the discretion of the TLAB Chair.**

3. If you wish to make an oral presentation, please REGISTER and provide WRITTEN SUBMISSIONS.

4. Registration forms may be obtained from the Toronto Local Appeal Body's Website at www.toronto.ca/tlab

We would like to hear from you: To comment in writing, send your written submissions via email, fax or mail. Written submissions without an accompanying oral presentation will receive the same serious consideration as those accompanied by an oral presentation.

Completed registration forms and written submissions may be submitted by:

Email: tlab@toronto.ca

Fax: 416-696-4307

Mail: Toronto Local Appeal Body
40 Orchard View Boulevard, Suite 211
Toronto, Ontario M4B 1R9

Deadline for Submissions: All submissions must be received by the Toronto Local Appeal Body no later than Friday, April 6th, 2018.

For further information on the process, please contact the Toronto Local Appeal Body at tlab@toronto.ca or by phone at 416-392-4697.

PREVIOUS CORRESPONDENCE

From: David Godley [REDACTED]
Sent: July-04-17 7:00 AM
To: Toronto Local Appeal Body
Cc: [REDACTED]

[REDACTED]

Subject: 17 165408 S45 06 TLAB, 9 THIRTY EIGHTH ST
hearing Oct 13 2017- Request to Suspend Rules

Dear Hsing, Thank you for your information so far. Please can you forward this material to the Toronto Local Appeal Board (TLAB) body for their response to the recommendations. I am hoping they can easily satisfy the TLAB rules. Attached is my March 1 2017 letter and our correspondence. My material for the summary of evidence will follow. I am also asking that this letter be transferred to pdf and placed on file. (I have found that my computer system will not operate your pdf system). I would suggest conferring with Bruce Krushelnicki, Executive Director of ELTO (and in charge of the OMB) to validate my points. Please acknowledge and reply to the substance as quickly as possible. I also imagine my criticisms affect all your files, see scheduled hearings attached. Thanks,
David

SUBJECT Request to lift all deadlines relating to the file and proceed along the simpler lines operated by the OMB.

RECOMMENDATIONS

1) TLAB suspend the deadlines and submission by pdf. The latter can easily be done by having TLAB transfer material to pdf as the Committee of Adjustment does.

The deadlines can be removed by the simple realisation that you do not have to follow them because they are contrary to natural justice. In effect the recommendations would formally suspend their rules for this hearing.

2) It is recommended that the hearing take place in Etobicoke Civic Centre to increase accessibility for a hearing with such great interest.

SUMMARY

TLAB's rules and procedures are (1) grossly unfair to the general public who are most impacted by appeal decisions, (2) they are much worse than the OMB's protocol and (3) are awash with bureaucratic red tape.

INTRODUCTION

I have spent approximately a full working week (at least 40 hours) since the June 21 notification working on this file and the new Early Disclosure processes of TLAB.

I am not yet close to being able to submit material in accordance with rules and procedures for the deadline on July 11. However the fax suggestion looks hopeful. (see attached hsing correspondence in blue)

Since I have the benefit of years of urban planning experience especially in the field of Committee Adjustment matters, I have a distinct advantage over the average citizen.

Also I keep up to date with what is a dynamic system and have a time perspective.

SUPPORT FOR TLAB

I am a strong supporter of TLAB and feel the City should be making these smaller decisions itself with only a legal appeal to the Provincial level.

And we need to get away from the strongly pro development stance of the OMB and re-balance the power between people and profit.

TLAB's local knowledge and planning oriented hearing officers will help. We need skills in planning and urban design which are mostly absent at the OMB.

TLAB have taken up an impressive challenge and the work put in is amazing.

THE ISSUES

I have learned a lot during the past two weeks but unfortunately I have discovered TLAB is not operating a fair system of deciding planning appeals, certainly not in this case. This is a requirement of the Planning Act.

In their eagerness to set up an orderly and paperless process, they have overlooked the major participants in the issues - the public.

To allow special processes to trump good planning is wrong.

It is as if TLAB thinks everyone involved is part of a lawyer team.

The OMB may be court-like but it has flexibility. TLAB seem to view their role as a court with rigid rules rather than a forum for achieving good planning. None of the protagonists has done anything wrong!

Residents are supposed to be competing on at least equal terms with the City/Planning Department and applicants, both of whom are paid. The market and the wishes of the applicant are not considerations, something ignored by most decision makers.

The OMB and Committee of Adjustment approvals in Long Branch have resulted in permanent loss of quality of life for residents of nearby soldier houses (alien 3 storey houses on narrow lots) of which 100 have been approved in the last 5 years.

Views of foliage and the sky are lost, light and sunshine into yards and houses are lost, getting on for one significant tree per severance is lost and large blank walls become eyesores. These are effectively changes forever.

As for the street scene the rhythm of the public realm is destroyed because the new houses are out of scale and massing with their context and do not conform to urban design policies of the Official Plan.

This is all for maximising the profit of the applicant. Development planners are not qualified in urban design in more than a dozen hearings I have attended. They always advocate that if there is a similar house in the neighbourhood their proposal must fit in.

That destabilises the neighbourhood in that all 50 feet wide lots are suitable for severance according to them. The is course is illogical and false and it clear in OPA 320 which clarifies the intent of OP.

The Provincial Government is proposing a group to even out power for the proposed Local Planning Appeal Board.

This needs to happen for Committee of Adjustment appeals and was the aim for TLAB. The opposite is happening.

I warned TLAB about early disclosure not being appropriate for the more complex files in a letter in February. (see attached letter tlabearlyd)

Requiring pdf submissions and signatures has made participation even more burdensome.

The rules and procedures are awash in bureaucratic red tape. For 938th Street I have to fill out 9 forms mostly repetitive to engage in the process when with the OMB, none were required. If I have to go to affidavits it will be even more forms. More forms will be needed

for changes of status.

Another aspect of Early Disclosure is that repetition is created by having to go through a similar process soon after the notice and again 3 or 4 months later when availability of personnel and the issues are clearer perhaps even changed. Everything will have to be refreshed

when the time of the hearing approaches. Since over 50% of workers in Toronto have precarious jobs they have no ability to plan ahead. With completely new rules I would have hoped TLAB would be out in the community educating potential parties and participants. The

OMB has a community liaison officer. If TLAB did this before taking on files the predicament would have been avoided.

The situation at the moment with most Long Branch hearings is that a week or so before the hearing, the City's lawyers, the planners (if on the same side as the City) and interested members of the public meet to go over procedures and clarify planning issues. They give no

legal advice to the public. The City's interests are different from residents and are more focussed on the public realm.

Without this citizens are going to be disorganised and apparently under TLAB can have costs ordered against them for this. The cases where costs can be awarded appears to have expanded. The most chilling deterrent for the public to be a party is the award of cost

potential. People do not want or often cannot go through this at the beginning of the process and again at the end.

As well changes in anticipated participant, party, non-involvement role is going to generate a spate of emails all on complicated forms in accordance with 44 pages of Public Guide, approximately the same with legal jargon in the rules and procedures and referencing about

30 items on the Applications Information Centre web site. As well the public must keep checking the website and do all sorts of research around the TLAB and AIC websites as well as formulate analysis and strategies.

And this is just the bones of the of the issues. Lots more consultations, formal and informal will be needed.

My experience has shown that TLAB material and correspondence has deficiencies some based on that received from the Committee of Adjustment.

Although TLAB have revealed several pieces of useful information in correspondence, these are nibbles at the overarching issue.

The problem is the rules and procedures are unreasonable, grossly unfair, and unworkable in this case, probably one of the more complex and controversian cases with which TLAB will deal. The rules and procedures do not accord with due process or natural justice

according to conversations I have had.

A hearing officer working under these rules would not meet the City Code of Conduct because Council policy on public input is not followed.

Accessibility to justice has been sadly missing for the public at the OMB and has been recognised by the Province.

People who want to be involved in this file simply have not the time or inclination, especially at this time of year, to look into reams of information and they do not even understand the basics of the planning or the system in which it operates.

The Committee of Adjustment only provides basic information in their notice which is mostly meaningless to a householder and often discarded.

The few people who make it through to the Application Information Centre are deprived of any context analysis which is basic to decisions.

There are no street facades showing the proposal in relation to the two abutting street properties, there is no bird's eye view showing the proposal in relation to the houses around and illustrating impacts, and there is no neighbourhood character analysis. Densities are not

analysed: these relate to massing and are critical to understanding nearby context in accordance with the OP.

All these matters are essential for making good judgments and I have been pushing for the applicant to provide these over several years. The Planning Department do not provide these either. So the Committee of Adjustment members at the moment go with their

development oriented instincts in the category of "if an application is worth submitting it is worth approving". There are no planners or lawyers on this Committee. However the Committee is influenced by members of the public especially when they arrive in large numbers.

This pro development thinking has been enhanced in the last year because of all the poor planning decisions of the OMB. The Planning Department too is now supporting much higher densities through expediency. The whole system would break down if they commented on

all applications and analysed information as in in other municipalities. There is a staff shortfall. As you will have found out their is a huge workload in Toronto with so many applications. The TLAB process would, I expect, be struck down by the courts on due diligence.

A major step forward would be to have community meetings prior to a Committee of Adjustment hearing with full facts and analysis.

TLAB simply post (and I have found a few omissions) what the Committee of Adjustment post, thus perpetuating a system that is not in working.

It also appears that no document larger than the regular 8 x11 inches is permissible and I am not sure if colour can be used. This would curtail essential information from being used as evidence. For example I submitted a lot size plan to an OMB hearing at double the regular

size. Details on maps would be lost especially if in black and white. Maps and plans at large scale are an essential part of an OMB hearing so that all involved can see clearly the points that are being made. Perhaps projection on to a screen would help.

THE GENERAL PUBLIC

Not only is the average public seriously disadvantaged by lack of information, which means any application is premature, those who are less than average are even more disadvantaged.

Federal judges are being educated on diverse life situations. Hearing officers need to be fully conversant with urban design, the third dimension of planning, to enable them to make sound decisions. If they are not they need training. Many files are completely urban design

oriented such as this one. Land Use is not at issue.

Part of the reason that the OMB's is being reformulated is that the balance was so far tipped against the public and for the applicant.

The public do not have access to legal and planning experts unless they are able to pay out \$15,000 to \$25, 000. This has not happened in Long Branch.

Therefore party status is out of the question for residents yet they are the major stakeholder. Stakeholders are required to be at the table for planning in order to be fair. TLAB have diminished and minimised the public's participation which gives extra leverage to those who

can afford Bay Street lawyers and their attendant planners. The OP includes the following statements :

"The OP is set up so citizens should shape their neighbourhood without yielding to the pressures of development." "it encourages decision making that is long range, democratic, **participatory, and respectful of stakeholders** (my emphasis). In Principles for a Successful City it is stated that "individuals and communities actively participate in decisions affecting them. And people are inspired to become involved in affecting positive change." See policy 5.5 the Planning Process.

This is the basis for all policies. It could not be clearer that the TLAB process is contradictory to the City's intent.

The City do not usually get into private property impacts. That is left to citizens. So the public are left to fend for themselves and therefore are an essential part of any decision all the way through the process.

Participants not being able to join in mediation, for example, may be the legal way of thinking but it is thoroughly anti planning. And we are dealing with planning within a framework of law and not law itself.

The very issue which led to the weakening of the OMB has been even more strongly imposed by TLAB. It amounts to a lack of understanding as to who they serve and a contempt for the general public.

A member of this group describes herself as average when in fact she is a well qualified professional with strong computer skills and a conscientious nature. As the person most affected she has spent more energy than other nearby residents trying to untie the Gordian Knot.

It may be easy for lawyers, certain other professionals and techies as this is what they deal with daily. Few would be able to take the challenge as far as she has. She is a victim of TLAB's establishment views. Here is her letter:

LETTER FROM A CITIZEN

I am that regular citizen you mention. This process is a huge stress on me because I simply am unfamiliar with how the appeals work, I have a full time job, a family and an ailing mother I take care of.

So I spent a few hours today reading through the Public guide and the Rules. Much of it I do not understand- I am not a lawyer- I kept having to flip back and forth to interpret some of the who is who. I am even more confused. (I believe my eyes glazed over around page

30)

1. Are we a party? or am I a participant?
2. is the city lawyer representing us? (Miss Amini) All the legalize jargon is too much for me.
3. I have not officially received the letter

4. The dates are a concern for me- Since I am not sure which form to fill out- Is the form 3 due July 6 even for ME to fill to fill out- City lawyer? .Form 4 - Notice of attention- well since I do not know if we are a party or a participant - how do I fill out this form?

5. I will be on a long awaited vacation From July 4 to July 23. We will be out of the country. That gives you about a week more. This is unreasonable in view of the lack of information available right now.

I am awaiting word from Councillor Grimes and his office to advise us- I thought it was a good idea to meet prior to the Aug 8 date to discuss the process. This is important ,we want to have everything in order so the next appeal isn't set on a precedent.

Your short answer- I am confused, bewildered and stressed.

Here are examples of some of the many hundreds of citizens (in Long Branch mainly) I have been assisting over the last few years:

1) In an area of 27th Street and Shamrock there have been 7 OMB hearings for severance/variances such as this and there will be more. There have been many more Committee of Adjustment and Community meetings. The people of this area have been traumatised and

abused by the planning system and nobody seems to care. If the OMB had been knowledgeable they would have refused the first severance and any successors. This is the sort of role expected from TLAB.

These people now have lost all faith in the system and have little fight left in them. Their environment has been ruined with loss of trees, sunlight, light, privacy, views and overpowering development; and development that destroys street character rather than respects and

reinforces it. They have had to live in a building site for years as these individual properties take small builders a long time to develop The developers also go out of their way to intimidate established neighbours.

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3) Some people cannot separate the proposal from the bad tenants developers tend to rent to during application processing.

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6) Some cannot get time off so the initiative of TLAB to allow written submissions is very welcome but not as effective as attending a hearing. This can be overcome by fully written appeals as common in UK.

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8) Many people ditch notices without reading them. It is usually up to few people to do all the "donkey work" to inform the others of the issues, procedures and relevant information. Often they consult and meet with me. I have discovered that those within 60m of the

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10) Many people are rightly angry and frustrated and believe they cannot fight "the establishment". TLAB was seen as the enlightenment. Decisions are expected similar to that on 9 Meaford by the OMB - reasoned rather than repeating the most established planner's

conflicted evidence. This will enable protection of the quality of life people have trustingly bought into.

As an added concern, in the hearing itself, it seems the public are excluded from information by not being digitally plugged in. TLAB needs to fully

involve participants so witnesses can illustrate their points with full view by the public. Participant evidence is often modified (especially by me) after hearing a development planner speak sometimes to correct wrong information. Large maps such as the lotting in the whole

neighbourhoods (essential to analysing character) cannot seem even to be used.

Further small barriers to participation by the public are the 9 am start which means travelling through rush hour and the out of the way hearing offices from Long Branch and much of Etobicoke. Last week a similar application just round the corner from these applications

attracted over 20 residents and 30 submissions. Because the residents spent much time organising, there were only 6 speakers. This type of effort takes time and consultation and needs to be done just before the hearing to decide all the matters that TLAB have scheduled at

the beginning of the process. It is probable that 38 36th Street will land up at TLAB. It is impossible to do this properly within 14 days after the notice.

9 38th Street is likely to attract more attention particularly from across Long Branch. The OMB used to conduct evening hearings for the public and this is another idea to make their process more accessible. While the OMB were a monument to injustice they had many

well honed and helpful procedures.

CONCLUSION

The public are sometimes being deprived of all or full participation by TLAB rules. The process has been convoluted by TLAB for their own benefit of making their life simpler and

putting all the work on to those they serve. The major reason for TLAB taking OMB responsibilities was

unfair discrimination against the public because so many OMB decisions were overly influenced by development considerations. The legalistic approach to planning was the death knell of the OMB's role. TLAB have stepped up the legalistic unfair requirements.

This needs nipping in the bud. The rules discriminate against the public even more than the OMB. TLAB's needs to maximise accessibility to hearing officers and give greater credibility to the public. Experts have succeeded in corrupting the system.

This can be avoided if TLAB's rules are suspended and the hearing officer uses their own urban design/planning skills as a basis for judgment as in the OMB hearing for 9 Meaford PL161048. Citizens are being overwhelmed by a process completely unsuited for planning appeals

such as 9 38th Street in Long Branch.

Yours truly,

David Godley

