

City Clerk's Office

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Ref.: 18-PG28.6**

May 4, 2018

Mr. Ian Lord
Chair
Toronto Local Appeal Body
40 Orchard View Boulevard, Second Floor Suite 211
Toronto, Ontario
M4B 1R9

Dear Mr. Lord:

**Subject: Planning and Growth Management Committee Item 28.6
Toronto Local Appeal Body (TLAB) Rules of Practice and Procedure Review
Written Submissions (Ward All)**

City Council on April 24, 25, 26 and 27, 2018, adopted the following:

1. City Council request the Toronto Local Appeal Body to amend its Rules of Practice and Procedure to:
 - a. collapse the pre-hearing requirements for participants into one step, adopt a new rule requiring respect, courtesy and civility, and keep the principles of access to justice and effective public participation in the forefront during its review of the Rules of Practice and Procedure; and
 - b. move its deadlines for filing an Intention to be a Party or Participant, Document Disclosure and for filing Participant, Witness and Expert Witness Statements closer to the Toronto Local Appeal Body hearing date itself.
2. City Council request the Toronto Local Appeal Body to consider a mediation pilot project pursuant to its Rule 20, as amended if necessary, to encourage early dispute resolution through a cost effective and timely process for the residents of the City of Toronto.

Yours truly,


for City Clerk

M. Toft/wg

Attachments

c. City Manager


TORONTO Committee Report
 Report Item

Considered by City Council on
 April 24, 2018
 April 25, 2018
 April 26, 2018
 April 27, 2018

Planning and Growth Management Committee

PG28.6		Amended		Ward: All
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Toronto Local Appeal Body (TLAB) Rules of Practice and Procedure Review Written Submissions

City Council Decision

City Council on April 24, 25, 26 and 27, 2018, adopted the following:

1. City Council request the Toronto Local Appeal Body to amend its Rules of Practice and Procedure to:
 - a. collapse the pre-hearing requirements for participants into one step, adopt a new rule requiring respect, courtesy and civility, and keep the principles of access to justice and effective public participation in the forefront during its review of the Rules of Practice and Procedure; and
 - b. move its deadlines for filing an Intention to be a Party or Participant, Document Disclosure and for filing Participant, Witness and Expert Witness Statements closer to the Toronto Local Appeal Body hearing date itself.
2. City Council request the Toronto Local Appeal Body to consider a mediation pilot project pursuant to its Rule 20, as amended if necessary, to encourage early dispute resolution through a cost effective and timely process for the residents of the City of Toronto.
3. City Council direct the City Clerk to submit the report (April 4, 2018) from the City Solicitor, together with City Council's decision on this item, to the Toronto Local Appeal Body.

Committee Recommendations

The Planning and Growth Management Committee recommends that:

1. City Council direct the City Clerk to submit the report (April 4, 2018) from the City Solicitor, together with City Council's decision on the item, to the Toronto Local Appeal Body (TLAB).
2. City Council request that the Toronto Local Appeal Body (TLAB) amend its Rules of Practice and Procedure to collapse the pre-hearing requirements for participants into one step, adopt a new rule requiring respect, courtesy and civility, and keep the principles of access to justice and effective public participation in the forefront during its review of the Rules of

Practice and Procedure.

3. City Council request the Toronto Local Appeal Body to consider a mediation pilot project pursuant to its Rule 20, as amended if necessary, to encourage early dispute resolution through a cost effective and timely process for the residents of the City of Toronto.

Origin

(April 4, 2018) Report from the City Solicitor

Summary

The Toronto Local Appeal Body (TLAB) recently announced a review of its Rules of Practice and Procedure (the "Rules") and related documents. The Rules establish procedures and timelines for hearings, motions, settlements and mediation; disclosure and service requirements; and the roles and responsibilities of parties, participants, witnesses and representatives before, during and after hearings, amongst other matters.

The TLAB has invited members of the public, stakeholders and interested individuals to contribute to this review. City Council, in the interest of promoting broader public interest goals, has an interest in the effective functioning and application of the Rules. The City Solicitor intends to participate in this review by suggesting technical changes to the Rules in order to more effectively and efficiently represent City Council at the TLAB.

Background Information (Committee)

(April 4, 2018) Report from the City Solicitor on Toronto Local Appeal Body (TLAB) Rules of Practice and Procedure Review Written Submissions

<http://www.toronto.ca/legdocs/mmis/2018/pg/bqrd/backgroundfile-113866.pdf>

(March 27, 2018) Member Motion MM38.23

<http://www.toronto.ca/legdocs/mmis/2018/pg/bqrd/backgroundfile-113737.pdf>

Communications (City Council)

(April 25, 2018) Submission from Eileen Denny (CC.New.PG28.6.1)



REPORT FOR ACTION

Toronto Local Appeal Body (TLAB) Rules of Practice and Procedure Review Written Submissions

Date: April 4, 2018
To: Planning and Growth Management
From: City Solicitor
Wards: All

SUMMARY

The Toronto Local Appeal Body (TLAB) recently announced a review of its Rules of Practice and Procedure (the "Rules") and related documents. The Rules establish procedures and timelines for hearings, motions, settlements and mediation; disclosure and service requirements; and the roles and responsibilities of parties, participants, witnesses and representatives before, during and after hearings, amongst other matters.

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RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council direct the City Clerk to submit this report, together with City Council's decision on the item, to the TLAB.
2. City Council request that the TLAB amend its Rules of Practice and Procedure to collapse the pre-hearing requirements for participants into one step, adopt a new rule requiring respect, courtesy and civility, and keep the principles of access to justice and effective public participation in the forefront during its review of the Rules of Practice and Procedure.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

In July 2014, City Council approved the establishment of a Local Appeal Body (LAB) and directed the City Manager to report to Executive Committee on the governance, administration and fees to implement the LAB.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG33.14>

At its meeting on March 31, 2016, City Council considered the above mentioned report and adopted numerous recommendations required to implement the Toronto Local Appeal Body (TLAB).

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX13.1>

The TLAB was created through a by-law enacted on March 29, 2017 with an effective date of May 3, 2017.

<https://www.toronto.ca/legdocs/bylaws/2017/law0294.pdf>

The TLAB adopted its Rules of Practice and Procedure at a Business Meeting on May 3, 2017.

<https://www.toronto.ca/city-government/planning-development/committee-of-adjustment/appeals/business-meetings-agendas-and-minutes/minutes-may-3-2017/>

At its meeting on March 26, 2018, City Council adopted a motion requesting that the TLAB extend its deadline for written submissions for the City of Toronto to allow City Council an opportunity to contribute to the review:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM38.23>

In response to the above request, the TLAB added a second day of public deputations (May 30) with a deadline for written submissions of May 11, 2018.

COMMENTS

The Toronto Local Appeal Body (TLAB) was created by City Council in March 2017 with an effective date of May 3, 2017. TLAB hearings began in late August 2017.

The TLAB adopted Rules of Practice and Procedure (the "Rules") on May 3, 2017. The Rules establish procedures and timelines for hearings, motions, settlements and mediation; disclosure and service requirements; and the roles and responsibilities of parties, participants, witnesses and representatives before, during and after hearings, amongst other matters.

The TLAB has recently launched a review of its Rules and related documents, in which members of the public, stakeholders and interested individuals have been invited to participate.

The City Solicitor, who regularly represents the City at the TLAB has some concerns from a practice perspective with the TLAB Rules as currently drafted and how they are applied. The City Solicitor intends to submit a letter outlining her concerns and requesting certain technical amendments to the Rules in order to allow her to more effectively and efficiently represent City Council at the TLAB. The changes to be requested generally relate to:

- **Timelines:** The City Solicitor will be requesting changes to current timelines for various procedural requirements, such as party status and disclosure deadlines, which can be difficult or impossible to meet because of the City Solicitor's need to get Council instruction to attend a TLAB appeal and/or retain an outside planning consultant. The City Solicitor will also be requesting other timing changes to better encourage settlement.
- **Disclosure Requirements:** The City Solicitor will be seeking clarification on document disclosure rules and will be requesting that document disclosure and witness/participant statement filing be combined into one step.
- **Encouraging Settlement:** The City Solicitor will be requesting various timing and procedural changes to better encourage settlement.
- **Request for New Civility Rule:** To encourage civility, courtesy and respect in all TLAB proceedings, the City Solicitor is requesting a new rule requiring all persons involved in a TLAB matter to act in good faith and in a manner that is civil, courteous and respectful.

City Council is reminded that its submission should contain requests rather than direction as the TLAB is a quasi-judicial body that is independent from City Council.

In the interest of promoting broader public interest goals, such as access to justice and better engagement of citizens in the Planning process, Council may want to consider requesting that the TLAB amend its Rules to:

- **Eliminate its current stand-alone requirement for participants to file their intention to be a participant within 20 days of a Notice of Public Hearing and instead make the only pre-hearing obligation for a Participant to serve a Participant Statement.** This change would allow members of the public who wish to be participants more time to become involved in a matter, eliminate an additional step for residents to comply with and should not prejudice the parties to the hearing.
- **Add a new "civility rule" as requested by the City Solicitor.** The Ontario Human Rights Tribunal has a rule requiring that "[a]ll persons participating in proceedings before or communicating with the tribunal must act in good faith and in a manner that is courteous and respectful of the tribunal and other participants in the

proceeding." A similar rule at the TLAB may encourage resident participation and encourage more positive resolutions of appeals.

These changes could better allow the public to participate in, be engaged with and have their input considered in a courteous and respectful manner during the resolution of minor variance and consent appeals.

CONTACT

Sarah Rogers, Solicitor, Planning and Administrative Tribunal Law, Tel. 416-392-8991,
sarah.rogers@toronto.ca

Nathan Muscat, Solicitor, Planning and Administrative Tribunal Law, Tel. 416-397-5475,
nathan.muscat@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor



REPORT FOR ACTION

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Date: April 4, 2018
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From: City Solicitor
Wards: All

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