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**DELIVERED BY EMAIL TO**

Chair and Members  
Toronto Local Appeal Body  
40 Orchardview Boulevard  
2<sup>nd</sup> Floor, Suite 211  
Toronto, ON M4R1B9

[TLAB@toronto.ca](mailto:TLAB@toronto.ca)

**Re: Toronto Local Appeal Body: Public Consultation  
Review of Rules of Practice and Procedure (the "Rules") and Revised Rules**

Dear Chair and Members of Toronto Local Appeal Body (TLAB):

The City Legal Services would like to thank the TLAB for the continued opportunity to participate in the Public Consultation and review of the TLAB Rules of Practice and Procedure (the "Rules' Review"). Members of the Planning and Administrative Tribunal Law section of the City of Toronto Legal Services Division (the "Planning Practice Group") have considerable experience attending on appeals of Committee of Adjustment (the "Committee") decisions at the TLAB and with its Rules, when directed to do so by City Council.

As you know, the Planning Practice Group has been engaged throughout the entire Rules' Review process, and this submission is further to our submission in May of 2018 (the "May Submission") a copy of which is attached to this submission for ease of reference. The Planning Practice Group has now had the opportunity to review the revised draft of the Rules (the "Revised Draft") and is generally of the opinion that many of the changes in the Revised Rules are an improvement to the Rules. However, the Planning Practice Group would like to take the further public consultation process as an opportunity to share our outstanding concerns with the

Revised Rules and propose suggestions and further refinements that we believe would resolve some of these outstanding concerns and better enable the Planning Practice Group to serve its client, City Council. This submission expands upon the May Submission.

The Planning Practice Group generally views extending many of the exchange dates and adding the right to reply as positive changes to the Rules. However, having the dates tied to the Notice of Hearing still results in a large gap in time from the last filing to the Hearing date. We have found that this extended period has, in some cases, negatively impacted settlement prospects given that many of the parties have undertaken a significant expenditure in cost and time to prepare and file witness statements and related filings. We continue to believe that the various filing dates being tied to the Hearing Date, outlined in our May Submission, would result in a more efficient process that allows more time to discuss with the parties and encourages settlement.

The additional rules in Rule 16 providing for responding witness statements and further reply witness statements in the new Rules 16.5, 16.6, 16.9 and 16.10, and the filing deadlines associated with the Reply to Response to Witness Statement conflict with the timelines relating to motion deadlines. Assuming 100 days from the Notice of Hearing to the Hearing date, filing a Reply to Response to Witness Statement 85 days after the Notice of Hearing is served is the same day as the last day to bring a motion to dispute any of the contents of reply. While we understand the interest in providing for reply evidence to be exchanged, the Planning Practice Group sees the Reply to Response to Witness Statement as an unnecessary additional step that has the potential for a cumbersome filing and dueling of opinions through exchange. We suggest that there only be the provision for reply and that it should be no later than 75 days after the Notice of Hearing is served to allow parties to bring motions.

We also have a number of comments of a clarifying nature on the operation of some of the changes to the Rules, being:

- Rule 13.7 now contemplates that participants may ask clarifying questions of witnesses. How does this revised rule interact with the prohibition on cross-examination in Rule 13.8? We seek clarification on the limits of "clarifying questions" and its definition.
- We commend the TLAB in streamlining the Document Disclosure requirements pursuant to Rule 16.2. However, it is not clear what would be a Document listed on the TLAB's List of Public Documents. Please consider adding a definition in the Rules, containing a list of those Public Documents.
- If the TLAB is not inclined to shift the exchange dates to be tied to the Hearing Date, the Planning Practice Group recommends that a rule be added to address global settlements as an exception to a required motion when requesting a settlement hearing. This would make the process of requesting a settlement hearing less burdensome and streamline the disposition of the appeal.
- In Rule 17.2, the TLAB requires consent of all of the parties consenting to an adjournment request without a motion. We seek clarification on the procedure on how consent should be obtained.

There have been instances where an appellant has withdrawn its appeal and the Tribunal has

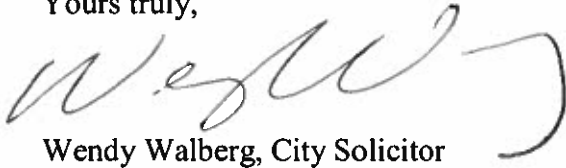
subsequently issued a decision either refusing the appeal or otherwise disposing of the matter. Upon a withdrawal, the TLAB is to take no further step other than to notify the Deputy Secretary Treasurer of the Committee of Adjustment that the appeal has been withdrawn.

Generally, we have found that Hearings of many if not most of the contested matters take more than one day. We suggest that Rule 10.2 and the related appeal forms be amended to contemplate the scheduling of hearing for more than one day based on a request by the appellant. In practice, the TLAB should consider setting down longer hearings for all consent matters.

Lastly, the Planning Practice Group is committed to civility and courteous practice in all of the proceedings it attends. To enshrine this principle in the Rules, we would support the recommendation of City Council and propose adding a rule respecting civility, courtesy and respect, as outlined in the May Submission.

The Planning Practice Group remains committed to the continued success of the TLAB and remains available to discuss this submission and the suggested revisions with you, contextualizing our comments and the proposed changes.

Yours truly,

A handwritten signature in cursive script, appearing to read 'W. Walberg', with a large, sweeping flourish at the end.

Wendy Walberg, City Solicitor