

# Rules of Procedure

September 5, 2019

## CITY OF TORONTO COMMITTEE OF ADJUSTMENT

The following are Rules of Procedure of the Committee of Adjustment for the City of Toronto (the "Rules"), pursuant to Section 25.1 of the *Statutory Powers Procedure Act*, R.S.O. 1990, Chapter S.22, as adopted by the Committee of Adjustment at its meeting held on September 5, 2019.

### 1. BACKGROUND

- 1.1. Pursuant to Section 25.1 of the *Statutory Powers Procedure Act*, the Committee of Adjustment adopts these rules of procedure for governing the practice and procedures before it.
- 1.2. The Committee of Adjustment shall conduct itself in accordance with the *Statutory Powers Procedure Act*, the *Planning Act*, Chapter 4 of the Toronto Municipal Code, and these Rules of Procedure contained herein.
- 1.3. The Code of Conduct for Members of Adjudicative Boards for the City of Toronto and the *Municipal Conflict of Interest Act* apply to the members of the Committee of Adjustment.

### 2. STRUCTURE

- 2.1. The Committee of Adjustment for the City of Toronto is comprised of one Committee divided into Districts corresponding with the boundaries of the Community Councils. The Districts may be further subdivided into Panels as determined by the Secretary-Treasurer and in accordance with Chapter 4 of the Toronto Municipal Code.
- 2.2. The Committee of Adjustment shall elect one of its members as a City-wide Chair. That member shall hold the position of City-wide Chair until a successor is elected. The role of City-wide Chair is further described below in rule 10.1.
- 2.3. Each of the Districts shall elect one or more of its members to serve as a Panel Chair. The role of Panel Chair is further described below in rule 11.1.
- 2.4. The City-wide Chair and Panel Chairs shall meet to discuss city-wide issues as required.

- 2.5. When the Panel Chair is absent through illness or otherwise, the Panel shall appoint another member as Acting Panel Chair.
- 2.6. The Committee of Adjustment as a whole shall appoint the Director, Zoning and Secretary-Treasurer Committee of Adjustment as the Secretary-Treasurer with authority to delegate responsibilities to Deputy Secretary-Treasurers assigned to administer the respective Districts. The role of Deputy Secretary-Treasurer is further described below in rules 12.1 and 12.2.

### **3. AGENDA**

- 3.1. The Deputy Secretary-Treasurer shall make an Agenda available to all Panel members before each hearing.
- 3.2. The Deputy Secretary-Treasurer shall meet with the Panel prior to each hearing to review the application materials before the Panel and provide the members with copies of additional materials received relating to the Agenda. The merits of the applications before the Panel shall not be discussed or considered until the hearing.
- 3.3. The Panel Chair and Panel members shall review all matters on the Agenda to ensure a fair and expeditious hearing.

### **4. HEARINGS**

- 4.1. Each District shall hold its hearings at the civic centre designated as headquarters for its respective Community Council or as otherwise directed by Council or the Secretary-Treasurer.
- 4.2. A Panel from each District shall adopt a schedule of hearings for the upcoming year by the end of the preceding year for that District.
- 4.3. A hearing date for any given District may be added, cancelled or rescheduled by the Secretary-Treasurer or Deputy Secretary-Treasurer of that District.
- 4.4. The Panel Chair or Acting Panel Chair shall enforce the observance of order and decorum among the members and the public at all hearings.
- 4.5. The Panel shall review the Agenda at the beginning of each hearing to determine those applications that require an in-depth review and those applications that can be dealt with immediately. On the basis of this review, the Panel may choose to vary from the order established by the Agenda in order to expedite the hearing process.

- 4.6. The hearing of every application shall be made in public.
- 4.7. The Panel Chair or Acting Panel Chair shall ensure that all applications before each Panel are appropriately tabled, considered and voted on in a manner consistent with these Rules.
- 4.8. The Panel shall hear the applicant and every other person who desires to be heard in favour of or against the application.
- 4.9. A hearing shall continue until the Agenda is completed.

## **5. PANEL QUORUM**

- 5.1. Each Panel is comprised of five members, with three members constituting a quorum.
- 5.2. Panels may be comprised of members from any District at the discretion of the Secretary-Treasurer or Deputy Secretary-Treasurer.
- 5.3. The Panel Chair shall be counted in determining a quorum and shall be entitled to all the rights of any member, including voting, except as required by rule 7.1.
- 5.4. A vacancy in the membership or the absence or inability of a member to act does not impair the powers of the Panel or the remaining members, except if the vacancy results in a failure to meet quorum, subject to rule 6.3.
- 5.5. If no quorum is present after a reasonable time has lapsed from the scheduled hearing time, the Deputy Secretary-Treasurer shall cancel and may reschedule the hearing.

## **6. CONFLICT OF INTEREST**

- 6.1. Each member shall advise the Panel Chair and Deputy Secretary-Treasurer of any conflict of interest at the commencement of the hearing. The member shall declare the general nature of the conflict of interest and shall remove him/herself from the hearing room during the discussion of the matter.
- 6.2. Every declaration of a conflict of interest and the general nature thereof shall be recorded in the Minutes of the hearing.

- 6.3. If, as a result of a member declaring a conflict of interest, the total number of members falls below three, quorum will be constituted with a minimum of two members.

## **7. DECISION-MAKING**

- 7.1. When the Panel is comprised of an even number, and still has quorum, the Chair shall refrain from voting to preclude a tie vote, except in the circumstances outlined in rule 6.3.
- 7.2. The Panel shall make its Decision on each application in the course of a hearing.
- 7.3. For each application appearing on the Agenda, after the application has been tabled and fully considered, a member shall make a motion to bring the matter to a vote, another member shall second the motion, and the Panel shall vote. The Decision shall be determined by a majority vote. The Panel may vote to approve (with or without conditions), refuse an application or defer the consideration of an application.
- 7.4. Reasons for deferral shall be provided by the Panel Chair at the hearing and a time at which the matter will be brought back to the Panel shall be specified.
- 7.5. In the event that an application has been withdrawn, the Panel may move a motion and vote that the matter be closed.
- 7.6. All Panel Decisions, which may include conditions, shall be in writing and state the reasons for the Decision.
- 7.7. Those members of the Panel who concur in the Decision shall sign the Decision on the day of the hearing at which the Decision is made. Digital signatures are permitted.

## **8. MINUTES OF HEARINGS**

- 8.1. The Deputy Secretary-Treasurer for each Panel shall have Minutes prepared for each hearing in a timely manner. The Minutes shall describe the applications, record the results of each vote, list those persons who made submissions at the hearing, list those documents considered by the Panel, record reasons for the Decision, and include any other pertinent information.

8.2. The Panel shall review and adopt the Minutes of the previous hearing prior to commencing the next hearing.

## **9. CORRECTING MINOR ERRORS**

9.1. The Deputy Secretary-Treasurer may, at any time and without prior notice, correct a typographical error, error of calculation or other similar error in the Minutes or in a Decision. No other changes shall be made.

## **10. ROLE OF THE CITY-WIDE CHAIR**

10.1. The City-wide Chair shall:

- (i) Act as the liaison between the Secretary-Treasurer and the Committee of Adjustment members on matters related to policy and city-wide issues;
- (ii) Participate in Panel Chair meetings, which shall be scheduled in consultation with the Secretary-Treasurer;
- (iii) Participate in training seminars and other information sessions and disseminate information through the Panel Chairs to the Committee of Adjustment members; and
- (iv) Represent the Committee of Adjustment as a whole at functions, as required.

## **11. ROLE OF THE PANEL CHAIR**

11.1. The Panel Chair shall:

- (i) Conduct hearings in a timely manner and in accordance with the Rules;
- (ii) Ensure that all applications before the Panel are appropriately tabled, considered and voted on in a manner consistent with the Rules;
- (iii) Ensure that the actions of any individual, including Council members and staff attending hearings, are consistent with the arm's-length, quasi-judicial nature of the Committee of Adjustment;
- (iv) Announce clearly to all persons in attendance when the hearing has been adjourned; and

- (v) Ensure that the Minutes of the previous hearing, prior to being adopted, accurately reflect what occurred at the previous hearing.

## **12. ROLE OF THE DEPUTY SECRETARY-TREASURER**

### **Administering the Committee of Adjustment Process**

12.1. The Deputy Secretary-Treasurer shall:

- (i) Schedule hearings in a timely manner;
- (ii) Issue Public Notices of Hearings;
- (iii) Direct the preparation of the Agenda and Minutes in accordance with the Rules;
- (iv) Issue Notices of Decision to all persons entitled to receive a copy, in a timely and consistent manner;
- (v) Receive and process appeals against Decisions to the Toronto Local Appeal Body or the Local Planning Appeal Tribunal, as the case may be;
- (vi) Manage day-to-day Committee of Adjustment office functions;
- (vii) Keep on file Minutes and records of all Applications and Decisions and of all other business of the Committee of Adjustment;
- (viii) Issue certificates of consent as required; and
- (ix) Pursuant to Chapter 415-15B of the City of Toronto Municipal Code, have the authority to grant consents, other than consents for the creation of new lots, as permitted under section 54(2) of the *Planning Act*.

### **Advice to Members**

12.2. The Deputy Secretary-Treasurer shall:

- (i) Chair a meeting with members prior to each hearing to review the Agenda before the Panel and provide to the members copies of additional materials relating to the Agenda. At this meeting, the Deputy Secretary-Treasurer shall provide information on technical and procedural matters but shall refrain from commenting on the merits of Applications;

- (ii) Act as a liaison between the Panel and the City Solicitor, Councillors, staff, and all other interest groups; and
- (iii) Provide on-going training and instruction to Panel members as required.

### **13. TERM OF OFFICE**

- 13.1. Members of the Committee of Adjustment shall hold office for the term of Council that appointed them and continue to hold office until their successors are appointed.
- 13.2. Where a member of the Committee of Adjustment ceases to be a member before the expiration of his or her term, the Council shall appoint another eligible person for the unexpired portion of the term.