

Memorandum

TLAB Decision Writing

Chief Building Official Representatives

Introduction and Synopsis

Recently, representatives of the tribunal and its Staff met with five (5) Managers for the various City geographic districts of the Office of the Chief Building Official.

The purpose of the meeting was to elicit improvements in communications via the vehicle of TLAB Decisions and Orders. Several constructive elements emerged some of which are of a more specific nature, identified in there attached APPENDIX.

GENERAL OBSERVATIONS

The Managers were uniformly appreciative of the additional information communicated in the TLAB reasons for decision. They found this beneficial both to application of the Decisions and in discussions with citizens and instructions to inspectors.

In describing their work practices, they noted actual on-site involvement is limited to a relatively few major stages in a development project, namely permit issuance and occupancy, but including attendances and requests to such matters as: excavation and shoring; enclosure; services and signing off, principally related to building safety. Monitoring of sites occurs only in respect of the respective stages of construction and on a complaints basis.

Matters related to grading, drainage, landscaping and private agreements are outside the scope of building safety and the CBO had limited rights of enforcement.

This has implications for the types of conditions imposed. The Office of the CBO is less engaged with non-building code matters than may be appreciated.

Conditions might be more tightly framed (i.e., tied to) who the intended enforcement agency might be:

Buildings Department (safety and occupancy)

Engineering Services (grading, drainage, access)

Monday, June 10, 2019

Toronto Transportation (access, safety, design, movements)

Toronto Water (connection conditions, indemnity)

Urban Forestry

Planning (site plan enforcement)

Municipal Licensing.

All that the Managers can legitimately administer is Ontario Building Code matters; they can note other interests of non-compliance and refer a matter on to Municipal Licensing Commission (MLC) for enforcement; however, once an Ontario Building Code building permit is issued and closed, the Departments role is done.

The Managers were supportive of eliminating the concept of a Voluntary Waiver and making Preliminary Project Reviews mandatory prior to engaging the land development process.

Most problematic are conditions imposed on severance/consent applications that are tied to building permit issuance. Toronto Buildings Department does not collect certificates for clearances on severances. Conditions arising under s. 53 of the *Planning Act* are generally not ‘applicable law’ for OBC enforcement. As a consequence, Members should resist conditions that may not be achievable prior to a consent being finalized (physical completion) where a permit may not yet have issued.

The Managers suggested that the TLAB not engage in exchanges involving building permit matters with Inspectors or the public. Any communication respecting a specific site should be through the respective Manager or the Plans Review Manager, not an inspector. Internal follow-up in this regard is expected.

Sites that are subject to a ‘Stop Work’ order should not influence a TLAB consideration. If not corrected or allowed by a TLAB Decision, such Orders continue.

On the general discussion of the zoning by-law reducing separation distances between buildings and structures, the Managers described their issues with shoring, access and maintenance with reduced side yards. The ‘angle of repose’ of sub-grade excavation is the responsibility of Toronto Buildings. With deep basements, installations are problematic with reduced side yards and narrow setbacks, even for crawl spaces and can result in civil litigation issues, involving the City. (Two feet for 2 stories is a guide.)

As well, conditions requiring completion within a specific time frame can be problematic. Although the City has an access by-law, its approach and imposition is cumbersome. Timeframes are not easily controllable or extendable by Toronto Buildings.

Monday, June 10, 2019

Plans attached to a Decision and Order should have a preparation date and a revision date such that the zoning examiner and plans Inspector know what is the correctly referenced drawing.

June 10, 2019.

I.J. Lord, Chair

D. Lombardi, Vice Chair (reviewed)