

Suggested Changes to Public Guide -

1: Heading From p. 35, May 6, 2019 Guide:

“I don’t agree with the TLAB’s decision – can I ask that it be reviewed? This error (“them”) also appears in the Index at the front of the Guide....

2. REVIEW REQUESTS (Rule 31) and LEAVE TO APPEAL APPLICATIONS.

Review Requests: The availability of a request to review a final Decision and Order of a TLAB Member (Review Request) engages an internal reconsideration and administrative process. It is just for Parties, who must comply with the provisions of Rule 31 of the TLAB *Rules of Practice and Procedure*.

A Review Request is formal; usually available only for 30 days after the final decision and Order. It is a serious matter.

A Review Request must address only the stated grounds found in the Rule. It is not an opportunity to simply re-argue a Decision and Order that the Party objects to. The procedures and remedies are set out in the Rule, which must be the basis for a Review Request. One must comply exactly with the requirements of Rule 31.

Leave to Appeal applications: You can also make an application for ‘Leave to Appeal’ to the Divisional Court, on a question of law, from final TLAB decisions. It is a two- step process where a single judge of the Divisional Court will first examine whether there are matters of law that warrant the attention of the court. If the judge so decides, an aspect may be allowed to proceed to a Hearing before a three member panel of the Divisional Court. The application for leave to appeal is also **time limited** and subject to the Rules of Court known as the *Rules of Civil Procedure*.

It is the responsibility of the Party to determine whether to pursue one or both routes. The issues in dispute and the remedies available may overlap. Since both are time limited and must be applied for, the decision to proceed can have significant consequences.

~~(legal advice — eliminate these final paragraphs entirely as they constitute “advice”):~~The attitudinal approach of the courts, generally, is to expect that a Party is to exhaust all available, effective remedies before convening formal consideration by the Divisional Court. In practical terms, this often involves delaying a properly constituted judicial consideration on a requested Leave to Appeal application, pending the result of any administrative (TLAB) Review Request.

A Party wishing to pursue a remedy following a final TLAB Decision and Order is advised to seek legal counsel on these rights at the very earliest opportunity.