



REPORT FOR ACTION

Feasibility of Implementing a Support Centre for Committee of Adjustment and Toronto Local Appeal Body Matters

Date: August 30, 2019
To: Planning and Housing Committee
From: Director, Court Services
Wards: All

SUMMARY

This report responds to Planning and Housing Committee's direction through Item PH5.7 to investigate the feasibility of creating a support centre to replace the functionality of the Province's Local Planning Appeal Support Centre (LPASC) for Committee of Adjustment and Toronto Local Appeal Body (TLAB) matters. Staff conducted this feasibility study by completing a jurisdictional scan, reviewing the Province's LPASC and the City's Mediation Pilot Program, and considering the role that City of Toronto officers and employees currently play in connection with TLAB and Local Planning Appeal Tribunal (LPAT) proceedings. It is important to note that the Province's LPASC was not mandated to provide advice or professional services related to Committee of Adjustment and TLAB matters. The LPAT has jurisdiction over a much broader range of appeals.

Staff have analyzed the support centre approach and have identified three factors that need to be considered. The relatively modest number of inquiries administered by the Province's LPASC, combined with the lack of public participation in the City's Mediation Pilot Program, suggests that there may not be sufficient demand to justify the administration and costs for a support centre. The jurisdictional scan demonstrates that other municipalities do not provide support centre services for planning variance applications and appeals. Finally, the City may face challenges in providing this service given the frequency that it appears as a party at TLAB hearings.

RECOMMENDATIONS

The Director, Court Services recommends that:

1. The Planning and Housing Committee receive this report for information.

FINANCIAL IMPACT

There are no financial impacts arising from this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On April 30, 2019, Planning and Housing Committee directed the Director of Court Services in collaboration with the Chief Planner and Executive Director, City Planning to report back to the Planning and Housing Committee in the third quarter of 2019 on the feasibility of creating a support centre to replace the functionality of the Local Planning Appeal Support Centre for residents of the City of Toronto for Committee of Adjustment and Toronto Local Appeal Body matters. City Council received the 2018 Annual Report from the Chair of the Toronto Local Appeal Body on May 14, 2019. The link to the Planning and Housing Committee's decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH5.7>

ISSUE BACKGROUND

In April and May 2018, the Toronto Local Appeal Body (TLAB) held public consultations on the tribunal's Rules of Practice and Procedure. According to the 2018 TLAB Chair's annual report, some local citizen groups felt that a support centre providing professional advisors and detailed procedural advice on TLAB matters would benefit the community. The TLAB Chair neither endorsed nor discouraged the implementation of a support centre in the 2018 annual report.

The Province's Local Planning Appeal Support Centre (LPASC) was an independent provincial agency that provided support services to eligible individuals and organizations with respect to matters governed by the *Planning Act* that are under the jurisdiction of the Local Planning Appeal Tribunal (LPAT). Through the *Local Planning Appeal Support Centre Act, 2017*, the agency was mandated to provide information on land use planning, guidance on LPAT procedures, and advice or representation. LPASC services were used by community organizations, ratepayer / neighbourhood associations, municipalities, and individuals that were involved in a planning matter. The Province's LPASC received funding from the Ministry of the Attorney General for one year of operation. Funding was not renewed by the provincial government and the program ceased operations on June 30, 2019.

COMMENTS

This section of the report describes the services provided by the Province's Local Planning Appeal Support Centre (LPASC), the results from a jurisdictional scan, and other support centre considerations. The information and impacts were determined through consultation with Legal Services and City Planning.

Services Provided by the Local Planning Appeal Support Centre

With the implementation of the Province's Local Planning Appeal Tribunal (LPAT), the process for rezoning and Official Plan amendments became much more complex. Sweeping changes to the *Planning Act* introduced new processes and rules that departed significantly from the procedures of years past. These changes and the formation of the Province's LPASC took place at approximately the same time. In this sense, the Province's LPASC existed to provide support in connection with a more complex range of subjects and processes. The Toronto Local Appeal Body's (TLAB) range of subjects and processes are relatively simple by comparison.

The Province's LPASC offered a variety of support services to eligible individuals with respect to matters governed by the LPAT. These services included:

- Providing answers to land use planning questions/concerns in-person, over the phone, or online;
- Providing online resources that explain the land use planning system in Ontario, provincial and municipal policies, the land use planning process, the appeals process, and how to get involved;
- Providing professional land use planning in the form of planning research, analysis, and advice;
- Providing professional legal support and representation, if eligible, in the form of legal research, analysis and advice. This included representing clients at the LPAT; and
- Attending community and industry events across Ontario to provide information on the land use planning and appeal system, how to be involved, and to educate the public on services offered by the LPASC.

Community Planning and Committee of Adjustment staff routinely assist applicants and the public on questions respecting the status of applications and process, including those related to the appeals process. Court Services staff regularly assist appellants and the public on questions relating to TLAB processes and appeal applications. With the exception of professional legal support and representation, the services provided by the Province's LPASC are currently provided by City staff for Community of Adjustment and TLAB matters.

Services Supporting Planning Variances and Appeals – Jurisdictional Scan

Staff conducted a jurisdictional scan to determine if other municipalities in Canada and the United States provide support centre services similar to those which were provided by the Province's LPASC. Table 1 below outlines the support services provided by Calgary, Edmonton, Vancouver, Chicago, and New York.

Municipality	Supporting Services	Support Centre?
Calgary, AB Canada	<ul style="list-style-type: none">• Instructions and tips on how to prepare for hearings and appeals provided on the City's website.• Appeal board staff provide information by phone, email, or in-person.	No

Municipality	Supporting Services	Support Centre?
Edmonton, AB Canada	<ul style="list-style-type: none"> • Description of the appeal board and its functions on the Edmonton Tribunals website. • Instructional videos on hearing preparation provided on the Edmonton Tribunals website. • Appeal board staff provide information by phone, email, or in-person. 	No
Vancouver, BC Canada	<ul style="list-style-type: none"> • Description of the appeal process and instructions on preparing for an appeal provided on the City's website. • Appeal board staff provide information by phone, email, or in-person 	No
Chicago, IL U.S.A	<ul style="list-style-type: none"> • Documents provided on the City's website, including application forms. • Appeal board staff provide information by phone, email, or in-person 	No
New York, NY U.S.A	<ul style="list-style-type: none"> • Documents provided on the Board of Standards and Appeals website, including application forms. • Appeal board staff provide information by phone or in-person by appointment 	No

All municipalities in the jurisdictional scan provide the public with online information related to hearing and appeal processes. Edmonton goes an extra step by providing the public with instructional videos on preparing for a hearing. None of the municipalities included in the scan operate a dedicated support centre offering information and professional services to support planning variance applications and appeals.

Support Centre Considerations

A support centre approach may help individuals and organizations navigate Committee of Adjustment and TLAB matters. However, like any proposal, there are a variety of factors to be considered in the decision-making process. A key consideration is the potential for low demand based on levels of participation in the Province's LPASC and the City's Mediation Pilot Program. Another consideration is whether it is advisable for the City to run a support centre that would potentially have professionals providing advice to individuals or groups whose positions are at odds with the position of City Council.

The City conducted a Mediation Pilot Program from February 2017 to the end of January 2018. The primary objective of the Mediation Pilot Program was to determine whether mediation, as part of the Committee of Adjustment process, would reduce the number of appeals of minor variances and consent applications to the TLAB. The

success or failure of the Mediation Pilot Program depended on participation from individuals and organizations involved in Committee of Adjustment and TLAB processes. Participation in the Mediation Pilot Program was minimal, as indicated in the evaluation report presented to Executive Committee in June 2018. Seventy-eight mediations took place over the one-year period.

According to the Provincial LPASC's Year-In Review Report, the agency dealt with approximately 600 inquires during its only year of operation after considerable outreach activity. The percentage of these inquiries dealing with minor variance and consent application appeals was 15% and 7% respectively. In addition, the LPASC represented appellants at approximately six (6) LPAT hearings. Given the agency's \$1.6 million operating budget which included seven employees and two lawyers, this level of participation is relatively modest. The lack of public participation in the City's Mediation Pilot Program, combined with the relatively modest number of inquiries administered by the Province's LPASC, suggests that there may not be sufficient demand to justify the administration and costs associated with a support centre.

City Council directs Legal Services to attend approximately 50 to 80 TLAB hearings every year. Often City Council's position aligns with the position of local residents. However, it is sometimes the case that City Council's position does not align with all interested residents, or residents' groups, whose positions can be different from the City's and from one another. It is important to consider the feasibility of a support centre that may give advice or representation to individuals or groups with interests that do not align with the City's position. In this regard, the City is distinguishable from the Province which rarely attends to take a position before the LPAT.

Conclusion

There are several actions that City staff can take to help the public navigate Committee of Adjustment and TLAB processes. Based on the jurisdictional scan, information on Committee of Adjustment appeals can be provided to the public through a variety of mediums including newsletters and notices, instructional videos, telephone and in-person discussion, and information on websites. City staff regularly make improvements to the Committee of Adjustment and TLAB websites, and provide updated information. Further, City staff in City Planning and Court Services routinely assist applicants and the public on questions respecting the status of applications and process, including those related to the appeal process. City staff are reviewing existing information channels to make further improvements that are aligned with best practices. This includes the development of an online video explaining the TLAB processes scheduled for publication in 2020.

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SIGNATURE

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