TORONTO

Agenda: May 26, 2020

Business Meeting No. 27

Meeting Date: Tuesday, May 26, 2020
Time: 1:00 p.m.
Email: tlab@toronto.ca (mailto:tlab@toronto.ca)

TLAB ELECTRONIC BUSINESS MEETING

Hosted by Toronto Local Appeal Body

Tuesday, May 26, 2020 1:00 pm | 3 hours | (UTC-04:00) Eastern Time (US & Canada)
Meeting number: 284 263 371
Password: fkS3DmQJ6K7
https://toronto.webex.com/toronto/j.php?MTID=m48a59239288a0d9c6cdaca09b6b66bb3

Join by video system
Dial 284263371@toronto.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

Join by phone
+1-416-915-6530 Canada Toll
+1-613-714-9906 Canada Toll (Ottawa)
Access code: 284 263 371

Chair: Ian Lord

Contact: Angela Bepple
Phone: 416-392-4697

Toronto Local Appeal Body Panel Members

Ian Lord (Chair)
Ana Bassios
Sabnavis Gopikrishna
Sean Karmali
Justin Leung

Dino Lombardi (Vice Chair)
Stanley Makuch
Shaheynoor Talukder
John Tassiopoulos
Ted Yao

Aboriginal Land Acknowledgement

We acknowledge the land we are meeting on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. We also acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit.

Confirmation of Minutes –

Declaration of Interest under the Municipal Conflict of Interest Act

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27.1 – ADOPTION – 9:30 a.m.

Toronto Local Appeal Body – Amendment to Procedure By-law 1-2017 for electronic hearings

Summary

The Toronto Local Appeal Body will adopt an amendment to Procedure By-law 1-2017 to allow electronic attendance by members to count towards quorum and voting.

Support Documents

TLAB Amendment – By-law 1-2017- Report

COVID electronic meeting bill

25.10 – ADOPTION – 9:30 a.m.

Toronto Local Appeal Body – Draft Practice Direction 6: Expert Witnesses

Summary

The Toronto Local Appeal Body will consider the adoption of a new Practice Direction regarding the responsibilities of Expert Witnesses to the TLAB.

Support Documents

Draft Practice Direction on Expert Witnesses

Ontario (Ministry of Municipal Affairs & Housing) v. Ontario (Municipal Board)

26.7 – ADOPTION – 9:30 a.m.

Toronto Local Appeal Body – Draft Evaluation

Summary

The Toronto Local Appeal Body will consider creating an evaluation form for hearings.

Support Documents

Draft evaluation form

27.2 – INFORMATION – 9:30 a.m.

Toronto Local Appeal Body – Chair's Update

Summary

The Toronto Local Appeal Body Chair will provide an update to the members on the following topics:

- Members Health and Welfare
- Staff Appreciation
- Back to Business Plans
- COVID-19 Opportunity-Outstanding Decisions
- Initiatives and Timing of Urgent Relief Motions, the revisiting of Rule 31, and virtual hearings;
- Compensation advisory memo: written decisions and orders considered on sole purpose dates
- Review Requests assigned to members and the residual discretion of a member to order a new de novo Hearing ;
- 2019 Annual Report following Court Services review - Committee consideration postponed

Supporting Documents

27.3 – INFORMATION – 9:30 a.m.

Toronto Local Appeal Body – Supervisor's Update

Summary

Court Services Supervisor to provide an update on administrative matters pertaining to the following items:

- Staffing priorities during emergency closure period;
- Report on Electronic Hearings for eligible files;
- Overview of technological capacity for electronic hearings;
- Resumption of service requirements and the impact on in-person hearings;

- Scheduling:
    - Hearings Cancelled during COVID-19 Suspension Period
    - Files in queue with exchange dates suspended
    - New Appeals received during suspension period
- Identification of matters eligible for electronic hearing

Supporting Documents

27.4 – ADOPTION – 9:30 a.m.

Toronto Local Appeal Body – Urgent Relief Motion Process

Summary

The Toronto Local Appeal Body Chair will provide members details regarding the Urgent Relief Motion Process and considerations for member. Court Services Supervisor will provide the administrative and schedule framework for the Urgent Relief Motion Process.

Supporting Documents

Urgent Relief Motion Form 7A

Draft Motion:

> THAT the TLAB institute a vehicle for the consideration of a limited type of urgent matters that may warrant the oral consideration of a Member on foreshortened notice. Namely, that such Motions be called 'Urgent Relief Motions', have their own Form, Form 7A, and consist of pre-set weekly two (2) hour appointments for an initial period of three (3) months commencing with the cessation of the TLAB suspension period, associated with the COVID-19 pandemic crisis.
>
> AND THAT Staff prepare and post Notice and a summary of qualifying procedures related thereto.

27.5 – ADOPTION – 9:30 a.m.

Toronto Local Appeal Body – Motion Updates

Summary

The Toronto Local Appeal Body will discuss the parametres of the Motion and Urgent Relief Motion process pertaining to the following concerns:

- Requirement for TLAB to have provided a motion date prior to the service of motion documents;

- Requirement for the election deadline for Party and Participant status to have passed prior to the service of motion documents;
- Late arising motions or "intentions" to move;
- TLAB communication of interim Motion decisions to members;

Supporting Documents

Draft Motion:

> That Motion Form 7 and Draft Motion Form 7A include the following wording:
>
> NOTICE: a Notice of Motion or Notice of Urgent Relief Motion that is prepared and served without a return date that is first authorized and supplied by the TLAB in writing is invalid and of no force and effect, whether for an oral, electronic or written Motion hearing. A Party or Participant served without a return date that has been authorized by the TLAB is not obliged to further consider the matter.

Draft Motion :

> THAT no return Hearing Date or consideration date be provide by TLAB Staff for a Motion or Urgent Relief Motion until AFTER the expiry of the election period for Party or Participant status that is set out in the Notice of Hearing of a TLAB appeal file.

REPORT FOR ACTION

Enabling Remote Electronic Participation in Toronto Local Appeal Body Business Meetings During an Emergency

Date: May 21, 2020
To: Toronto Local Appeal Body
From: Hsing Yi Chao
Acting Manager, Tribunal Operations
Court Services
City of Toronto

SUMMARY

The purpose of this report is to recommend amendments to the Toronto Local Appeal Body's Procedure By-law 1-2017 to allow electronic participation by Members in Business Meetings held during an emergency declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act.*

RECOMMENDATIONS

Court Services recommends that the Toronto Local Appeal Body:

1. Adopt the draft bill attached as Schedule "A" to this report to amend Procedure By-law 1-2017 to provide that during an emergency declared to exist in all or part of the City of Toronto under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*:

    a. a Member may participate in a Business Meeting of the Toronto Local Appeal Body by electronic means and will be counted in determining whether or not a quorum of Members is present at any point in time;

    b. a Member may participate electronically in a Business Meeting of Toronto Local Appeal Body that is closed to the public; and

c. Procedural By-law 1-2017 will apply with any other minor modifications as may be required to facilitate Business Meetings in accordance with a. and b. above.

FINANCIAL IMPACT

The Court Administration Division will work with the Chair of the Toronto Local Appeal Body to identify any financial impacts in excess of what has been approved in the 2020 budget.

DECISION HISTORY

At its Business Meeting on December 5, 2018, the Toronto Local Appeal Body adopted its Procedure By-law 1-2017. (https://www.toronto.ca/wp-content/uploads/2017/10/8f7d-TLAB-Procedure-Bylaw.pdf)

COMMENTS

COVID-19 measures in the City of Toronto limit public gatherings

On March 17, 2020, the Premier of Ontario declared a state of emergency under section 7.0.1(1) of the *Emergency Management and Civil Protection Act* in response to the novel coronavirus (COVID-19) and prohibited organized public events in excess of 50 people. As of March 28, 2020, the Government of Ontario has further restricted organized public events to no more than five people.

On March 23, 2020, an emergency was declared by the Mayor of the City of Toronto under section 4 of the *Emergency Management and Civil Protection Act*, and section 59-5.1 of City of Toronto Municipal Code Chapter 59, Emergency Management, due to the risk to the health of the residents of the City of Toronto arising from spread of COVID-19 and its presence within the City of Toronto.

Toronto's Medical Officer of Health is recommending physical distancing as a way to minimize COVID-19 transmission in the community. Physical distancing measures include:

- keeping 2 metres (6 feet) apart from others
- avoiding mass gatherings
- avoiding crowds.

These limitations on the assembly of people and the strong recommendations from health professionals and all orders of government that residents stay home and only go

out for essential needs, present a challenge to holding Business Meetings in accordance with current procedures.

Conducting Business Meetings using electronic participation during a provincial or municipal emergency

On March 19, 2020 the Province passed the Municipal Emergency Act, 2020 (the "Act"), amending the *City of Toronto Act, 2006* to allow for remote participation in municipal council and local board meetings during a declared provincial and/or municipal emergency. The Act is available online at https://www.ontario.ca/laws/statute/S20004.

The Act permits City Council, its local boards and committees of both to adopt procedural by-law amendments allowing Members to participate in open and closed meetings electronically and to be counted for quorum when doing so, during declared emergencies.

The Act also allows a local board to call and hold a special meeting in which electronic participation may be counted to determine quorum, for the purpose of amending its procedural by-law to incorporate the new electronic meeting rules during declared emergencies.

Nothing in the Act changes the requirement for Business Meetings to be open to the public including:

- Duty to give notice of meetings
- Requirement to meet in public
- Requirement to provide for public participation
- Limitations on closed sessions
- Requirement to start and end meetings in public
- Requirement to pass a motion stating the nature of the matter and the statutory exemption relied upon before closing a meeting to the public
- Prohibition on voting in closed session
- Prohibition on secret balloting.

While TLAB may need to attend to business during the COVID-19 pandemic, TLAB must also be mindful of the health and safety of its members, staff and members of the public and must comply with Provincial orders. The recommendations in this report, if approved, would amend Procedure By-law 1-2017 to permit TLAB to proceed with a Business Meeting where Members can participate electronically during a declared emergency in accordance with the Act. To ensure that Business Meetings remain open to the public in accordance with the requirements described above, the following describes the steps TLAB is taking to ensure transparency and openness while respecting Provincial orders and the recommendations of health experts and authorities during the COVID-19 pandemic.

Procedural By-law 1-2017 will need to be amended. In light of the declared COVID-19 emergency, it is not possible for the procedural steps to amend By-law to be taken. The

Municipal Emergency Act, 2020 takes priority over the By-law and TLAB is able to consider these amendments without having taken those procedural steps.

Proposed operations for electronic Business Meetings

Members, staff, and registered public speakers will use WebEx conference technology as the means of electronic participation. In order to ensure that Business Meetings of TLAB continue to be open to the public, the notice of the Business Meeting and agenda will include information on how members of the public can call in to listen/watch the meeting and the name and contact information for a staff person should a member of the public wish to speak to or submit comments related to an item on the agenda.

At the beginning of the meeting, the Chair will call the roll to confirm that quorum is present and identify all Members present.

During the meeting, the Chair will ask each Member if they wish to ask questions of staff or wish to speak, in an order of the Chair's choosing, so long as each Member has had an opportunity to question or speak before a second round begins.

Members of the public who register to speak will have the opportunity to do so. If any members of the public have registered to speak, the Chair will introduce the speaker, and they will have the usual time to address TLAB, after which there may be questions by Members.

Members and staff will be requested to state their name prior to speaking, for the benefit of all Business Meeting participants and observers.

Members are requested to read any motions aloud when placing them. The Chair will repeat each motion and any staff recommendations prior to taking a vote. This will ensure that there is transparency at Business Meetings and on decisions TLAB is making.

Every vote taken will be a recorded vote.

If the Business Meeting needs to resolve into closed session, Members and staff are responsible for ensuring that no other persons see or hear any of the confidential deliberations taking place. The Chair will direct staff to remove any members of the public from the WebEx call during the closed session. Ensuring the confidentiality of a closed session may result in brief delays in the Business Meeting.

If a Member's connection to the Business Meeting becomes disconnected, staff may recommend to the Chair that a brief recess be taken to re-establish connection. If quorum is lost as a result of disconnections, the Business Meeting will be in recess until staff can confirm that a quorum has been regained. If a quorum cannot be regained after all reasonable efforts have been made, staff will advise Members of the time that the Business Meeting was adjourned and any remaining business will be carried over to a future Business Meeting.

As the Business Meeting on May 26, 2020 will be the first time that a Business Meeting is held using remote electronic participation in accordance with the Act, TLAB may refine and propose alternate options for Business Meeting operations which can be implemented at future Business Meetings that are held during a declared emergency.

CONTACT

SIGNATURE

Hsing Yi Chao
Acting Manager, Tribunal Operations

ATTACHMENTS

Attachment 1 - Draft bill to amend Procedure By-law 1-2017 for the Toronto Local Appeal Body to enable remote electronic participation in Business Meetings during an emergency

Authority: Toronto Local Appeal Body Business Meeting Item 27, adopted on May 26, 2020

Toronto Local Appeal Body
BY-LAW No. 2 -2020

To amend the Toronto Local Appeal Body Procedure By-law 1-2017 to enable remote electronic participation in Business Meetings during an emergency.

WHEREAS the Toronto Local Appeal Body ("TLAB") local board of the City of Toronto constituted and appointed under section 115 of the City of Toronto Act, 2006 ("COTA"); and

WHEREAS subsection 189(2) of COTA requires that TLAB pass a procedure by-law for governing the calling, place and proceedings of its Business Meetings; and

WHEREAS TLAB adopted its Procedural By-law 1-2017 on December 5, 2018 to govern the calling, place and proceedings of its Business Meetings; and

WHEREAS section 190 of the COTA requires that meetings of TLAB will be open to the public unless an exception under subsection 190(2), (3) or (3.1) applies; and

WHEREAS subsection 189(4) of COTA states that a procedure by-law of a local board may provide that a board member can participate electronically in a meeting which is open to the public to the extent and in the manner set out in the by-law provided that any such member shall not be counted in determining whether or not a quorum of members is present at any point in time; and

WHEREAS subsection 189(4.1) of COTA states that a procedure by-law of a local board shall not provide that a member of the local board can participate electronically in a meeting which is closed to the public; and

WHEREAS on March 19, 2020, Bill 187, *Municipal Emergency Act, 2020* ("Bill 187"), was enacted by the Legislative Assembly of Ontario and received Royal Assent; and

WHEREAS Bill 187 amended COTA to state that where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* (the "Act"), a procedure by-law of a local board may provide that (a) despite subsection 189(4), a member of a local board who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and (b) despite subsection 189(4.1), a member of a local board can participate electronically in a meeting that is closed to the public; and

WHEREAS Bill 187 further amended COTA to state that a local board may hold a special meeting to amend its procedure by-law for the purposes of permitting electronic participation in meetings as described above during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the Act and despite subsection 189(4), a member participating electronically in such a special meeting may be counted in determining whether or not a quorum of members is present at any time during the meeting; and

WHEREAS COVID-19 is present within the City of Toronto, and COVID-19 is a disease that is readily communicable from person to person, carries a risk of serious complications such as pneumonia or kidney failure, and may result in death; and

WHEREAS the spread of COVID-19 has been declared a pandemic by the World Health Organization; and

WHEREAS, on March 17, 2020, an emergency was declared, by means of Order in Council 518/2020 for purposes of section 7.0.1 of the Act, due to the health risks to Ontario residents arising from COVID-19; and

WHEREAS, on March 23, 2020 an emergency was declared by the Mayor of the City of Toronto for purposes of section 4 of the Act, and section 59-5.1 of City of Toronto Municipal Code Chapter 59, Emergency Management, due to the risk to the health of the residents of the City of Toronto arising from spread of COVID-19 and its presence within the City of Toronto; and

WHEREAS on March 28, 2020, an Order was made by the Lieutenant Governor in Council under Subsection 7.0.2 (4) of the Act – Organized Public Events, Certain Gatherings, O Reg 52/20, prohibiting attendance at any organized public event of more than five people;

WHEREAS TLAB wishes to hold its Business Meetings electronically to comply with Ontario Regulation 52/2020 and minimize risk to its Members and the public in accordance with advice from the City of Toronto's Medical Officer of Health, who has recommended physical distancing measures to prevent the spread of COVID-19, including maintaining a distance of at least two metres from other individuals who are not members of the same household; and

WHEREAS TLAB continues to ensure its meetings are open to the public in accordance with section 190 of COTA through the provision of notice to the public, the open electronic hearing, and the provision of access to interested persons to depute where permissible under the relevant procedures using the same tele-conferencing system as is being used to facilitate the meeting; and

WHEREAS subsection 29(2) of Article K of TLAB's Procedure By-law provides that TLAB will only consider amendments or repeal of the procedures bylaw at a Business Meeting if a previous regular Business Meeting received notice of the proposed amendment or repeal; and

WHEREAS in light of the declared COVID-19 emergency, it is currently impossible to meet this procedural requirement prior to amending the TLAB's Procedural By-law 1-2017 to facilitate electronic participation; and

WHEREAS Bill 187 takes priority over this procedural requirement by allowing for procedural by-laws of local boards to be amended at a special meeting at which electronic participants are counted toward determining quorum during a declared emergency; and

WHEREAS TLAB has authorized amendments to its Procedural By-law 1-2017 to enable remote electronic participation in Business Meetings in accordance with the provisions of Bill 187;

The Toronto Local Appeal Body enacts:

1. Article B of Procedural By-law 1-2017 is amended by adding a new Section 7.1 as

follows:

7.1 During any period where an emergency has been declared to exist in all or part of the City of Toronto under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*:

(1) TLAB may, despite any other provision of this procedure by-law, hold a Business Meeting where some or all of the Members participate electronically and no physical meeting is held.

(2) Where a Business Meeting is being held in accordance with subsection (1):

(a) any Member participating in the meeting electronically will be deemed present for the purposes of quorum and will have the right to vote on any business before TLAB;

(b) any Member participating in the Business Meeting electronically will be entitled to participate in any portion of the Business Meeting closed to the public; and

(c) the Procedural By-law 1-2017 will apply to the meeting, with any other minor modifications as may be required.

2. This by-law comes into force on the date it is enacted and passed.

Enacted and passed on May 26, 2020.

TORONTO LOCAL APPEAL BODY

Practice Direction No. ___

Expert Witnesses

NOTE

The TLAB's Rules of Practice and Procedure, and its attendant Public Guide, contain further details about experts and their role before the TLAB. Parties should consult these resources, and if further information or direction is needed, a lawyer.

Nothing in this Practice Direction diminishes or lessens the requirement on all Parties to comply with the TLAB's Rules of Practice and Procedure. Obligations under the Rules include the filing of Expert Witness statements and the filing of an Acknowledgment of Expert's Duty Form.

Who is an Expert?

An expert is a person who may, with approval of the presiding Member, give opinion evidence before the TLAB.

Generally, opinions are not proper evidence in a court or tribunal and thus an expert's testimony is an exception to this general rule.

Experts do not need to have a particular degree or designation; they do not need to belong to a college or adhere to a formal Code of Conduct, in order to be an expert. An expert may be someone who has relevant:

- Skill;
- Knowledge;
- Training;
- Expertise;
- Certification; and or
- Education

with respect to a matter in issue before the TLAB. To determine whether an expert is needed, the TLAB Member hearing a matter may first consider whether an expert is needed at all. For example, an expert isn't generally needed for things that would reasonably be expected to be within the knowledge and experience of an average person. If, however, the issue is one which might be outside of a person's common range of knowledge or experience, and may assist the TLAB in resolving the matter before it, the Member may permit an expert to give his or her opinion to the TLAB.

Qualifying an Expert before the TLAB

Parties are permitted to ask questions of a proposed expert, and to make submissions, prior to an expert being qualified to give expert opinion evidence. An opposing Party might, for instance, wish to ask questions regarding the proposed expert's qualifications or experience, or make submissions with respect to whether the expert's proposed testimony is needed at all, in order for the TLAB to justly determine the issues in dispute.

If a Party intends to challenge or raise issues with respect to the impartiality of a proposed expert, or to suggest potential biases, for example, it is good practice to consider providing an opposing Party with advance notice of the intention to do so. This can avoid potential delays and disruption to the process and to the Parties' expected plan for that day's appearance before the TLAB.

At the end of this qualification process the TLAB Member will make a decision as to whether to allow the proposed expert to give opinion evidence and will identify and define the expert's area of expertise for the proceeding.

Expert's Duties

Experts have certain duties when appearing before the TLAB. These are expressed in the TLAB's Acknowledgement of Expert's Duty Form, which must be signed and dated by each proposed expert, prior to appearing before the TLAB.

The duties of an expert include:

- Providing evidence that is fair, objective and non-partisan;
- Providing opinion evidence that is related only to the matters that are within his or her expertise; and,
- Providing such additional assistance as the TLAB may reasonably require to determine a matter in issue.

And, when asked by a Member to provide additional information by way of undertaking, experts should fulfill such undertakings to the best of their abilities, forthwith.

An expert is not deployed to tell a TLAB Member how to rule on an issue. Rather, the expert is tendered by a Party in order to assist a Member in understanding technical or difficult matters outside of one's expected breadth and depth of knowledge or experience. An expert is therefore expected to render his or her opinion in an unbiased, dispassionate, helpful, and assistive manner. They are not "hired guns".

Local Knowledge Experts?

Before the TLAB certain persons have, from time to time, been recognized as "local knowledge experts". This is not a traditional field of expertise like planning, or hydrogeology, for example. Persons with significant experience in a particular local area of the City of Toronto can, in appropriate circumstances, be qualified as an expert. For instance, a person may have significant knowledge of an area's history, its people, or other facets of the community that are relevant to an issue before the TLAB.

Provided these persons can provide expert, non-partisan, dispassionate, helpful and relevant facts to the TLAB Member, they may be qualified as an expert.

How Much Weight is Given to Experts?

It is always up to the TLAB Member hearing from a qualified expert to decide how much weight he or she is going to accord the evidence. Factors that might impact the weight given to an expert's testimony could be its usefulness or relevance to the issues in dispute, any detected bias, or the evidence's quality, when compared to the evidence of other witnesses.

Experts are not necessarily accorded "extra" weight simply because they are experts; however, nor is an expert's evidence simply to be discounted, either. Each Member must turn his or her mind to this issue, with respect to every witness – lay or expert.

Summonsing an Expert

There may be times when a Party wishes to summons (formally require) a potential expert witness to attend before the TLAB. In rare instances where it is not reasonable for the summonsing Party to obtain an Expert Witness Statement prior to that witness' expected attendance (because, for example, the summonsed witness is adverse in interest to the summonsing Party) a Party may dispense with the requirement to serve and file an Expert Witness Statement. A summonsing Party, however, must still comply with the Rules relating to summonsing, including the requirement to set out in a Request to Summons the issues and evidence the witness is expected to address, and explain the relevance of that evidence with respect to the issues in dispute.

Consider the Following

While not required, the following things are worth considering, when potentially hiring an Expert:

Share an Expert (i.e. Joint Expert(s))

Parties may wish to consider whether there is an opportunity to "share" an expert. There may be times where assistance on a technical or scientific matter, for instance, will be of equal importance to one or perhaps all Parties. Nothing prevents Parties from agreeing to jointly tender an expert, when doing so will assist the Parties, and assist the TLAB, in arriving at a just conclusion of the matters in dispute.

Narrow the Issues in Dispute

Parties may wish to consider whether having their proposed experts meet might result in a narrowing of the total number of issues in dispute. Alternatively, Parties may wish to have their experts discuss whether

certain facts can be agreed upon, and discuss where their divergence in expert opinion occurs. Doing so can sometimes result in a shorter, more focused and efficient hearing.

2001 CarswellOnt 1089
Ontario Superior Court of Justice (Divisional Court)

Ontario (Ministry of Municipal Affairs & Housing) v. Ontario (Municipal Board)

2001 CarswellOnt 1089, [2001] O.J. No. 922, 103 A.C.W.S. (3d) 889, 144 O.A.C. 281, 20 M.P.L.R. (3d) 93, 41 O.M.B.R. 257

Her Majesty the Queen in Right of Ontario as Represented by the Ministry of Municipal Affairs and Housing, Applicant and Ontario Municipal Board, 1133373 Ontario Inc., Bond Lake Investors Inc., Zavala Developmentss Inc., Oak Ridges Farm Co-Tenancy, William Thompson, Diane Thompson, Peter Falconi, Joe Falconi, Casa Developments Inc., M. Sedgewick, E.J. Dickson Sifton, The Corporation of the Town of Richmond Hill, The Corporation of the Regional Municipality of York, Toronto and Region Conservation Authority, Duke of Richmond Developments Inc., and Save the Rouge Valley System Inc., Respondents

Wright J.

Heard: February 8-9, 2001
Judgment: February 21, 2001
Docket: 76/01

Counsel: *Leslie M. McIntosh*, *Catherine Conrad*, for Applicant
Michael McQuaid, Q.C., for 1133373 Ontario
J. Davis-Sydor, for Bond Lake Investors Inc.
Thomas Lederer, *C. Barnett*, for Oak Ridges Farm Co-Tenancy
A. Milliken Heisey, Q.C., for Save the Rouge Valley System Inc.

Subject: Property; Public; Evidence; Municipal
Related Abridgment Classifications
Administrative law
III Standard of review
III.1 Correctness
Evidence
XIII Opinion
XIII.2 Experts
XIII.2.c Qualification of expert
XIII.2.c.i Training or experience
Municipal law
XVIII Planning appeal boards and tribunals
XVIII.3 Judicial review
XVIII.3.c Miscellaneous
Headnote
Evidence --- Opinion evidence — Expert evidence — Admissibility — General
Ontario Municipal Board gave interlocutory ruling declining to receive opinion evidence from province's proposed expert witness at hearing — While witness had 30 years' practical experience in field of evidence, witness did not have formal academic qualifications — Province brought application for judicial review on ground of denial of natural justice — Application granted — According to record, board had accepted that witness had expertise entitling him to give opinion evidence in required field,

and only rejected his evidence on basis of lack of formal qualifications — Board has expertise required to weigh evidence of expert witnesses and to determine which to accept — Board was directed to admit witness's evidence at such weight as it deemed advisable.

Municipal law --- Planning appeal boards and tribunals — Judicial review — General

Ontario Municipal Board gave interlocutory ruling declining to receive opinion evidence from province's proposed expert witness at hearing — While witness had 30 years' practical experience in field of evidence, witness did not have formal academic qualifications — Province brought application for judicial review on ground of denial of natural justice — Application granted — Although hearing before tribunal is ordinarily completed before judicial review occurs, matter was heard by single judge — Board had accepted that witness had expertise entitling him to give opinion evidence in required field and only rejected his evidence on basis of lack of formal qualifications — Board has expertise required to weigh evidence of witness — Standard of review for common law principles of admissibility of evidence is correctness, despite presence of privative clause in legislation — Opinion evidence of witness was rejected contrary to rules of evidence — Province's case relied on witness's evidence — Rejection of witness's evidence resulted in denial of natural justice — Board was directed to accept witness's evidence at such weight as it deemed advisable.

Table of Authorities

Cases considered by *Wright J.*:

Davie v. Edinburgh Magistrates, [1953] S.C. 34 (Scotland Ct. Sess.) — considered

Gage v. Ontario (Attorney General), 90 D.L.R. (4th) 537, 55 O.A.C. 47 (Ont. Div. Ct.) — considered

Gentles v. Ontario (Regional Coroner) (1998), *(*sub nom. *Gentles v. Gentles Inquest (Coroner of))* 165 D.L.R. (4th) 652, *(*sub nom. *Gentles v. Gentles Inquest (Coroner of))* 129 C.C.C. (3d) 277, *(*sub nom. *Gentles v. Béchard (Coroner))* 114 O.A.C. 245, 22 C.R. (5th) 343 (Ont. Div. Ct.) — considered

McIntosh v. College of Physicians & Surgeons (Ontario), 1998 CarswellOnt 4803, [1998] O.J. No. 5222 (Ont. Div. Ct.) — considered

R. v. Mohan, 29 C.R. (4th) 243, 71 O.A.C. 241, 166 N.R. 245, 89 C.C.C. (3d) 402, 114 D.L.R. (4th) 419, [1994] 2 S.C.R. 9, 18 O.R. (3d) 160 (note) (S.C.C.) — considered

Syndicat des employés professionnels de l'Université du Québec à Trois-Rivières c. Université du Québec à Trois-Rivières, 11 Admin. L.R. (2d) 21, *(*sub nom. *Université du Québec à Trois-Rivières v. Larocque)* [1993] 1 S.C.R. 471, *(*sub nom. *Université du Québec à Trois-Rivières v. Larocque)* 93 C.L.L.C. 14,020, *(*sub nom. *Université du Québec à Trois-Rivières v. Larocque)* 101 D.L.R. (4th) 494, *(*sub nom. *Université du Québec à Trois-Rivières v. Syndicat des employés professionnels de l'Université du Québec à Trois-Rivières)* 148 N.R. 209, *(*sub nom. *Université du Québec à Trois-Rivières v. Syndicat des employés professionnels de l'Université du Québec à Trois-Rivières)* 53 Q.A.C. 171 (S.C.C.) — applied

Statutes considered:

Judicial Review Procedure Act, R.S.O. 1990, c. J.1

s. 6(2) — considered

Evidence Act, R.S.O. 1990, c. E.23

s. 23 — considered

Statutory Powers Procedures Act, R.S.O. 1990, c. S.22

s. 15(1) — considered

APPLICATION for judicial review of interlocutory ruling by Ontario Municipal Board, finding evidence of expert inadmissible.

***Wright J.*:**

Summary

1 This matter arises from a ruling made in the course of a hearing before the Ontario Municipal Board. The Board declined to receive opinion evidence on certain topics from the witness "H". The general rule in our law is that witnesses are to give the tribunal facts, not opinions. Wigmore, a great authority in the field of evidence, has called this rule "an historical blunder".

2 There is an exception to this general rule. Persons whom the tribunal considers to have special training or experience in the field may offer opinions. In law such a person is called an "expert". As Professor Paciocco notes in his book on Evidence,

(p. 136) "expertise" in this sense is a modest status achieved when the "expert" possesses special knowledge and experience going beyond that of the trier of fact. Where this threshold level exists, deficiencies in expertise can affect the weight of the "expert" evidence, but do not normally affect its admissibility.

3 In this case the Province and those associated with it ("the applicants") argue that the Board accepted that the witness in question had practical experience in these fields. They argue that having accepted this, the threshold was met and it was not open to the Board to refuse to hear the evidence of the witness on the subjects.

4 The Province and its allies argue that the Board declined to hear the witness' opinions on these subjects because, although he had participated in seminars on the subject over the years, his formal academic training was not in the areas in question. They argue that by stipulating that such witnesses must have formal academic qualifications the Board erred in law, that its error was patently unreasonable and that this error resulted in a denial of natural justice justifying the intervention of the court at this stage of the proceedings. They ask the court to direct the Board that such a witness need not have formal training or accreditation in a field and having accepted that this witness has practical experience in the fields in question they must consider his opinions on the subject, reserving to themselves the right to give those opinions whatever weight they consider appropriate when they come to consider all of the evidence presented to them.

5 Those resisting this application ("the respondents") argue that the Board did not in fact accept that this witness had the sort of practical experience in the fields in question that would meet the threshold level for the admissibility of such evidence. They argue that the Board was aware of the legal rules and the fact that the evidence of this witness was rejected in these three fields shows that they did not accept that he had the appropriate practical experience to meet the legal requirements for giving opinion evidence in these fields. Those resisting this application, go on to argue that even if the Board did err in this regard deference must be accorded to this very senior tribunal and the court should ignore such an error unless the error was patently unreasonable. The respondents argue further that even if an error has been made which is patently unreasonable, the role of the court is to intervene only when there has been a denial of natural justice. They argue that none can be established in this case.

6 The applicants argue that the opinion evidence of this witness is central to their case and the Board's refusal to hear this evidence constitutes a denial of natural justice.

7 The applicants submit that the Board was led into this error by the very commendable desire of the Board to hear only those witnesses it considered to be the most highly qualified by reason of their formal training and practical experience in a situation where the Board conceived that its duty was to yield to experts who were both fully trained and experienced. The applicants argue that the Board erred in considering that it had to yield to experts who are both fully trained and experienced. The applicants say it is the duty of the Board to assess all of the evidence. In doing this they may accept all of a witness' evidence, some of it or none of it. They need to yield to no one.

8 The court concludes that the Board having accepted that the witness "has approximately 30 years practical experience in dealing with hydrogeology related matters" and was "an experienced expert" it should have received the evidence of the witness leaving the weight to be given to that evidence to be assessed when all of the evidence on the hearing was before the Board.

Prematurity and S. 6(2) Judicial Review Procedure Act

9 This is an application for judicial review challenging an interlocutory ruling of the Ontario Municipal Board declining to accept opinion evidence from the witness H. in the field of geology, hydrogeology or hydrogeochemistry.

10 This is an unusual proceeding. There is a right to appeal a final decision of the Board, with leave of the court, on a question of law. The court ordinarily refuses to intervene during the course of proceedings before a tribunal.

> It is preferable to allow administrative proceedings to run their course before the tribunal and then consider all legal issues arising from the proceedings at their conclusion. It is preferable to consider such issues against a backdrop of a full record, including a reasoned decision by the tribunal. *McIntosh .v. College of Physicians & Surgeons (Ontario)*, , [1998] O.J. No. 5222 (Ont. Div. Ct.)(para. 36)

11 On the other hand,

> If there is a prospect of real unfairness through denial of natural justice or otherwise, a superior court may always exercise its inherent supervisory jurisdiction to put an end to the injustice before all the alternative remedies are exhausted. *(Gage v. Ontario (Attorney-General)* (1992), 90 D.L.R. (4th) 537 (Ont. Div. Ct.) at 553

12 Even if the court deals with an issue of judicial review of an interlocutory decision a three-judge panel of the court ordinarily deals with it. (S. 6(2) JRP Act)

13 The Municipal Board has already completed some 77 days of hearings. These hearings are anticipated to continue into June. These hearings have been divided into phases. Each phase deals with a specific aspect of the hearing. In overly simple terms the present phase involves water. The impugned ruling deals with the current phase. When Counsel for 1133373 Ontario Inc. moved to dismiss on the grounds of prematurity the applicants argued strenuously that the length of the hearings, their cost, and the essential nature of the excluded evidence were considerations dictating that the issue be dealt with now. Once I indicated that the issue would not follow the usual course and await the completion of the hearing there was no objection voiced to the request that the matter be dealt with by a single judge immediately. Referral to a panel of the full court would involve a delay until May. So keen were the respondents to have the matter dealt with forthwith that it was only after they had been arguing the application for about an hour that they thought to ask whether I was prepared to hear it. Leave was granted in the circumstances.

Affidavits

14 The applicant tendered three affidavits in support of this motion. The respondents argued vigorously that this issue must be determined upon the record and that the affidavits should be struck.

15 I have refused to strike the affidavits although much of what they contain is irrelevant to the issues before me. While I accept that the matter must be determined primarily upon the record, affidavit evidence is admissible to deal with certain issues, viz.

- Need for haste-should the court grant leave to hear this application at the interlocutory stage, and if so, on a single judge basis-the latter being an issue that, in the event, never arose for the reasons set out above,

- If a reversible error occurred, did it result in a denial of natural justice, i.e., the centrality of the rejected evidence and its effect upon the applicant's case,

The affidavits are not admissible for the purpose of establishing that the witness was qualified to give opinion evidence. That issue is not before the court. The issue is: whether the Board in fact conceded the qualifications for legal acceptance of the witness and if so, what are the legal ramifications of refusing to hear that evidence. Specifically:

Issues

16 Did the Board accept that the witness was an "expert" in the fields of geology, hydrogeology and hydrogeochemistry?

17 If so, did the Board err in rejecting the opinion evidence of the witness?

18 If so, was this error such that the court should intervene? I.e., what is the appropriate standard of review?

19 If so, did the error result in a denial of natural justice?

Did the Board Accept H. as an "Expert" in the Fields in Question?

20 The decision of the Board was as follows:

> The Board therefore makes the following findings, conclusions and decision based on that argument.

> Mr. H... has a Masters Degree in Civil Engineering. Mr. H....has attended approximately a dozen 1-3 day seminars since he formed his firm in 1977 dealing with hydrogeology related matters, and has approximately 30 years practical experience in dealing with hydrogeology related matters. His normal practice is to be the leader of a group of experts. He has never had any formal educational training in geology or hydrogeology or hydrogeochemistry.
>
> Despite Ms. Conrad's attempts, and by his own admission to the Board, Mr. H... is not a geologist, not a hydrogeologist nor is he a hydrogeochemist. He is in his own terminology an Environmental Systems Planner/Engineer — a discipline for which there is no formal description as far as the Board is aware. The Board finds that Mr. H... has expertise in the fields of air photo interpretation and the collection and mining of geographic data for hydrogeological purposes and these fields of expertise were conceded by Messrs. Lederer and McQuaid. Mr. H..., by his own admission has very little actual "in field" experience in geotechnical matters.
>
> Mr. H... intends in his evidence to try and persuade the Board that the proponents' hydrogeology evidence is wrong on matters such as where the water divide really is on the proponents' sites; where the groundwater flows are really going; and where the vertical flow of current recharge on site is ending up just to mention a few of his concerns. Mr. H... does not agree with the geological and hydrogeological experts of the proponents already heard by the Board. In the opinion of the Board after reading his witness statements he will also be contradicting some of the evidence of a fully trained hyrdogeologist, Dr. Hinton, called by his client — the Province — before him at his hearing.
>
> This is not right as in the opinion of the Board, Mr. H... should be have been called before Dr. Hinton and Ms. Conrad (another hydrogeologist called by the Province) to lay the foundation and let them give their opinion evidence of they hydrogeology on the proponents' sites pre and post development based on that foundation.
>
> Earlier in this hearing the Board found that Dr. Sharpe could not give opinion evidence on hydrogeology even though he was a geologist with considerable practical hydrogeology experience. The Board would not only be inconsistent but open to severe criticism if it now allowed Mr. H... to give opinion evidence when he has even less formal training in geology or hydrogeology than Dr. Sharpe.
>
> In a matter as involved and of such scientific importance as the Oak Ridges Moraine, the Board must accept or reject the opinion evidence of fully trained and experienced experts. Mr. H... is the latter and not the former and therefore the Board must yield to those experts who are both.
>
> One cannot help but think of a recent occurrence in Walkerton where the water engineer, who despite having 15 years practical experience on the job, erred in a major way causing a catastrophic event, as he had had no formal training or education as an engineer before taking on the job. You may however be wrong — which, if followed by others in the future, they will look at this Board and say "How could you have accepted his evidence, he wasn't even an hydrogeoloist!"
>
> Ms. Conrad you are welcome to have Mr. H... lay his foundation if you wish but he is not to give geological, hydrogeological or hydrogeochemical opinion evidence at this hearing. Finally, you may wish to have some time to reassess how you wish to continue calling your evidence.

21 Did the Board accept that the witness had the experience that should have entitled him to give opinion evidence in the fields mentioned?

22 The applicants say that they did. The applicants say that the Board accepted the witness as a person who had "approximately 30 years practical experience in dealing with hydrogeology related matters" and was "an experienced expert". The applicants say that the Board rejected his evidence because it wrongly insisted upon formally trained witnesses, that when it came to accepting or rejecting the opinion evidence of fully trained and experienced experts the Board thought it had to yield to those experts who were both, and that the Board was concerned that "others in the future, they will look at this Board and say 'How could you have accepted his evidence, he wasn't even a hydrogeologist'."

23 The applicants say that in rejecting his evidence in those fields the Board erred:

- In insisting upon formal training as a prerequisite to hearing a witness,
- In stating that it was simply following a previous ruling to the effect that Dr. S. could not give opinion evidence on hydrogeology because of his lack of formal training in the field, and
- In taking into consideration the assumption that H. would be called upon to contradict some of the evidence of a fully trained hydrogeologist, Dr. Hinton, called by the Province before him at the hearing.

24 There is no doubt that the Board erred in the recitation of its ruling on the admissibility of the opinion evidence of Dr. S. In fact they did not prevent Dr. S. from giving evidence on hydrogeology although they discouraged him from doing so. On Dec. 7, the Board had ruled:

> Now as to Dr. Sharpe's qualifications, the Board makes the following ruling: There's no question that geology and hyrdogeology go hand-in-hand for one to fully understand the Oak Ridges Moraine. There is no question that Dr. Sharpe is a fully qualified geologist and is a specialist in glacial sedimentation. He is not, however, a fully qualified hydrogeologist which is attested to by his own admission that he and hydrogeologist, Dr. Mark Hinton, "teach each other as we go." The Board will therefore, keeping in mind Dr. Sharpe's practical hydogeology experience, have to decide what weight to give any hydrogeology evidence he gives during the hearing. We would suggest that, wherever possible, he'd leave the hydrogeological opinions and conclusions, his, emanating from his "geological container" be left to Dr. Hinton.

25 The Board also erred when it took into consideration the "fact" that H. would be called upon to contradict the evidence of Dr. Hinton, another witness called by the Province. Whether such contradictory evidence might or might not be given as a matter of fact, (and he testified at tab 3(C) Application Record, pp63-64 it would NOT be given) that consideration did not render H.'s evidence inadmissible as a matter of law. S. 23 of the Evidence Act specifically permits a party to contradict his own witness "by other evidence" so long as that party does not "impeach his or her credit by general evidence of bad character."

26 The respondents concede that the Board referred to H. as an "experienced expert" but they deny that the Board was referring to him as an experienced expert in the fields of geology, hydrogeology and hydrogeochemistry. The respondents submit that the decision of the Board must be looked at in the context of the entire record, specifically the record of the qualification hearing.

27 I agree that in interpreting the decision the wider record is relevant. Having considered the wider record I conclude that the Board accepted that the witness was an experienced expert in the fields in question as the expression "expert" is used in law, and that the only reason the evidence of that witness was rejected was because this "expert" was not "fully trained", or "formally trained". This was a concern the Board had expressed throughout both this witness' qualification hearing, and Dr. S.'s qualification hearing, this was the basis of Counsel's objection to the reception of his evidence in the fields in question (31 Jan., p. 89) and this was the reason the evidence of H. was rejected. While counsel conceded that the witness was an "expert" in the fields of air photo interpretation and the collection and mining of geographic data for hydrogeological purposes, the qualification hearing was oriented towards the witness's background in geology, hydrogeology and hydrogeochemistry. This was the focus of the evidence, the argument and the decision!

28 The Respondents argue that there was a discretion in the Board to reject an otherwise qualified witness where the cost of introducing that evidence would outweigh the benefit. The respondents argue that by admitting what the respondents consider to be dubious evidence that evidence enters the "food chain", is relied upon by others in formulating their opinions and makes the task of the Board more difficult.

29 There is no doubt that after considering the cost/benefit of potential evidence the tribunal might find that the prejudicial value of that evidence outweighed its probative value. That is not the case here. This Board has higher than usual qualifications. The evidence proposed will not involve novel science. The witness will not be the only witness to testify to such matters. And, as *R. v. Mohan* (1994), 114 D.L.R. (4th) 419 (S.C.C.) (p. 430) points out, the hearing is not simply a contest of experts with

the Board acting as a referee in deciding which expert to accept. At the end of the day the Board will have to decide what is in the public interest. In determining this the Board will consider the expert opinions tendered to it but, in the words of *Davie v. Edinburgh Magistrates*, [1953] S.C. 34 (Scotland Ct. Sess.) @ 40, "the parties have invoked the decision of a...tribunal and not an oracular pronouncement by an expert." This may be summarized: "The expert should be on tap, but not on top". I am satisfied the board will be able to handle this evidence appropriately.

Standard of Review

30 The respondents argue that the Board is a senior tribunal protected by a privative clause. As such it has the right to be wrong. The court should intervene only when its ruling is "patently unreasonable".

31 While this approach may be justified when considering whether such a tribunal has properly interpreted the legislation delineating its own jurisdiction, an argument may be made that when it comes to common law principles regarding the admissibility of evidence the appropriate standard of review is "correctness". Even assuming that the standard of review is "patently unreasonable", I accept that this standard is met in this case. Not only was the opinion evidence of this witness rejected contrary to the technical rules of evidence applied by a court, it was rejected contrary to the express legislative directive to such tribunals that they may admit evidence that would not be admissible in a court. (Statutory Powers Procedure Act, s. 15(1))

Denial of Natural Justice

32 Counsel for the applicants concede that not every error results in a denial of natural justice that justifies intervention by the court. The error must have such an impact upon the fairness of the proceeding that one is led to the conclusion that there has been a breach of natural justice. (*Syndicat des employés professionnels de l'Université du Québec à Trois-Rivières c. Université du Québec à Trois-Rivières*, [1993] 1 S.C.R. 471 (S.C.C.) @ 491;) Counsel for the Province has referred to the evidence of the witness, H., as "the centrepiece" of its case, the "bedrock". Counsel argues that the witness brings a unique ability to explain interdisciplinary co-relations and a unique experience with the area under consideration.

33 Counsel for Save the Rouge Valley System Inc. argues that this witness and his background were well known to the respondents through his involvement in the area over many years, his witness statement was given to them last June and there was no objection to his qualifications. Under the circumstances his client planed its case relying upon the evidence of this witness and is now caught without evidence to offer the Board.

34 On this issue I have not only studied the record but I have considered the affidavits sworn. While it might have been better to have had an affidavit from Ms. Conrad, counsel before the Board, to explain the role of this witness in the presentation of her case, I have concluded that in all of the circumstances the refusal of the Board to receive this evidence resulted in a denial of natural justice. (*Gentles v. Ontario (Regional Coroner)*, [1998] O.J. No. 3927 (Ont. Div. Ct.))

35 An order will go quashing the decision of the Ontario Municipal Board dated the 31 January 2001 refusing to accept the evidence of H. in the fields of geology, hydrogeology and hydrogeochemistry and directing the Board to accept his evidence in these fields, according it such weight as they may deem advisable when considering all of the evidence tendered on this hearing or any phase thereof.

36 I may be spoken to by telephone regarding costs or any other aspect of this decision. Arrangements may be made through the phone number supplied to counsel.

Application granted; evidence admitted.

End of Document

[Draft] Hearing Evaluation

1. I feel the information necessary to consider the matter was heard at my hearing.

1	2	3	4	5
Strongly Disagree		Neutral		Strongly Agree

2. I understood what was happening through the course of the hearing

1	2	3	4	5
Strongly Disagree		Neutral		Strongly Agree

3. As a Party or Participant, I had the opportunity to speak at the hearing

1	2	3	4	5
Strongly Disagree		Neutral		Strongly Agree

4. I felt that I was adequately prepared for my hearing and understood the application of the Rules

1	2	3	4	5
Strongly Disagree		Neutral		Strongly Agree

5. I am satisfied with the TLAB resources available to conduct my portion of the hearing

1	2	3	4	5
Strongly Disagree		Neutral		Strongly Agree

6. The Panel Member was helpful in how the Hearing was conducted.

1	2	3	4	5
Strongly Disagree		Neutral		Strongly Agree

7. Other Comments:

_____

_____

_____

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Toronto Local Appeal Body

Notice of Urgent Relief Motion
Form 7A

Questions or concerns about this form or process can be directed to the Toronto Local Appeal Body by telephone 416-392-4697 or by email at tlab@toronto.ca.

Information, including completed forms, disclosure documents and statements, you disclose to the Toronto Local Appeal Body (TLAB) in relation to a TLAB appeal is an adjudicative record that is a public record available to parties, participants and the general public. The legal authority to make the information public is section 1.0.1. of the Planning Act. As stated in Section 27 of the Municipal Freedom of Information and Protection of Privacy Act, the provisions protecting individual privacy in Part 2 of that Act do not apply to any information collected in the TLAB's prescribed forms and associated filings for appeals.

Questions of this collection can be directed to the Manager of Tribunal Operations, 40 Orchard View Boulevard, Suite 253, Toronto, ON, M4R 1B9, or by telephone at 416-392-4697.

Part 1: Motion Hearing Date

TLAB Case File Number(s)	Property Address
Motion Hearing Date (yyyy-mm-dd)	Time of Motion Hearing
Location of Motion Hearing	

Parties with an interest in this matter should attend at the start of the Motion Hearing at the time, date and location indicated, unless the Motion Hearing is in writing. Motion Hearing dates are firm. To arrange attendance by electronic means, please email tlab@toronto.ca.

The TLAB may provide a notice of change of Motion Hearing type following service of this Notice of Motion and responding materials, if any.

This notice is being provided to you as required by the Toronto Local Appeal Body Rules of Practice and Procedure. To respond to the motion, you can submit your response to tlab@toronto.ca.

IF YOU DO NOT ATTEND the Motion Hearing or have not expressed your views in accordance with the Rules, the Toronto Local Appeal Body may proceed and make a decision in your absence, and may authorize changes to the proposal, matter, and grant the relief requested.

Part 2: Moving Party

First Name	Last Name

☐ Check this box if First Name and Last Name do not apply to you because you have either a registered Birth Certificate or Change of Name Certificate bearing a Single Name. Provide your name below.

Single Name

Corporation Name or Association Name (Association must be incorporated), if applicable

Position Title (if applicable)	Email	
Street Number	Street Name	Suite/Unit Number
City/Town	Province	Postal Code

If this Notice of Motion is filed by a representative, please identify the party below.

Party First Name	Party Last Name

☒ Check this box if First Name and Last Name do not apply to you because you have either a registered Birth Certificate or Change of Name Certificate bearing a Single Name. Provide your name below.

Party Single Name
Party Email

Part 3: For an Order as follows:

State the specific relief requested using numbered paragraphs)

Part 4: On the grounds that:

(State the reasons and grounds using numbered paragraphs and reference any supporting Affidavits identified in Part 6 or materials filed listed in Part 5)

Part 5: List of Documentary Evidence to be used in the motion

(Materials in support must be served and filed electronically in accordance with TLAB Rules and Practice Directions)

NOTE: Electronic service and filing of Notice of Motion and supporting documents (Part 5) and supporting Affidavits (Part 6) may be done by sending more than one email. In the event more than one email is required to serve and file the Notice of Motion, the emails should clearly identify that they relate to the same Notice of Motion.

In the case of an intended reference to a document contained in the 'Common Document Book' maintained on the TLAB website (www.toronto.ca/tlab), no electronic exchange is required provided the document is referenced and the parts, sections, pages or paragraphs are identified.

Part 6: In Support of this Notice of Motion will be read the Affidavit of: (Identify all Form 10 persons)
Affidavit of (Full Name – First, Middle, Last Name **or** Single Name) **and Date Sworn (**yyyy-mm-dd**)**

Part 7: Notice of Motion And Supporting Materials served at the time of filing on:		
Person's Name (Full Name – First, Middle, Last Name or Single Name)	**Email**	**Address** (Street Number, Street Name, Suite/Unit Number, City/Town, Province, Postal Code – Complete this section only when no Email address has been provided)

Part 8: Date of Submission
Date (yyyy-mm-dd)

In the event the decision is reserved, persons taking part in the hearing of the motion and wishing a copy of the decision may request it by emailing the Toronto Local Appeal Body office at tlab@toronto.ca. Such decision will be emailed to you when available. Also, the decision when available will be posted publically on the Toronto Local Appeal Body's website at www.toronto.ca/tlab.

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