



Agenda: February 10, 2021

Business Meeting No. 30

Meeting Date: Wednesday, February 10, 2021, 9:30 a.m.

Location: Electronic via Webex

Link to Join:

Toronto Local Appeal Body - Public Business Meeting – February 10, 2021

Chair: Dino Lombardi

Contact: Angela Beppe
Secretary

Phone: 416-392-4697

Toronto Local Appeal Body Panel Members

Dino Lombardi (Chair)

Ana Bassios

Sabnavis Gopikrishna

Sean Karmali

Christine Kilby

Justin Leung

Stanley Makuch

Shaheynoor Talukder (Vice Chair)

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 – Business Meeting, December 2, 2020.

Declaration of Interest under the *Municipal Conflict of Interest Act*

--

Deferred Items:

26.7 – INFORMATION

Toronto Local Appeal Body – Draft Evaluation Status Update

Summary

The Toronto Local Appeal Body may receive an update regarding the establishment of a subcommittee of Members of the TLAB on a purpose and methodology for the evaluation of hearing events. The TLAB may further defer the item to a future business meeting.

30.1 – INFORMATION

Toronto Local Appeal Body – New Member Introduction – C. Kilby

Summary

New Member Christine Kilby will be introduced to the other Members of the Toronto Local Appeal Body

30.2 – INFORMATION

- Toronto Local Appeal Body – New Chair's Address to Members

Summary

The new Toronto Local Appeal Body Chair will address the members for the first time as Chair.

30.3 – INFORMATION

The TLAB Chair will provide an update on Business Meeting Protocols and Procedures. He will also provide an update to the Members on TLAB business and changes since the December 2, 2020 virtual Business Meeting.

- Business Meeting Protocols and Procedure
- Chair's Update
 - a) COVID-19 update on tribunal activities;
 - b) Health & Safety Office Update;
 - c) Refreshed WEBEX training for Members
 - d) Standardize screen backdrop for virtual hearings

e) Virtual hearing transcripts

30.4 – INFORMATION

Toronto Local Appeal Body – Supervisor's Update

Update on Member appointment status – Manager of Tribunal Operations

Summary

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

- Status of electronic & in-person hearings
- Updates on Covid-19 and impact on services
- Scheduling for 2021

The Acting Supervisor will provide updates regarding input from the Toronto Building Department on the practice of including plans and drawings in decisions.

30.5 – INFORMATION

Toronto Local Appeal Body – Draft Revised Practice Direction 4 – Video Evidence

Summary

The Toronto Local Appeal Body will consider proposed revisions to Practice Direction 4 to permit the sharing of video evidence via Youtube or other video media links hosted online.

Supporting Documents

Draft Revised Practice Direction 4

30.6 – INFORMATION

Toronto Local Appeal Body – Report from Duxbury Law regarding perceived threats/harassments.

Summary

The Toronto Local Appeal Body requested external Legal Counsel, Duxbury Law, to provide a report respecting efforts of the public to communicate directly with members in a way that can be perceived as threatening or harassment. The Toronto Local Appeal Body may go into closed session to receive advice that is the subject of attorney-client privilege.

Supporting Documents

Report from Duxbury Law

30.7 – MEMBER ACCOUNTABILITY

Toronto Local Appeal Body – In Camera Session – Member Accountability

Summary

The Toronto Local Appeal Body will go into closed session to discuss an issue regarding an identified Member.

30.8 – SCHEDULE OF MEETINGS - 2021

Summary

The Toronto Local Appeal Body will set the date for the next Public Business Meeting, and will consider adding an additional meeting date.

30.9 - CLOSING BUSINESS AND REMARKS

Adjournment

Effective Date:

Number: 4

Practice Direction: Video Evidence

Direction:

On the approval of the presiding Member, video material that has been disclosed and identified, and served in accordance with the Rules, may be presented at a TLAB hearing. Video material must be served by providing the video URL to Youtube or some other video platform which is accessible to the public. This link will be posted on the online case file as a PDF, for the public to access.

Persons tendering video material are responsible for ensuring that the video can be played, and that any audio is audible to viewers

Protocol Relating to Persons Attempting to Communicate Directly with Members

Before outlining a protocol on how to appropriately deal with attempts by Parties, Participants and others to communicate with Members of the TLAB outside of the established processes provided in the TLAB's Rules of Practice and Procedure, it is important to briefly review the reasons such communications are generally improper and to be avoided.

Being a TLAB Member comes with certain responsibilities. As quasi-judicial officers, you are obliged to justly determine the matters brought before you. The process for making these decisions is a constrained one, in order to ensure fairness, and to ensure justice prevails.

The basis for one's decision must always be founded on the law and on the evidence presented in the Hearing. Parties are each entitled to hear the evidence you use to help decide the matter; they are entitled to test that evidence and to marshal their own evidence in full view of the public and all Parties.

Through your review and consideration of that public evidence, and through the application of the law and your reason, a decision is ultimately arrived at – a decision by which the Parties must thereafter govern themselves.

It is this openness, and the importance our society places on the rigorous challenging of evidence and arguments, that makes attempts to communicate directly with Members highly improper.

Communications with a person outside of the official processes and procedures of the TLAB have the ability to undermine the TLAB's reputation, to undermine both the perception and real independence and impartiality of the Member, and to undermine the solemn public process of judicial decision-making.

Requests for a "little chat" or to hear a "quick question" or to receive a "small piece of information" outside of the established processes and procedures are to be guarded against and demand your highest vigilance to avoid.

Protocol for Staff Regarding Emails and Other Communications Addressed to Members

- 1) Generally, no communications received outside of the Rules of Practice and Procedure should come to the attention of, or be forwarded to, a Member. This is especially the case when that Member is engaged in a matter or where the time-period in which to request a Review has not yet lapsed.
- 2) Where such communications are received by the TLAB, Staff should first briefly review same. Where the communication is *not* a complaint regarding a Member engaged in a matter, Staff should advise the person providing such communications of the requirement to communicate with a Member only in accordance with the procedures and mechanisms provided in the TLAB's Rules of Practice and Procedure.
- 3) Should the communications received be in the nature of a complaint regarding a Member engaged in a matter or where the Member has delivered his or her decision but the time-period in which to request a Review has not yet lapsed, the complaint should be forwarded to the Chair, unless the Chair is the Member at issue, in which case the complaint should be forwarded to the Vice Chair for consideration and direction.
- 4) In all cases, communications not received in accordance with the TLAB's Rules of Practice and Procedure should not be placed on the electronic and publicly available system; doing otherwise could undermine the integrity of the process and bring the administration of justice into disrepute.

Safety Concerns Regarding Improper Communications

- 5) Where any communications received cause concern for safety TLAB Staff should immediately report the offending communications to the police and to the TLAB Chair or Vice-Chair.

Note on Seeking Chair or Vice Chair Direction

- 6) In addition to the above, there may be unique or challenging circumstances that arise in which it may be wise to seek the direction of the Chair or Vice Chair. In the event Staff have concerns or questions arising from communications received outside of the procedures and mechanisms established by the TLAB's Rules of Practice and Procedure, they are encouraged to speak with the Chair or Vice Chair to seek clarification regarding next steps.

Protocol for Members Regarding Emails and Other Communications Addressed to Them

- 7) Generally, no communications outside of the Rules of Practice and Procedure should be had with Members in relation to any matter currently before him or her, or which was previously before him or her or which may reasonably be expected to come before him or her in the future.
- 8) Where, because of unique or unexpected circumstances, such communications inadvertently or through the deception or cunning of the person providing such communications, come to the attention of a Member, the Member should immediately discontinue further engagement with such communications.
- 9) In the event of an inadvertent engagement with such communications, the Member should immediately make notes of his or her engagement (the extent of the engagement, the context of the engagement and his or her efforts to immediately disengage) with such communications, and thereafter consider whether it would be prudent and advisable to raise the issue of that engagement as a preliminary matter to be dealt with before all Parties at the next available opportunity.

Member Safety Concerns Regarding Improper Communications

- 10) Where any communications received by a Member cause concern for their safety or the safety of others, the Member should immediately report the offending communications to the police and to the TLAB Chair or Vice Chair.

Note on Seeking Chair or Vice Chair Direction

- 11) In addition to the above, there may be unique or challenging circumstances that arise, in which it may be wise to speak with the Chair or Vice Chair. In the event a Member has concerns or questions arising from communications received outside of the procedures and mechanisms established by the TLAB's Rules of Practice and Procedure, the Member is encouraged to speak with the Chair or Vice Chair.

Protocol for Chair/Vice-Chair Regarding Emails and Other Communications Addressed to Them

- 12) The Chair and Vice Chair, when acting as Members, should refer to the protocols for Members, outlined above.
- 13) The Chair, or Vice Chair, as the case may be, upon receiving a complaint concerning another Member who is engaged in a matter, should avoid bringing the complaint to the attention of that Member until a Final Decision has been issued and the time-period in which to request a Review has lapsed.
- 14) The Chair, or Vice Chair, as the case may be, may thereafter take whatever steps he or she deems necessary to effectively and completely deal with the complaint.

NOTE:

Nothing in this protocol precludes anyone from contacting relevant authorities, including the police, in warranting circumstances.

In addition, there may be unique or challenging circumstances that arise, in which it may be wise to seek the assistance of TLAB's legal counsel. In the event any person has concerns or questions arising from communications received outside of the procedures and mechanisms established by the TLAB's Rules of Practice and Procedure, they are encouraged to speak with the Chair or Vice Chair about whether TLAB's counsel should be consulted.