



Minutes: March 4, 2022

Toronto Local Appeal Body Business Meeting No. 35

Toronto Local Appeal Body – Public Business Meeting – March 4, 2022

Chair: Dino Lombardi

Contact: Tyra Dorsey, Acting Supervisor, Tribunal Operations

Phone: 416-392-4697

Meeting Date: Friday, March 4, 2022

Time: 9:30 am.

Email: tlab@toronto.ca

Location: Electronic Business Meeting (WebEx)

Chair: Dino Lombardi

Contact: Tyra Dorsey

Phone: 416-392-4697

Toronto Local Appeal Body Panel Members

Dino Lombardi (Chair)

Ana Bassios (Vice-Chair)

Sabnavis Gopikrishna

Sean Karmali

Christine Kilby

Stanley Makuch

John Tassiopoulos

Ted Yao

Staff Attendance

Russ Brownell

Manager

Tribunal Operations, Court Services

Tyra Dorsey

Secretary / Acting Supervisor

Toronto Local Appeal Body, Court Services

Carina Cinelli

Support Assistant A

Toronto Local Appeal Body, Court Services

Adrienne Mignardi

Support Assistant B

Toronto Local Appeal Body, Court Services

Kevork Chelenkerian

Support Assistant B

Toronto Local Appeal Body, Court Services

Denize Jalilpour

Support Assistant B

Toronto Local Appeal Body, Court Services

Timothy Ally

Support Assistant B

Toronto Local Appeal Body, Court Services

Meeting started at 9:32 a.m.

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 10, 2021

Motions:

Motion to adopt meeting minutes of December 10, 2021. Moved by Chair Lombardi, seconded by Member Tassiopoulos (Carried).

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

None.

35.1 – TLAB PUBLIC GUIDE – REVISIONS

Summary

Chair Lombardi informed the Panel that the City Clerk made minor revisions to the Toronto Local Appeal Body (TLAB) Public Guide and noted that it has never been formally adopted by the TLAB. Members provided comments and suggestions, and a final draft revision will be brought to the next business meeting for formal adoption by the tribunal.

Chair Lombardi clarifies that any input, suggestions, and comments should be shared in a business meeting. They will be taken away by TLAB staff for incorporation or consideration in the final draft of the Public Guide. Acting Manager Brownell confirms this.

Motion:

That TLAB staff be directed to make revisions to the TLAB's public guide with input and comments from Tribunal Members obtained during the Q1 2022 Business Meeting along with the comments/suggestions contained in the FONTRA letter of December 9, 2021 and that those comments and suggestions be considered in refining and finalizing a draft final public guide; and

That TLAB staff, in consultation with the Chair and the Vice-Chair, assist in drafting and finalizing a revised public guide for tabling at the next Business Meeting.

Moved by Member Yao, seconded by Member Karmali (Carried).

Supporting Documents

Public Guide

FONTRA Letter dated December 9, 2021

35.2 – TLAB CONDITIONS OF CONSENT

Summary

Changes were made to the *Planning Act* relating to the control of the division of land, including consents and validations through Bill 276 called *Supporting Recovery In Competitiveness Act, 2021*. Practice Direction No. 1 requires revisions, specifically the wording regarding Condition No. 7. The revision amends the wording of the condition giving the applicant up to two (2) years instead of one (1) year after giving the notice to comply with the conditions of approval. The Committee of Adjustments has adopted the revision, and the TLAB should follow suit.

Motion:

That the TLAB adopt the amended wording of Condition No. 7 of the Standard Consent Conditions of the TLAB's Practice Direction No. 1 as follows:

(7) WITHIN TWO YEARS of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions.

And that the TLAB Staff be directed to make the above-noted revision to the conditions of Practice Direction No. 1 as amended, and the decision template, and post the revised Practice Direction No. 1 on the TLAB website.

Moved by Member Makuch, seconded by Member Tassiopoulos (Carried).

Supporting Documents

Draft Practice Direction #1

35.3 – PROCEDURE FOR LATE DOCUMENT FILING (INTERLOCUTORY) RELIEF

Summary

The TLAB has experienced situations where documents appear after deadlines elapsed. Chair Lombardi states that this is discouraged by TLAB for procedural fairness and bias to the parties where they have abided by the rules. Late filings are also discouraged based on an adjournment request. Draft Practice Direction No. 7 is intended to provide formal direction to members and staff when dealing with late filings of documents. However, the decision on late filings and submissions falls to the presiding Member.

Member Kilby shared a document with wording to replace what Member Lombardi provided that was attached to the agenda. TLAB serves citizens and has to be flexible given its discretion under the *Statutory Powers and Procedures Act*.

Motion:

That the Chair and Vice-Chair in consultation with the TLAB external legal counsel review the revised wording of Practice Direction No. 7 as offered by Member Kilby and amended at the Q1 2022 Business Meeting.

And that the revised final draft wording for Practice Direction No. 7 be brought forward to the next business meeting for consideration.

Moved by Member Makuch, seconded by Member Karmali (Carried).

Supporting Documents

Draft Practice Direction #7

35.4 – DOCUMENT REFERENCING (COMMON DOCUMENT BOOK)

Summary

Chair Lombardi notes that a draft version of Practice Direction No. 3 was considered at a previous TLAB Business Meeting but never considered by the Members. This Practice Direction was initially considered in 2018 but never brought forward or formally adopted by the TLAB. The TLAB website has a link to public documents and has proven helpful in hearings. A Common Document Book (CDB) concept is intended to streamline large digital files. The introduction of the draft Practice Direction and its adoption by the tribunal is to acknowledge its existence formally and for the TLAB to establish a protocol for its use.

Motion:

That the TLAB adopt Draft Practice Direction No. 3 as proposed and that the Practice Direction be uploaded to the TLAB website; and

That the Notice of Hearing be revised to include wording regarding the link to the TLAB's common document book.

Moved by Member Tassiopoulos, seconded by Member Gopikrishna, (Carried)

Supporting Documents

Draft Practice Direction #3

35.5 – REVISED DECISION WRITING TEMPLATE

Summary

On November 5th, 2021, the TLAB hosted a training and education session by the Society of Ontario Adjudicators and Regulators (SOAR) called "Effective Decision Writing – Writing Better Decisions." The goal was to produce effective, issue-driven, point-first and plain language decisions and orders. The session was well received by Panel Members based on comments received following the session.

A draft decision template is being proposed to begin a dialogue on whether the decision template should be recalibrated to result in a better approach to writing decisions and orders. The proposed draft template is based on reviewing several TLAB decisions and review decisions issued by other boards. Decisions should be simpler, shorter, and more concise.

Member Yao says non-sexist language be used (i.e., not to use "he" for decision-maker). That "findings" be changed to "analysis." The necessity to explain what the case is about in the first sentence. Courts will decide if their decision is reasonable.

Acting Supervisor Dorsey will ensure that decisions are consistent. When a decision template is sent out versus received – paragraphing and formatting have been displaced, making it difficult for staff to ensure it is AODA compliant.

Motion:

That the TLAB receive the draft decision writing template put forward by the Chair for discussion purposes, and that the TLAB staff be directed to develop a revised template, in consultation with the Tribunal Chair and Vice-Chair, and that that draft template be brought forward to a future business meeting in 2022 for consideration.

Moved by Member Gopikrishna, seconded by Member Kilby (Carried).

Supporting Documents

Draft Decision Template

Lunch at 12:26 p.m.

Returned at 1:30 p.m.

35.6 – CHAIR'S UPDATE

Summary

A) JH&S Update – Return to “in-person” Hearings

Chair Lombardi discusses the return to in-person hearings. The Chair could have considered a hybrid situation, but the consensus from members is to continue virtual hearings. On February 3, 2022, Chair Lombardi attended Joint Health & Safety meeting, but City was uncertain about the plan moving forward. Capacity has been lifted for indoor events. Municipalities can implement their own mandates, such as vaccine passports. Masks are still in place but could mandate could be lifted at the end of March.

As of March 21, City of Toronto employees will be back at offices. No direction yet on vaccine passports and masks when in person. The City is accommodating a hybrid situation for in-person and virtual hearing events, and staff will be able to accommodate. The situation will be continued to be monitored and discussed at a future business meeting.

Chair Lombardi inquires if TLAB staff can currently accommodate a hybrid hearing event. Acting Supervisor Dorsey says hearings can't be mixed right now.

The TLAB will continue to monitor the situation and await further direction from the City of Toronto

B) Varied TLAB Member Decision Writing Stipend

Chair Lombardi informs Panel Members of recommendations from the City Council from June 8, 2021, regarding the decision writing stipends for TLAB Member. Withdrawal decisions are currently \$200, and the rate approved is \$50. Decision types that include motions etc., are presently \$200 and will stay at \$200. A Review Request will be \$400 as will be Final decisions and orders. This change takes effect on April 1, 2022.

C) Request – Topics for Member Education Sessions in 2022

Chair Lombardi is looking for suggestions on future Member education sessions for 2022. Panel Members are to send their suggestions to the Chair and Vice-Chair by no later than March 31st.

D) Motions from Q5, December 10, 2021, TLAB Business Meeting – Update

Acting Supervisor Dorsey provides a pre-hearing conference administrative procedure update. Principles to aspire to at the last business meeting dealt with TLAB Rules; the document has not yet been uploaded and still requires review.

Chair Lombardi references the motion regarding member assistance for software and editing, and they were deferred to the second business meeting.

Member Yao requests Windows, Word, Excel, and WebEx.

Member Bassios asks about Adobe software, and a standard set of software is available to members.

Member Kilby poses a question about whether there is a budget for individual training. Acting Manager Brownell clarifies that the budget is only for the group but will make inquiries.

Chair Lombardi discusses the motion regarding Chair involvement in member appointment and interview process of new members. Provided feedback to the Public Appointments Office on issues related to membership, and the input was used to amend the Public Appointment page. The Chair's involvement in interviewing members is not permitted but allowed to attend as any public member. On March 9, 2022, two new members will be put forward and recommended. If the council endorses them, they will start the first week of April. TLAB Panel is close to full compliment.

Motion:

Motion that TLAB staff report back to the next business meeting regarding opportunities for Member assistance and support for accessing corporate software, and training opportunities, and receive support from City IT in this regard.

Moved by Member Yao, seconded by Member Bassios (Carried).

Motion that the TLAB receive the Char's update.

Moved by Member Tassiopoulos, seconded by Member Karmali (Carried).

35.7 – SUPERVISOR & MANAGER'S UPDATES

Summary

Acting Supervisor Dorsey says roughly 40 appeal packages from the Committee of Adjustments are in queue to be scheduled. Currently scheduling 4-5 new appeals a week but want to move up to 8 new appeal hearings in summer months.

Chair Lombardi acknowledges a large backlog due to only having eight members and some members not being assigned new hearings.

Acting Manager Brownell provides an update on their return to the workplace. All city staff are to work on a hybrid model starting March 21st. TLAB staff will be available for ongoing case management and administrative support. Staff will be in the office five days a week on a rotational basis—update on facilities. A new corporate standard is to remove directional arrows and re-evaluate floorplan to determine appropriate seating arrangements based on updated occupancy limits. Masking by-laws are still in effect until further notice. Mediation Pilot – met with various sections in Court Services. The proposed process will be to use WebEx. Training will be provided to Members. Ready to support a pilot in Q2 of 2022. The nominating panel has recommended two candidates to be appointed to TLAB and will be considered by the City Council for approval on March 9th.

Motion:

Motion that the TLAB receive the Supervisor and Manager's update.

Moved by Chair Lombardi, seconded by Member Kilby (Carried).

35.8 – MEMORANDUM DISCUSSION (IN-CAMERA)

Summary

The TLAB will close the meeting to the public pursuant to Rule 11 and 11(a) to review confidential memoranda and receive advice from external legal counsel.

Chair Lombardi indicates an issue has arisen and must recuse himself. Assigns Chair's duties to Vice-Chair Bassios.

Motion:

Motion to move in camera. Moved by Member Gopikrishna, seconded by Member Kilby (Carried).

Motion to return back to public session. Moved by Member Yao, seconded by Member Tassiopoulos (Carried).

Motion whereas at its meeting of June 8, 2021 Council adopted the following resolution:

3. City Council direct the City Manager, in consultation with the Director, Court Services, the Chief Planner and Executive Director, City Planning and the City Clerk, to review the following and report back to the Planning and Housing Committee by the first quarter of 2022 on the feasibility of implementing the following:

c. the operations of the Toronto Local Appeal Body relative to its original intent, with public engagement, with the intended outcome of simplifying the hearing process and increasing public participation.

AND whereas the original intent of the Toronto Local Appeal Body is set out in Toronto Municipal Code chapter 142-3:

The Local Appeal Body must establish and adopt its own rules of practice and procedure to govern its proceedings.

And whereas the TLAB as a body of the whole met at its business meeting of March 4, 2022 and debated the above issues in a desire to respond to Council's direction;

THE TLAB ADOPTS THE FOLLOWING MOTION:

The TLAB members will await the advice of the City Manager as set out in the Council Direction of June 8, 2021.

Moved by Member Yao, seconded by Member Makuch (Carried).

Chair Lombardi abstained from voting.

Supporting Documents

Confidential Memorandum

35.9 – TLAB 2021 MEMBER INITIATIVES

Motion:

Motion that an update from the TLAB Chair regarding the Continuous Service Improvements (CSI) initiative and the Pre-hearing Conference (PHC) Pilot Project subcommittee work be deferred to a future business meeting.

Moved by Member Makuch, seconded by Member Karmali (Carried).

35.10 – CLOSING BUSINESS AND REMARKS

Summary

Chair Lombardi thanks the Panel Members for their patience, enthusiasm, and hard work on agenda items. The next Q2 Business Meeting is June 15th, 2022.

Motion:

Move to adjourn.

Moved by Chair Lombardi, seconded by S. Karmali.

Meeting concluded at 4:34 p.m.