



Minutes: October 19, 2022

Toronto Local Appeal Body Business Meeting No. 38

Toronto Local Appeal Body – Public Business
Meeting

Chair: Dino Lombardi

Contact: Tyra Dorsey, Acting Supervisor Tribunal
Operations

Phone: 416-392-4697

Meeting Date: Wednesday, October 19, 2022

Time: 9:30 am.

Email: tlab@toronto.ca

Location: Electronic Business Meeting (WebEx)

Chair: Dino Lombardi

Toronto Local Appeal Body Panel Members

Dino Lombardi (Chair)

Ana Bassios (Vice-Chair)

Sabnavis Gopikrishna (left at 3:54p.m.)

Sean Karmali (Regrets)

Christine Kilby

Stanley Makuch

John Tassiopoulos

Ted Yao

Carissa Wong

Gerald Swinkin

Ron Kanter

Trevor Kezwer

Paula Turtle (Left at 2p.m.)

Blair Martin

Staff Attendance

Russ Brownell

Manager

Tribunal Operations, Court Services

Tyra Dorsey

Secretary / Acting Supervisor

Toronto Local Appeal Body, Court Services

Claire Holloway

Acting 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

Timothy Ally

Support Assistant B

Toronto Local Appeal Body, Court Services

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.

Introduction of New TLAB Members – Paula Turtle, Ron Kanter, Blair Martin, Trevor Kezwer

Confirmation of Minutes – Business Meeting, June 15, 2022

Correction under Agenda Item 37.4, numbering skips from b) to d).

The presentation of the Toronto Local Appeal Body Public Business Meeting Minutes will be simplified in line with previously adopted minutes.

Motion:

Motion to adopt the June 15, 2022 Business Meeting Minutes, as amended.

Moved by Member Tassiopoulos, Seconded by Member Makuch (carried).

Member Kanter – Abstained

Member Kezwer – Abstained

Member Martin – Abstained

Member Turtle – Abstained

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

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

None.

38.1 – INFORMATION AND MOTION

Toronto Local Appeal Body Chair's 2021 Annual Report

Summary

Each year, the Chair of the Toronto Local Appeal Body (TLAB) is required to prepare and present an 'Annual Report' to the City's Planning and Housing Committee of Council, for recommendation on to Council. The Annual Report provides a 'snapshot' of the Tribunal's past year. The Annual Report consists of three basic components: the Chair's information; observations; and Recommendations. The Annual Report is being brought forward in response to input from the public that the document be received at a TLAB Business Meeting for information after it has been reported to Planning and Housing Committee and Council.

Motion:

Motion THAT the Toronto Local Appeal Body Chair's 2021 Annual Report be received for information and that the Annual Report be uploaded to the TLAB's website.

Moved by Vice-Chair Bassios, Seconded by Member Turtle (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Turtle – Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Supporting Documents

1. The Toronto Local Appeal Body Chair's 2021 Annual Report
2. Report for Action from the Director, Court Services regarding the TLAB Chair's 2021 Annual Report, dated June 20, 2022.

38.2 – ADOPTION

PROPOSED REVISIONS TO THE TORONTO LOCAL APPEAL BODY'S PROCEDURAL BY-LAW 1-2017

Summary

The Toronto Local Appeal Body will consider the following revisions to its Procedural By-law 1-2017 to facilitate undertaking continuous service improvement initiatives to enhance its operation as an efficient and effective independent, quasi-judicial tribunal.

- a) Subcommittee – addition of a definition of 'Subcommittee' in Section 1 of Procedural By-law 1-2017 – "Subcommittee – A committee composed of at least two sitting Members of the Toronto Local Appeal Body."
- b) Subcommittee Meeting – addition of a definition of "Subcommittee Meeting" in Section 1 of Procedural By-law 1-2017 – "Subcommittee Meeting – A gathering of Subcommittee Members."
- c) The addition of Section 30 to Procedural By-law 1-2017 as follows: "The Members may, by Motion, establish Subcommittees to discuss items of interest to the TLAB. The Members of a Subcommittee may, on notice to each Member of the Subcommittee, schedule a meeting of a Subcommittee."
- d) A revision of Section 12(3) of Procedural By-law 1-2017 as follows: 'Members participating in the Business Meeting electronically are counted towards quorum'.
- e) The deletion of Section 29(2) (Voting Requirements and Notice) of Procedural By-law 1-2017.

(The Toronto Local Appeal Body may go into a closed session to receive legal advice from Counsel that is subject to solicitor-client privilege as permitted by S. 11(1)(a) of the Procedural By-law 1-2017, for any of the subsections for Item 38.2, above cited).

Participants, other than the Tribunal Members, who spoke to the agenda item:

Karen Jones, Director of Corporate Inter-governance and Agency Relations in the City Manager's Office

Motions:

Motion to move into closed session.

Moved by Member Gopikrishna, Seconded by Member Wong (Carried).

Chair Lombardi - Yes

Vice-Chair Bassios - Yes

Member Kanter – Yes

Member Kezwer – Yes

Member Martin – Yes

Member Turtle – Yes

Member Gopikrishna - Yes

Member Kilby - Yes

Member Makuch - Yes

Member Tassiopoulos - Yes

Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Motion to return to public session.

Moved by Member Makuch, Seconded by Member Kilby (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Turtle – Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Motion THAT the Toronto Local Appeal Body delete Section 29 (2) (Voting Requirements and Notice) of its Procedural By-law 1-2017.

Moved by Vice-Chair Bassios, Seconded by Member Tassiopoulos (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Turtle – Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Motion THAT the Toronto Local Appeal Body add the following definition to Section 1 of Procedural By-law 1-2017, "Subcommittee – A committee composed of at least two sitting Members of the Toronto Local Appeal Body."

And the following definition, "Subcommittee Meeting – a gathering of Subcommittee Members"

And the addition of Section 30 to the Procedural By-law with the following language, "Members may, by Motion, establish Subcommittees to discuss items of interest to the TLAB within its mandate. The Members of a Subcommittee may, on notice to each Member of the Subcommittee, schedule a meeting of the Subcommittee."

And THAT the Toronto Local Appeal Body amend the language of Section 12(3), of its Procedural By-law as follows, "Members participating in the Business Meeting electronically are counted towards quorum."

Moved by Member Bassios, Seconded by Member Turtle (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Turtle – Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Motion - And THAT Notice of Subcommittee Meetings shall be given to the public and the public shall be allowed to observe such meetings subject to any restrictions approved by the Subcommittee.

Moved by Member Makuch, Seconded by Member Wong (Majority Vote Not Achieved).

Vice-Chair Bassios – No
Member Kanter – No
Member Kezwer – No
Member Kilby – No
Chair Lombardi – No
Member Martin – No
Member Swinkin – No
Member Turtle – No
Member Yao – No
Member Gopikrishna - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Wong - Yes

Motion that the Toronto Local Appeal Body receive the Memorandum from the Deputy City Manager, Community and Social Services, dated October 13th, 2022.

Moved by Chair Lombardi, Seconded by Member Makuch (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Turtle – Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes

Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Supporting Documents

1. The Toronto Local Appeal Body's Procedural By-law 1-2017
2. City of Toronto Submission - TLAB Agenda Item 38.2 - October 13, 2022

38.3 – ADOPTION

REVISIONS TO THE WORDING IN THE TORONTO LOCAL APPEAL BODY'S RULES OF PRACTICE AND PROCEDURE

Summary

Various technical revisions to the wording of sections of the Toronto Local Appeal Body's Rule of Practice and Procedure (rules) to clarify those sub rules and/or to add a new sub rule.

- a) Addition of new Rule 12.2.1 and amended wording of the TLAB's Public Guide accordingly to reflect automatic Party status for Appellants
- b) Revision to Rule 24.3 (Objection to Electronic Hearings) – 5-day rule

Supporting Documents

- a) New Rule 12.2.1 to be added to the Toronto Local Appeal Body's Rules of Practice and Procedure & Amended Wording to the Public Guide
- b) Revised Wording for Rule 24.3 of the Toronto Local Appeal Body's Rules of Practice and Procedure

Motions:

Motion THAT a new sub-rule 12.2.1, as proposed in the attachment to agenda item 38.4 a), be added to the Toronto Local Appeal Body's Rules of Practice and Procedure, as amended, and that the Rules be amended accordingly; and

That the Toronto Local Appeal Body amend the wording of the Public Guide under the heading, "What is a Party?" as proposed in the attachment to agenda item 38.4 a), and the Public Guide be amended accordingly.

Moved by Member Yao, Seconded by Member Turtle (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Turtle – Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes

Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Motion THAT Rule 24.3 of the Toronto Local Appeal Body's Rules of Practice and Procedure be revised to reflect the proposed wording in the attachment, as amended, to agenda item 38.4 b) and that the Rules be amended accordingly.

Moved by Member Swinkin, Seconded by Member Makuch (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Turtle – Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

38.4 – ADOPTION

REVISIONS TO THE TORONTO LOCAL APPEAL BODY'S FORMS

Summary

The Toronto Local Appeal Body will consider technical amendments to the wording of the following Forms:

- a) Notice of Intention (Election) to be a Party or Participant (Form 4) & Responding Expert Witness Statement (Form 21)

Supporting Documents:

The Toronto Local Appeal Body's Forms 4 and 21

Motion:

THAT the Toronto Local Appeal Body's Forms 4 and 12 be amended as proposed and the revised Forms be uploaded to the Toronto Local Appeal Body's website.

Moved by Chair Lombardi, Seconded by Member Wong (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Turtle – Yes

Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

38.5 – INFORMATION

CHAIR'S UPDATE

Summary

- a) CanLII TLAB Decision Search Engine Initiative
- b) Remote Mediation Process – Guideline
- c) Hybrid-In-person Hearings – Update

Supporting Documents

N/A

Member Turtle has left the meeting at 2:00p.m..

Motion:

Motion to receive Chair's update.

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

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Gopikrishna - Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

38.6 – INFORMATION

SUPERVISOR & MANAGER'S UPDATE

Summary

Tribunals, Local Appeal Body Supervisor and Court Operations, Tribunals, Manager provide administrative updates.

Supporting Documents

N/A

Motion:

Motion to receive Supervisor and Manager's update.

Moved by Chair Lombardi, Seconded by Member Yao (Carried).

Chair Lombardi - Yes

Vice-Chair Bassios - Yes

Member Kanter – Yes

Member Kezwer – Yes

Member Martin – Yes

Member Gopikrishna - Yes

Member Kilby - Yes

Member Makuch - Yes

Member Tassiopoulos - Yes

Member Yao - Yes

Member Wong - Yes

Member Swinkin – Yes

Member Gopikrishna left meeting at 3:54p.m.

38.7 – INFORMATION

Toronto Local Appeal Body – Legal Advice from External Legal Counsel regarding Rule 31 (Review of Final Decision or Final Order) of the Toronto Local Appeal Body's Rules of Practice and Procedure

Summary

The Toronto Local Appeal Body will go into closed session to receive legal advice from Counsel regarding consideration of the elimination of Rule 31 (Review of Final Decision or Final Order) from its Rules of Practice and Procedure, as amended.

(The Toronto Local Appeal Body will go into closed session to discuss this item as the Toronto Local Appeal Body's Procedural By-law 1-2017 and the City of Toronto Act, 2006, permit a closed meeting to receive advice that is subject to solicitor-client privilege, including communications necessary for that purpose).

Items 38.7 and 38.8 will be consolidated for efficiency and having the closed session discussions jointly.

Supporting Documents:

1. Rule 31 of the Toronto Local Appeal Body’s Rules of Practice and Procedure, as amended on December 2, 2020.
2. Duxbury Law – Confidential Attachment (under separate cover)

38.8 – INFORMATION

Toronto Local Appeal Body – Update from Its External Legal Counsel regarding Motions for Leave to Appeal to Divisional Court of TLAB Decisions.

Summary

The Toronto Local Appeal Body will go into closed session to receive an update from its external legal counsel regarding the status of Motions for Leave to Appeal to the Divisional Court for TLAB Decision as permitted by S. 11 (1) of the Toronto Local Appeal Body’s Procedural By-law 1-2017, as amended.

Motions:

Motion to go into closed session to discuss 38.7 – to receive legal advice from counsel re: the elimination of Rule 31.

And

To receive an update from its external legal counsel regarding motion for leaves to appeal, as permitted by procedural by-law 1-2017, relating to agenda item 38.8.

Moved by Chair Lombardi, Seconded by Member Kezwer (Carried).

Chair Lombardi - Yes

Vice-Chair Bassios - Yes

Member Kanter – Yes

Member Kezwer – Yes

Member Martin – Yes

Member Kilby - Yes

Member Makuch - Yes

Member Tassiopoulos - Yes

Member Yao - Yes

Member Wong - Yes

Member Swinkin – Yes

Motion to return to public sessions.

Moved by Member Tassiopoulos, Seconded by Member Kezwer (Carried).

Chair Lombardi - Yes

Vice-Chair Bassios - Yes

Member Kanter – Yes

Member Kezwer – Yes

Member Martin – Yes

Member Kilby - Yes

Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Motion THAT the consideration to eliminate Rule 31 (Review Request) from the Toronto Local Appeal Body's Rules of Practice and Procedure (Rules) be deferred to the December 15th, 2022, Business Meeting; and

That the Toronto Local Appeal Body post a Notice/ Advisory on its website to provide earlier exposure on the discussion of eliminating Rule 31 at its December 15th, 2022, Business Meeting and also contact interested Parties such as the Municipal Law Section of the Ontario Bar Association, the Ontario Professional Planners Institute, City Legal, the Ombudsman, the Integrity Commissioner, City Manager, and Residents Associations, for public comment, if any.

Moved by Member Yao, Seconded by Member Kilby (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

Motion to receive the Leave to Appeal updates provided by Duxbury Law in-camera, and that the relevant case files on the Toronto Local Appeal Body's website be updated with the full text of the Divisional Court Decisions.

Moved by Member Yao, Seconded by Vice-Chair Bassios (Carried).

Chair Lombardi - Yes
Vice-Chair Bassios - Yes
Member Kanter – Yes
Member Kezwer – Yes
Member Martin – Yes
Member Kilby - Yes
Member Makuch - Yes
Member Tassiopoulos - Yes
Member Yao - Yes
Member Wong - Yes
Member Swinkin – Yes

38.9 – INFORMATION

SCHEDULE OF REMAINING BUSINESS MEETINGS 2022

Summary

The Toronto Local Appeal Body will confirm the two (2) remaining Business Meetings in 2022.

- a) Member Education & Training – November 30th
- b) Last Business Meeting of 2022 – December 16th

Motion:

Motion that the November 30th, 2022, of the Toronto Local Appeal Body be a closed meeting as permitted by section 11(1)(f) of the Procedural By-law 1-2017.

Moved by Chair Lombardi, Seconded by Member Makuch (Carried).

Chair Lombardi - Yes

Vice-Chair Bassios - Yes

Member Kanter – Yes

Member Kezwer – Yes

Member Martin – Yes

Member Kilby - Yes

Member Makuch - Yes

Member Tassiopoulos - Yes

Member Yao - Yes

Member Wong - Yes

Member Swinkin – Yes

38.10 – CLOSING BUSINESS AND REMARKS

Adjournment – 4:26 p.m.