



# Minutes: December 16, 2022

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## Toronto Local Appeal Body Business Meeting No. 40

Toronto Local Appeal Body – Public Business Meeting

Meeting Date: Friday, December 16, 2022, 9:30 a.m.

Location: Electronic via City of Toronto Web Conferencing

**Chair:** Dino Lombardi

**Contact:** Tyra Dorsey, Acting Supervisor, Tribunal Operations

**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

Carissa Wong

Gerald Swinkin

Ron Kanter

Trevor Kezwer

Paula Turtle

Blair Martin

**Meeting started at 9:30 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** – Motion to adopt meeting minutes of Business Meeting held, November 30, 2022.

Moved by Chair Lombardi, seconded by Vice Chair Bassios (Carried).

Member Makuch – Not Present.

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

None

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## **40.1 – INFORMATION**

### **TORONTO LOCAL APPEAL BODY – AMENDMENTS TO THE TORONTO LOCAL APPEAL BODY’S PROCEDURE BY-LAW 1-2017**

#### **Summary**

The Toronto Local Appeal Body will consider the following revisions to its Procedure By-law 1-2017 to facilitate amendments to the language or additions/deletions to the By-law to enhance the TLAB’s operation as an efficient and effective independent, quasi-judicial tribunal.

#### **A. Section 12. Quorum**

Add the following Subsections 4(a) and 4(b) to Section 12 (Quorum) of the Procedure By-law:

4(a) “The TLAB may, despite any other provisions of this Procedure By-law, hold a Business Meeting where some or all of the Members participate electronically and no physical meeting is held.

4(b) “Where a Business Meeting is being held in accordance with subsection (4)(a):

1. 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 the TLAB;
2. Any Member participating in the meeting electronically will be entitled to participate in any portion of the Business Meeting closed to the public; and
3. The Procedural By-law 1-2017 will apply to the meeting, with any other minor modifications as may be required.

#### **B. Section 14. Agenda - General**

The addition of the following revised Section (5) to Section 14. Agenda – General:

(5) Introduction of New Agenda Items

- a) Any item not included on the agenda may only be introduced by a Member at a Business Meeting with the consent of the majority of the TLAB Members present.

- b) Despite paragraph 14(5)(a), an item with respect to amending or repealing the Procedure By-law may not be added to the agenda at a Business Meeting.

**C. Section 20(2) – Register a Written Submission**

Amending the language of Subsection 20(2) of the Procedure By-law to reduce the timeline to register Public deputations by written submission with the TLAB from at least five (5) business days prior to the Business Meeting to two (2) business days. The amended language recognizes that the TLAB is required to publish the Business Meeting Agenda seven (7) days prior to the Business Meeting.

**D. Section 24. General Rules on Voting**

- The deletion of Subsection (5) to Section 24 and the re-numbering of Section 24 to reflect the deletion of the Subsection

(The Toronto Local Appeal Body may go into a closed session to receive legal advice from its external legal Counsel that is subject to solicitor-client privilege as permitted by S. 11(1)(a) of its Procedure By-law 1-2017, for any of the sections of Item 40.2, cited above.)

**Supporting Documents**

1. The Toronto Local Appeal Body Procedure By-law 1-2017.

**Motion** that the Toronto Local Appeal Body amend section 12 (Quorum) in its Procedure ByLaw-1-2017 by adding subsections 4.a and 4.b. with the wording recommended in Agenda Item 40.1 of the Q6 December 16, 2022 Business Meeting, and that subsection 5 subsection 24 (Voting) in its procedure ByLaw 1-2017 be deleted, and that section 24 be renumbered accordingly.

Moved by Member Turtle, seconded by Member Gopikrishna (Carried).  
Member Makuch – Not Present.

**Motion** that the Toronto Local Appeal Body add a revised subsection (5) to section 14 (Agenda – General) as follows:

(5) Introduction of New Agenda Items

a) any item not included on the agenda may only be introduced by a member at a Business Meeting with the consent of the majority of the TLAB Members present, and despite paragraph (14)(a), an item with respect to amending or repealing the Procedure By-law 1-2017 may not be added to the agenda at a Business Meeting.

Moved by Chair Lombardi, seconded by Member Tassiopoulos (Carried).  
Member Makuch – Abstained.

**Motion** THAT subsection 20(2) of the Toronto Local Appeal Body's Procedure By-law 1-2017 be amended by reducing the timeline to register public deputations by written submissions with the Toronto Local Appeal Body from at least five (5) business days prior to the Business Meeting to two (2) business days.

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

## 40.2 – INFORMATION

### **Toronto Local Appeal Body – Proposed Amendments to the Toronto Local Appeal Body’s Rules of Practice and Procedure (as amended)**

#### **Summary**

The Toronto Local Appeal Body will consider amendments to its Rules of Practice and Procedure (as amended on December 2, 2020), related to Rules 3.8 (Copies of TLAB Documents and Digital Recordings) and 31.8 (Transcripts). The amendments are intended to clarify the rules regarding the request for a copy of “an audio copy” of a TLAB Hearing that has been recorded.

The Toronto Local Appeal Body may go into closed session to receive legal advice from its external legal Counsel that is subject to solicitor-client privilege as permitted by S. 11(1)(a) of the Procedure By-law 1-2017, for any of the sections of Item 40.2, cited above.

#### **Supporting Documents**

1. Rules 3.8 and 31.8 of the Toronto Local Appeal Body’s Rule of Practice and Procedure

The Chair suggested to no longer allow the video (MP4) of TLAB hearings to be provided or available

**Motion** that Toronto Local Appeal Body go into closed session to receive legal advice from its external legal Counsel that is subject to solicitor-client privilege as permitted by S. 11(1)(a) of the Procedure By-law 1-2017, for any of the sections of Item 40.2.

Moved by S. Gopikrishna, seconded by Member Turtle (Carried).

CLOSED SESSION (10:15AM)

RETURN TO PUBLIC SESSION ON RECORD 10:49AM

**Motion** to return to public session.

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

**Motion** that pursuant to section 25.1 of the Statutory Powers Procedure Act, RSO 1990, c. S.22, and section 142-3 of the Toronto Municipal Code, the Rules of Practice and Procedure of the Toronto Local Appeal Body be amended as follows.

1. The replacement of Rule 3.8 with the following: Any person may request an audio copy of a TLAB hearing which has been digitally recorded, and receive same, after paying the required fee, unless a statute, a Court Order, an Order or Practice Direction of the TLAB, or these Rules provide otherwise.

2. The replacement of Rule 31.8 with the following:

If any party wishes to refer to any oral evidence presented at the hearing and if that oral evidence is contested and wishes to present it to the TLAB and a recording thereof is available, any party may request an audio copy of the TLAB hearing and the relevant portion of the proceeding shall be transcribed and

certified by a qualified Court Reporter and provided to all parties and the TLAB by service forthwith and at the requesting party's sole expense.

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

BREAK – UNTIL 11:20AM

RESUMED AT 11:20AM

## Deferred item

### 40.3 – INFORMATION

#### **THE TORONTO LOCAL APPEAL BODY – CONSIDERATION OF THE ELIMINATION OF RULE 31 (REVIEW OF FINAL DECISION AND FINAL ORDER) OF THE TORONTO LOCAL APPEAL BODY'S RULE OF PRACTICE AND PROCEDURE (as amended).**

##### **Summary**

The Toronto Local Appeal Body will consider the elimination of Rule 31 (Review of Final Decision and Final Order) of its Rules of Practice and Procedure (as amended) and hear deputations and consider submissions, if any.

The Toronto Local Appeal Body will go into closed session to discuss this item as permitted by S. 11(1)(a) of the Toronto Local Appeal Body's Procedure By-law 1-2017, to receive advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

##### **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 (previously provided for the October 19, 2022 Business Meeting) – Under separate cover.
3. Any public written submissions received by the TLAB in this regard.

(The Toronto Local Appeal Body (TLAB) will go into closed session to discuss this item as the TLAB's Procedure By-Law 1-2017 permits a closed meeting to receive advice that is subject to solicitor-client privilege, including communications necessary for that purpose.)

**Motion** that TLAB to move into closed session to consider the elimination of Rule 31 (Review of Final Decision and Final Order) of its Rules of Practice and Procedure (as amended)

The Toronto Local Appeal Body will go into closed session to discuss this item as permitted by S. 11(1)(a) of the Toronto Local Appeal Body's Procedure By-law 1-2017, to receive advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

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

CLOSED SESSION (10:52AM)  
RETURN TO PUBLIC SESSION ON RECORD

**Motion** to return to public session.

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

**Motion** that the correspondence from the Long Branch Neighbourhood Association dated, December 14, 2022 to the Toronto Local Appeal Body regarding Agenda 40.3 – Consideration of Elimination of Rule 31, be received for information.

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

**Motion** that pursuant to section 25.1 of the Statutory Powers Procedure Act, R.S.O. 1990, c. S-22, and pursuant to section 115 of the City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A, and pursuant to S. 142-3 of the Toronto Municipal Code (adopted by By-Law 294-2017), the Toronto Local Appeal Body's Rules of Practice and Procedure be amended as follows:

1. The deletion of Section/Rule 31.

Moved by Vice Chair Bassios, seconded by Member Yao (Not Carried).

Panel Member	Vote
Vice-Chair Bassios	Yes
Member Gopikrishna	Yes
Chair Lombardi	Yes
Member Tassiopoulos	Yes
Member Wong	Yes
Member Yao	Yes
Member Karmali	Abstain
Member Kanter	No
Member Kezwer	No
Member Kilby	No
Member Makuch	No
Member Martin	No
Member Swinkin	No
Member Turtle	No

#### **Four Part Motion**

1. Motion that the Toronto Local Appeal Body strongly urges City Council to amend its Fees and Charges By-Law by adding a fee of \$400.00 for the filing of a Review Request of a final decision and order of the Toronto Local Appeal Body pursuant to Rule 31 of its Rules of Practice and Procedure.

Moved by Member Makuch, seconded by Vice Chair Bassios (Carried).

2. Motion that in the event that City Council does not support the addition of a Review Request Fee, in its 2023 Budget process, the Toronto Local Appeal Body will reconsider the elimination of Rule 31 in its Rules of Practice and Procedure.

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

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

3. Motion that the Toronto Local Appeal Body establish a subcommittee, as permitted by its Procedure By-Law 1-2017, to consist of no more than 4 current members including the Toronto Local Appeal Body Chair, to review Rule 31 and investigate opportunities to amend the review request process, and that the Rule 31 Subcommittee report back to the Toronto Local Appeal Body with its findings at a Business Meeting in 2023, and

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

Voted No: Member Swinkin

4. Motion that the Chair annually identify three members in addition to the Chair and Vice Chair to conduct the review of decisions in accordance with Rule 31.

Moved by Vice Chair A. Bassios, seconded by Member S. Gopikrishna (Carried).

Voted No: Member Kezwer, Member Makuch, Member Swinkin

LUNCH (UNTIL 2:20PM)

## 40.4 – INFORMATION

### TORONTO LOCAL APPEAL BODY CHAIR'S UPDATE

#### Summary

- a) Bill 23 – *More Homes Built Faster Act 2022* – Update from the Toronto Local Appeal Body Chair

#### Supporting Documents

1. Report For Action from the City Manager and Chief Planner, City Planning, to City Council regarding Bill 23, *More Homes Built Faster Act*, dated November 16, 2022.
2. Attachment 1 to the Report For Action: Interim City Manager's FYI Briefing Note to Mayor and Members of Council – Bill 23, *More Homes Built Faster Act*, 2022, dated November 3, 2022.

(The Toronto Local Appeal Body (TLAB) may go into closed session to discuss this item and to receive legal advice from its external legal Counsel pursuant to S. 11(1)(a) of its Procedure By-law 1-2017.)

Chair Lombardi suggests a Special Business Meeting to be held in January 2023 to discuss ramifications of Bill 23 on this Tribunal.

**Motion** that the Toronto Local Appeal Body move into closed session to discuss Agenda Item 40.4-Bill 23 and to receive legal advice from its external legal counsel, pursuant to section 11(1)(a) of its Procedure By-Law 1-2017.

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

Voted No: Member Swinkin, Member Martin

CLOSED SESSION (2:37PM)

RETURN TO PUBLIC SESSION ON RECORD 3:04 PM

**Motion** to return to public session.

Moved by Member Martin, seconded by Member Kezwer(Carried).



**Motion** that the Toronto Local Appeal Body receive the Chair's update regarding Bill 23-More Homes Built Faster Act 2022, and

That Court Services Tribunal Staff canvass the Toronto Local Appeal Body's members for their availability to attend a Special Business Meeting as permitted by its Procedure By-Law 1-2017, in January 2023, to consider the impacts of Bill 23 on the operation of the Toronto Local Appeal Body.

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

## 40.5 – INFORMATION

### SUPERVISOR'S AND MANAGER'S UPDATE

#### Summary

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

TLAB Court Services staff continue to work on site on a rotational basis. The TLAB office space and hearing rooms continue to be available. The security staff remains consistent on-site in room 253.

Report for action from City Manager and Chief Planner, City Planning submitted to City Council regarding Bill 23 dated, November 16, 2022.

Once Bill 23 was given royal assent, Court Services Staff added two notes to the website to advise that the Provincial government had amended the *Planning Act* and generally removed the rights of third-party appeals to appeal Committee of Adjustment decisions. These notes were also added to the TLAB webpage. Court Services Staff identified appeals filed with the Committee of Adjustment that had been deemed dismissed under the legislation and implemented a process to update all involved parties. The notice will be distributed and sent out to all concerned parties in the coming weeks.

The motions adopted at the last Business Meeting, October 19, 2022, related to the Procedure By-Law, Rules of Practice and Procedure, the Chair's 2021 Annual Report, the Public Guide, and divisional court postings are now reflected on the TLAB website.

In the new year, TLAB decisions will be submitted to CanLII in addition to the City's online Application Information Centre.

**Motion** THAT Toronto Local Appeal Body received the Supervisor's and Manager's Update.

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

## 40.6 – INFORMATION

### ELECTION OF THE TORONTO LOCAL APPEAL BODY VICE-CHAIR, 2023

#### Summary

The Toronto Local Appeal Body will consider candidates and elect a Vice Chair for 2023. Appendix A to the Procedure Bylaw passed by TLAB will govern the election of the Vice Chair.

#### Supporting Documents

Procedure By-law 1-2017 To govern the meetings of the Toronto Local Appeal Body – **Appendix A**

Member Gopikrishna makes comments, nominating Vice Chair Bassios for another term.

Vice-Chair A. Bassios re-elected as Vice Chair.

## 40.7 – INFORMATION

### SCHEDULE OF BUSINESS MEETINGS, 2023

#### Summary

The Toronto Local Appeal Body will set the dates of their 2023 Public Business Meetings. The Tribunal will schedule a total of six (6) Meetings in 2023. Dates to be determined.

**Motion** that the Toronto Local Appeal Body set six (6) dates in 2023 for its Business Meetings, and That Court Services Tribunal Staff canvass the members for available dates for those six (6) Business Meetings.

Moved by Chair Lombardi, seconded by Vice Chair Bassios (Carried).

## 40.8 – CLOSING BUSINESS AND REMARKS

Adjournment 3:32PM