

ATTACHMENT 1

RULE 31

31. REVIEW OF FINAL DECISION OR FINAL ORDER

A Party may Request a Review

- 31.1 A Party may request of the Chair a Review of a Final Decision or final order of the TLAB.

Chair May Designate Any Member

- 31.2 The Chair may in writing designate any Member to conduct the Review and make a decision in accordance with the Rules.

Review Request does not Operate as a Stay

- 31.3 A Review shall not operate as a stay, unless the Chair orders otherwise. A Party requesting that a Final Decision or final order be stayed shall do so at the same time the request for Review is made.

No Motions Except with Leave

- 31.4 No Motion may be brought with respect to a Review except with leave of the Chair.

Deadline for, and Service of, Review Request

- 31.5 A Review request shall be provided to all Parties and the TLAB by Service within 30 Days of the Final Decision or final order, unless the Chair directs otherwise.

Contents of a Review Request

- 31.6 A Party's request for Review shall be entitled "Review Request" and shall contain the following:
- a) a table of contents, listing each document contained in the Review Request and describing each document by its nature and date;
 - b) an overview of the Review Request not to exceed 2 pages that identifies the grounds listed in Rule 31.17 that apply;
 - c) if the Review Request includes grounds based upon Rule 31.17 (c), a list of all alleged errors of fact or law;

- d) a concise written argument contained in numbered paragraphs. The Review Request shall provide, avoiding repetition, the concise written arguments regarding each listed matter from Rule 31.17 in the same order and include the following:
- i. the applicable section of the Planning Act or other legislative basis, if any, for the argument advanced;
 - ii. the wording of the applicable policy, By-law or authority, if any, in support of the argument advanced;
 - iii. the applicable transcript or other evidence and exhibit attachments, if any, in support of the argument advanced;
 - iv. a clear demonstration of how in the case of grounds asserted under Rule 31.17 c), d) and e), each would likely have resulted in a different Final Decision or final order;
 - v. copies of the referenced case law and authorities; and
 - vi. a statement as to the requested remedy.

Review Request not to Exceed 20 Pages

- 31.7 Excluding the table of contents, case law and transcripts, by-laws, exhibits and other supporting Documents, the Review Request shall not exceed 20 pages, double spaced, and written in 12-point font.

Transcripts

- 31.8 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.

Administrative Screening

- 31.9 The TLAB shall, upon the filing of a request for Review, review it for compliance and advise the Parties if:
- a) it does not relate to a Final Decision or final order; or

- b) it was not received within 30 Days after the Final Decision or final order was made, unless the Chair directs otherwise; or
- c) it failed to provide the requisite fee.

Response to Review Request

31.10 Despite Rule 31.9, if a Party needs to respond to the Review Request the Responding Party shall by Service on all Parties and the TLAB provide a Response to Review Request no later than 20 Days from the Date of Service pursuant to Rule 31.5, unless the Chair directs otherwise.

Contents of a Response to Review Request

31.11 A Responding Party's response to Review Request shall be entitled "Response to Review Request" and shall contain the following:

- a) a table of contents, listing each document contained in the Response to Review Request and describing each document by its nature and date;
- b) an overview of the Response to Review Request not to exceed 2 pages that contains specific reference to the Review Request's overview;
- c) a concise written argument contained in numbered paragraphs, giving a response to each argument in the Review Request, and include the following :
 - i. the applicable transcript or other evidence and exhibit attachments, if any, in support;
 - ii. any other applicable legislation, policy documents, By-laws or other material that is not provided for in the Review Request; and
 - iii. any other applicable authorities and copies thereof; and
 - iv. a statement as to the remedy requested.

Response to Review Request not to Exceed 20 Pages

- 31.12 Excluding the table of contents, case law and authorities, transcripts, by-laws, exhibits and other supporting Documents, a Response to Review Request shall not exceed 20 pages, double spaced, and written in 12-point font.

Responding Party Not to Raise New Issues

- 31.13 A Responding Party shall not raise any issues beyond those issues raised in the Review Request.

Reply to Response to Review Request

- 31.14 If the Requesting Party needs to reply to a Response to Review Request, that Party shall provide by Service on the Parties and the TLAB a Reply to Response to Review Request not to exceed 5 pages, double spaced, and written in 12-point font and no later than 5 Days from the Date of Service pursuant to Rule 31.10, unless the Chair directs otherwise.

Contents of a Reply to Response to Review Request

- 31.15 A Reply to Response to Review Request shall contain the following:
- a) a reply to facts, matters and Documents raised in the Response to Review Request;
 - b) list and attach the Documents used in the Reply to the Response to Review Request relating to those matters addressed in the Reply, including any case law or authorities raised in support.

Chair Authority

- 31.16 Following the timeline for the Service on all Parties and the TLAB of any Review Request, Response to Review Request and Reply to Response to Review Request, the Chair may do the following:
- a) seek further written submissions from the Parties;
 - b) confirm the Final Decision or final order and dismiss the Review Request, with reasons;
 - c) cancel the Final Decision or final order, with reasons, and, where appropriate, direct a de novo Oral Hearing before a different TLAB Member.

Grounds for Review

31.17 In considering whether to grant any remedy the Chair shall consider whether the reasons and evidence provided by the Requesting Party are compelling and demonstrate the TLAB:

- a) acted outside of its jurisdiction;
- b) violated the rules of natural justice or procedural fairness;
- c) made an error of law or fact which would likely have resulted in a different Final Decision or final order;
- d) was deprived of new evidence which was not available at the time of the Hearing but which would likely have resulted in a different Final Decision or final order; or
- e) heard false or misleading evidence from a Person, which was only discovered after the Hearing, but which likely resulted in the Final Decision or final order which is the subject of the Review.

No Further Review Permitted

31.18 A Review decision may not be further reviewed by the TLAB.

ATTACHMENT 2

TLAB CHAIR'S 2023 ANNUAL REPORT

CHAIR'S 2023 ANNUAL REPORT

Toronto Local Appeal Body



Dino Lombardi

Chair, Toronto Local Appeal Body

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I. Executive Summary

Mayor and Members of Council

May 23, 2024

City Manager & Court Services

In December 2016, City of Toronto (City) Council constituted a new statutory planning appeals tribunal, the Toronto Local Appeal Body (TLAB). Its jurisdiction is confined to severance and variance appeals from the four Panels of the City's Committee of Adjustment. I have been honoured to serve the City as the second TLAB Chair, with my four-year term commencing in December 2020.

Each year, the Chair is required to submit an Annual Report to Council which provides a snapshot of an entire year of its operations. Provided herein is a record of the TLAB's activities in calendar 2023 and I take this opportunity to communicate on four substantive topics:

A. Performance overview, including scheduled 2023 Performance

Metrics and Statistics;

B. Key Operational Highlights

C. Information on Members, Milestones, Meetings and Outreach

D. Recommendations

As in past years, I am pleased to continue to advise that the Council-appointed Tribunal Members have engaged their responsibilities with determination and resolve, providing for the fair, thorough and timely resolution of appeals – all on proper principles of good community planning. The primary policy guide is the City Official Plan, as amended.

I am equally pleased to report the resilience of our Members and Court Services Tribunal staff in continuing to deliver timely adjudicative services to the residents of Toronto in 2023.

Members of the Toronto Local Appeal Body have accomplished much in the face of the ongoing challenges as the Tribunal has been impacted by two very significant but different challenges over the past four years: lingering operational constraints from the

impacts on the City from the COVID-19 pandemic, and the passage of Bill 23 – *The More Homes Built Faster Act, 2022*, by the Province.

Nevertheless, the TLAB has prevailed, and I am pleased to highlight some of the key accomplishments of the TLAB since becoming the Chair:

- *Successfully clearing the backlog of outstanding matters as the Tribunal has emerged from pandemic shutdowns and acute Member turnover.*
- *Introducing & advancing continuous Tribunal improvement initiatives in response to public deputations and input from the public.*
- *Improving the accessibility of the TLAB as a public forum for appeals.*
- *Introducing professional education and training sessions for the Membership.*
- *Introducing an ‘Expectation and Standards’ Guidelines document for Members.*

As in previous years, in 2023, the TLAB continued to encounter operational issues and challenges as it discharged its responsibilities as a local adjudicative appeals tribunal serving the residents of Toronto.

In prior Annual Reports, It has been the practice of the Chair to present a series of recommendations for Council’s consideration to support the Tribunal’s commitment to improving the services it delivers to the public. However, the 2023 Annual Report has, instead, considered issues requiring attention from a holistic perspective and consolidated these various considerations into a single. key overarching **Recommendation** that can be found at the end of this Report.

I hope this Annual Report is informative and its recommendations are considered as a component of future City governance.

Respectfully submitted,

X 

Dino Lombardi
Chair, Toronto Local Appeal Body

ABOUT THE TORONTO LOCAL APPEAL BODY



II. About the Toronto Local Appeal Body

Background

Enacted on May 3rd, 2017, the Toronto Local Appeal Body (TLAB) is an independent, quasi-judicial tribunal established through the City of Toronto Municipal Code Chapter

142 - Local Appeal Body, the City of Toronto Act, and other provincial legislation. Its genesis can be found in amendments made to the Planning Act in 2006, which gave municipalities the authority to create such Local Appeal Body tribunals.

The TLAB formally commenced operations in February 2017 and has played a vital role in the City of Toronto's land-use planning process providing an independent, public forum for the adjudication of land-use disputes.

In adjudicating and making determinations on variances and consent appeals, the TLAB has all the powers and duties of the Ontario Land Tribunal (formerly the Local Planning Appeal Tribunal and the Ontario Municipal Board) related to the hearing of appeals from the City's four Panels of the Committee of Adjustment (Toronto & East York, Scarborough, North York, and Etobicoke & York) for minor variances and consent applications under sections 45(12), 53(14), 53(19), and 53(27) of the Planning Act.

The TLAB is in service to all persons with an interest in an appeal and its key mandate is the disposition of appeals in an efficient, effective, open, and fair process. Members' responsibilities are associated with the adjudication process, presiding over hearings, and rendering a written decision on hearings based on the evidence presented in accordance with its Rules of Practice and Procedure and the *Statutory Powers Procedure Act*.

III. Organizational Structure

Since its inception, the Toronto Local Appeal Body has most closely been associated with the City's Court Services Division. Court Services provides a broad range of administrative and support services to the public using the Provincial Offences Courts within the City as well as servicing other relevant City tribunals such as the Administrative Penalty Tribunal, Toronto Licensing Tribunal, and the Toronto Local Appeal Body.

The Chair of the TLAB routinely engages in direct communications with senior members of Court Services, consulting on matters which impact the dimensions of the welfare of the Tribunal itself. These consultations have focused primarily on existing and

emerging administrative matters to ensure the efficient and effective day-to-day operation of the TLAB.

However, it must be noted that Court Services has no direct control over issues such as Member appointments, the Chair's Annual Report, or the adjudication and rules of procedure of the TLAB.

While the Chair directly communicates with Court Services on matters respecting Court Services staff or which go to the dimensions of the welfare of the Tribunal itself, it is important to note that Court Services is a City division from which the TLAB must demonstrate and retain independence and autonomy.

TLAB Panel Appointments and Member Composition

The Toronto Local Appeal Body is composed of fourteen (14) Members, consisting of the Chair, Vice-Chair, and twelve (12) Panel Members. Members are appointed on a 'part-time' basis to a four (4) year coterminous term of office by City Council, based on the recommendations made by the citizen-based Tribunal Nominating Panel.

In 2017, the TLAB's Panel Member complement consisted of a total of seven (7) Members, including the Chair. However, since then, City Council has increased the total Member complement on two occasions, first, in 2019, increasing the number to ten (10) Members, and then, in 2022, further increasing the total to fourteen (14).

Also, in 2019, Council authorized the appointment of a TLAB Vice-Chair. The Vice-Chair is considered the Chair's 'designate' and may be delegated authority and duties normally associated with the Chair including: chairing the Business Meeting in the absence of the Chair; performing any duties of the Tribunal operation of Business Meetings assigned to the Chair upon delegation; and other duties as assigned by the Chair.

The Vice-Chair is elected by Members for a term of no more than one year pursuant to the TLAB's Procedure By-law 1-2017. Since being introduced, the TLAB has elected three different Vice-Chairs.

While City Council has set the total TLAB Panel complement to fourteen (14) Members, it is important to note that this complement has fluctuated over time due to resignations, resulting in fewer total Members than mandated by Council. Most recently, for example, two (2) Members resigned from their appointments at the end of 2022, thereby reducing the total Panel Member complement to twelve (12), and the resignations of two (2) longer termed Members in 2023, further reduced that total complement to ten (10).

The Role of the TLAB Chair & Vice Chair

Chair

The Chair of the Toronto Local Appeal Body is responsible for maintaining reputational integrity, Member discipline, liaising with City Court Services Tribunal staff and Tribunal external and internal legal counsel, among other duties, and is tasked with reporting annually to Council via an Annual Report.

In addition to the general responsibilities as a Member of the TLAB, such as presiding over Hearings and drafting and issuing decisions and orders, the Chair has a Council-approved mandate to ensure the consistent application of the TLAB's Rules.

The Chair is also responsible for:

- Bringing interim and final decisions on Tribunal Policy to Business Meetings of the Tribunal for consideration and where necessary, ratification.
- Setting Business Meeting Agendas and final approval to the scheduling and content of Business Meetings.
- The delegation of responsibilities between Members, including ensuring a proportionate allocation of assignment opportunities, extra-services requests, the distribution, and timely quality review of draft decisions (along with the Vice-Chair), and ensuring Member performance.

- The timely and accurate approval and publication of Rules updates, updates to Practice Directions, the sharing of procedural practices and reminders, the consultation on the update of the Public Guide, and the presentation and accuracy of the Tribunal's webpage and resource materials.
- Prioritizing training and education for Tribunal Members
- The sole liaison with the TLAB's external legal counsel and reviews and recommends all invoiced accounts of legal counsel.
- Administering the election of a Vice-Chair, annually, at the last Business Meeting of the year.

It is noteworthy that while the TLAB Chair's appointment is also on a 'part-time' basis, he/she is nevertheless required to be accessible and available during normal business hours.

Vice-Chair

The TLAB's Vice-Chair is the Chair's designate and may be delegated authority to undertake duties normally associated with the Chair, upon assignment or in the Chair's absence. These duties would include:

- Chairing Business Meetings in the Chair's absence and performing any duties of the operation of Business Meetings assigned to the Chair upon delegation;
- Undertaking Review Requests of other Member's decisions delegated by the Chair; and
- Other duties, such as chair review of Members' draft decisions and assisting the Chair in drafting TLAB rules, practice directions, and protocols.

1. Panel Member Biographies

Chair

Dino Lombardi (First Appointed on December 14, 2020)

Dino Lombardi has over 30 years of progressive experience providing outstanding leadership and sound planning decisions to municipalities, developers, and landowners. He has held several senior positions managing complex land use planning and development projects in both the public and private sectors and has worked in both

development and policy planning developing high skill levels in governance and appeal issues.

He is a Registered Professional Planner (RPP) and has been a Full Member of the Ontario Professional Planners Institute (OPPI) and Canadian Institute of Planners (CIP) since 1998. He has volunteered extensively with both organizations, currently serving as a member of the OPPI's Discipline Committee.

Dino is also a member of Lambda Alpha International, a worldwide honorary land economics society, and holds various certificates in adjudication including an Advanced Certificate from the Society of Ontario Adjudicators and Regulators (SOAR).

Vice-Chair

Ana Bassios, Current Vice-Chair (First Appointed December 2019)

Ana Bassios is a City Planner with over thirty years of experience in the municipal sector. Ana Bassios has led large-scale public consultations, completed major municipal planning policy plans, (including a municipal Official Plan) and negotiated resolutions to contentious development applications. She is a former Commissioner of Planning in the GTA. A long-time resident, Ms. Bassios appreciates the uniqueness of each of Toronto's neighbourhoods and the desire of communities to have a say in how they change.

Ana was elected TLAB Vice-Chair to a one-year term at the December 10, 2021, Business Meeting and re-elected for a second term in December 2022.

2. Panel Members

Sabnavis Gopikrishna (Re-appointed December 20, 2020)*

Sabnavis Gopikrishna is the Executive Director of The Housing Help Centre, a non-profit organization which helps tenants access and sustain habitable housing. His passion for community building and planning has resulted in his volunteering for many non-profit organizations. He was formerly a Member of the City of Toronto's Committee

of Adjustment and was appointed in 2014 by the Province of Ontario to the Board of Directors of the Central East Local Health Integration Network.

* Member Gopikrishna resigned his appointment as a TLAB Member effective as of May 17, 2023.

Stanley Makuch (Re-appointed December 20, 2020)

Stanley Makuch, a Toronto lawyer and academic, has had an outstanding career in municipal, planning and development law. Called to the Bar in 1976 and now a John Bousfield Distinguished Visiting Professional at the University of Toronto, he has extensive experience before the Ontario Municipal Board, the Environmental Appeal Board, and the courts. As a professor of law and planning, he has served on many boards and commissions and published many influential municipal and planning articles and books.

Ted Yao (Re-appointed December 20, 2020)

Ted Yao, a descendent of a Chinese head-tax payer, has been a lawyer adjudicator for the Law Society Tribunal since 2012. He was an in-house municipal lawyer for several GTA municipalities, including the City of Toronto. Mr. Yao was a full-time member of the Ontario Municipal Board for over a decade. Subsequently, he has worked in private practice. Recently he has served on tribunals in Vaughan and Toronto, including chairing Toronto's first Sign Variance Committee.

Sean Karmali (Appointed December 2018)*

Sean Karmali obtained his law degree from Osgoode Hall Law School. He also holds two Master's degrees, one in Political Science from the University of Toronto and the other in Public Policy from York University. Mr. Karmali has served on the City of Toronto's Committee of Adjustment panel for 7 years as a decision-maker and chair. He works in the public service where he has held progressive positions within various departments. Sean's skills include statutory interpretation, planning law, and ADR.

* Member Karmali resigned his appointment as a TLAB Member effective as of July 7, 2023.

John Tassiopoulos (Appointed December 2018)

John Tassiopoulos is a senior urban designer within WSP Canada Group Ltd. with 19 years of experience. He is a graduate of the University of Toronto in Urban and Economic Geography and Political Science. He has experience in urban design and planning ranging from large to small-scale projects. He also serves as an instructor with the RAIC Syllabus program and as a member of the Vaughan Design Review Panel. He previously served as a member of the Toronto East York Committee of Adjustment (2009-2015).

Carissa Wong (Appointed March 9, 2022)

Carissa Wong is a second-generation Torontonians, lawyer, and accredited mediator who is passionate about community, planning and the environment. She has published extensively on diverse participation in environmental decision-making and has assisted multi-party discussions on natural resource governance with First Nations in the Canadian north. She holds a Master of Environmental Management from Duke University and a certificate in Advanced Mediation from Harvard's Negotiation Institute.

Gerald Swinkin (Appointed March 9, 2022)

Gerald Swinkin obtained his LL.B. from Osgoode Hall Law School. He was called to the Ontario Bar in 1979. After commencing his legal career as a staff lawyer in the Legal Department of the City of Mississauga, he moved into the private sector, ultimately becoming a partner with the national law firm Blake, Cassels and Graydon LLP, specializing in municipal/planning law. After retirement from practice, Gerald was appointed in August 2016 to the Ontario Municipal Board (now the Ontario Land Tribunal) and served 5 years.

Ron Kanter (Appointed July 9, 2022)

Ron Kanter obtained an LL.B from U of T Law School, and an LL.M from Osgoode Hall. He served as a Toronto City Councillor and MPP, where he directed a provincial study balancing development and environmental protection. Ron subsequently practiced municipal and planning law at several Toronto law firms for more than 30 years, representing applicants, objectors, public entities and community groups. He has also trained and practiced as a mediator, adjudicator and arbitrator.

Trevor Kezwer (Appointed July 9, 2022)

Trevor Kezwer obtained his law degree from the University of Windsor. In addition, Trevor holds a Master's Degree in International Relations from McMaster University. Trevor has experience working for a municipality, including working with planning staff, and preparing for hearings before the Ontario Municipal Board (now known as the Ontario Land Tribunal). As a resident of Toronto, Trevor appreciates the impact that planning decisions have on local neighbourhoods.

Blair Martin (Appointed July 9, 2022)

Blair Martin is an accomplished real estate executive and city planner. During his professional career, he has appeared before appeal tribunals as an appellant, a defendant, as a public official, as a witness giving expert testimony and as a private landowner. He has both past and current not-for-profit Board of Director experience, as well as experience with local government ad-hoc committees. Blair is a past member of the Canadian Institute of Planners (MCIP), and a former Registered Professional Planner (RPP) in the Province of Ontario.

OPERATIONAL HIGHLIGHTS



III. Operational Highlights

Since 2017, the TLAB has sat as the appellate jurisdiction of Committee of Adjustment decisions on minor variance and consent decisions. Included within its appeal file stream and workload are Motions, mediations, Settlement Hearings and Review Requests, which are incapable of being scheduled in the normal ‘anatomy’ of a TLAB

appeal timeline, and at times must be expedited. All require decisions and several can result in ordering new Hearings which must be added to the Members' schedules.

Based on the performance metrics prepared by Court Services staff and included in this Report, I can confirm that the existing Panel Member complement has served the TLAB well in addressing the workload of Committee of Adjustment appeals to the TLAB.

However, while the TLAB has continued to experience certain lingering operational effects of the COVID-19 pandemic, as outlined in detail in previous Annual Reports (see: 2021 & 2022), its overall 'reason for being' has been indisputably impacted by the passage of Bill 23 – *The More Homes Built Faster Act, 2022*. This 2022 Government of Ontario legislation has had, by far, the most significant effect on the TLAB, appreciably moderating the volume of appeals received from the four Panels of the City's Committee of Adjustment.

Bill 23 eliminated/restricted '*third party*' appeals of Committee of Adjustment decisions, confining subsequent appeals to specifically defined entities as outlined in the amended Planning Act. The direct result of this restriction has been fewer parties in a matter being able to appeal Committee of Adjustment decisions to the TLAB.

Bill 23 – More Homes Built Faster Act, 2022

Bill 23, which received Royal assent on November 28, 2022, has resulted in what can only be characterized as historic amendments to the *Planning Act* that represent the single, most significant transformation of Ontario's planning system. Among significant modifications, the legislation removed previous entitlements under subsection 45(12) of the *Planning Act* for 'third parties' to initiate appeals from municipal decisions of the Committee of Adjustment to the TLAB regarding consents and variances.

There are other provisions of the *Bill* that while still vague in the legislation, will also be of interest to tribunals such as the TLAB as the Government of Ontario further updates

the legislation. These future provisions include increasing tribunals' powers to award costs against a party who loses a hearing, dismissing appeals based on undue delay, introducing service standards, delivery timelines for the issuance of decisions and orders, and priority criteria for tribunal scheduling.

However, of the current modifications introduced by Bill 23 in 2022, the limitation of public engagement is of most interest to the TLAB and its Members. To date, the most significant impact has been a measurable decrease in the number of appeals received, which is further analyzed in the 'Performance Metrics & Summary Statistics' section of this Report.

The TLAB will continue to monitor the impacts of *Bill 23* on the Tribunal's operations in 2024 and beyond, as the 'knock-on' effects of this Bill will undoubtedly continue to be felt directly by this Tribunal.

The TLAB's Mandate

The Toronto Local Appeal Body has several comprehensive and important objectives that it has endeavoured to uphold and enhance:

- a) City residents should be given the assurance that their views would be conscientiously considered in a reasonable period, on City premises and by people who are themselves residents of the City of Toronto.*
- b) To sharpen fair and workable 'Rules of Practice and Procedure (Rules)' that the TLAB could adopt and adhere to; and*
- c) Ensure the application of key fairness principles that the public could recognize and rely on.*

These objectives continue to be the foundational tenets of the Toronto Local Appeal Body's mandate. Along with a set of core *Tribunal Rules Principles* (see Attachment 1), these tenets are in place to support the TLAB's statutory mandate of undertaking a complete and first instance (*de novo*) consideration of the appeals before it is maintained.

As an independent, quasi-judicial adjudicative body dealing with land use planning appeals of decisions from the Committee of Adjustment, the TLAB's mandate is premised on the disposition of those appeals in an efficient, timely, effective, transparent, and fair process.

While the impacts associated with the COVID-19 pandemic tested this mandate, the TLAB was able to quickly and proficiently adapt to those unprecedented challenges. And, while the challenges have now effectively dissipated, the TLAB has continued to fulfill its prescribed mandate.

It is notable that due to the public health emergency resulting from the global pandemic, the TLAB was able to quickly pivot to a 'virtual' hearing environment utilizing the City's WebEx meeting platform. As a result, all TLAB Hearings defaulted to 'remote' hearing events, undertaken by Members primarily from their homes, to fulfill the Tribunal's mandate of efficiently hearing and disposing of appeal matters cost-effectively and expeditiously.

This continued in 2023, and while the TLAB had hoped to transition to a 'hybrid' hearing model, a process for hybrid has not yet been formalized. Nevertheless, Court Services Tribunal staff did advise Members that limited '*in-person*' hearings could be accommodated within the three Hearing Rooms at the TLAB's 40 Orchard View Boulevard offices during this same period.

Nevertheless, the 'remote or virtual' hearing default continued in 2023, due to various concerns related to the hesitancy by the general public and some TLAB Members to attend in person.

However, TLAB Members and Court Services staff are to be commended for working together in 2023 to overcome the unprecedented challenges that the Tribunal has faced over the last three years. As a result of this hard work, the TLAB was able to convene its December 12, 2023, Business Meeting as a “hybrid” meeting event, the first time the majority of Members have met in person since March 2020.

The TLAB is, again, pleased to report that a significant body of administrative law has evolved from the TLAB through the conscientious decision writings of its Members. This jurisprudence is giving a growing basis of consistent interpretation of Council’s policies and goals as expressed in its Official Plan and harmonized Zoning By-law.

Consistency in approach for the respect, reinforcement, and gradual evolution of City neighbourhoods worthy of preservation and protection, following the policy priorities set by Council, remains an essential element of City building that TLAB Members take very seriously in fulfilling their appointed duties.

The time commitment and dedication of TLAB Members in executing their responsibilities are exemplary, reflecting each Member’s accepted understanding that as citizens of Toronto appointed by Toronto City Council, they take pride in fulfilling their ‘civic duty’.

IV. Business Meetings Highlights

The TLAB regularly convenes Business Meetings to discuss items of interest and advance the business of the Tribunal. Led by the Chair, Business Meetings provide Members with the sole opportunity for the Tribunal to conduct its own business. The TLAB’s *Procedure By-law 1-2017* requires the Chair to hold a minimum of two (2) Business Meetings annually and the rules governing these Meetings are outlined in Section C (TLAB Business Meeting), Rule 8 in that by-law.

In accordance with City disclosure practices and as per sub-Rule 8 (3) (a) & (b) of *Procedure By-law 1-2017*, Business Meetings are open to all members of the public and citizens are encouraged to attend. A Notice of Business Meeting, together with the agenda, is published on the TLAB website (www.toronto.ca/tlab).

In 2023, the TLAB held five (5) Public Meetings with the assistance of Court Services administrative staff on the following dates:

- 1. Business Meeting 1- February 15th**
- 2. Business Meeting 2 – April 5th**
- 3. Business Meeting 3- June 23rd**
- 4. Business Meeting 4- October 27th**
- 5. Business Meeting 5- December 12th**

The following section provides an overview of the relevant business conducted by TLAB Members at the five Business Meetings noted above.

Public input into and feedback concerning the operation of the TLAB is fundamental to its function and legitimacy and is encouraged by the Tribunal. Such input and feedback are important in assisting the Tribunal in keeping it accessible to all.

The TLAB continues to view input from the public as essential to its core principles to keep its operations open and transparent. Given that TLAB Hearings, as well as all of its Business Meetings, are open to the public, the Tribunal routinely receives deputations from the public, both written and oral, on various matters relevant to the Tribunal.

This public interest continued in 2023, as the TLAB welcomed deputations from resident and neighbourhood associations representing various areas of the City.

It is noteworthy that over the years, The TLAB has implemented several refinements and improvements to its Rules regarding procedural complexity, perceived lack of natural justice and procedural fairness, and expanded opportunities for public engagement as a result of this public engagement. This has included the adoption of

Practice Directions on various matters, including the introduction of a ‘Local Knowledge Expert’ in the appeal hearing process in 2021.

The TLAB continues to review its rules and procedures with the goal of making them less complex and simpler in wording and is committed to removing major barriers to effective public participation.

The amendments to the *Planning Act* impacting the public’s ability to participate in TLAB appeals arising from Bill 23 – *The More Homes Built Faster Act*, continued to be of greatest interest to residents who most engage with the TLAB. In this regard, the TLAB has continued to keep the public apprised of these impacts.

At the December 15, 2022, Business Meeting, the Chair provided an update to TLAB Members and the general public as to the possible implications to the Tribunal of this provincial legislation. At that Meeting, Members adopted a Motion directing the TLAB to convene a Special Business Meeting as permitted by its *Procedure By-law 1-2017*, to discuss and consider the expected impacts of the Bill on the operation of the Tribunal going forward.

The above-referenced Special Business Meeting was held on February 15, 2023, and at that Meeting, Members received an oral deputation from the Confederation of Resident & Ratepayers Associations of Toronto (**CORRA**) who expressed concerns regarding the elimination of ‘third party’ appeals.

The TLAB also received correspondence from the Federation of North Toronto Ratepayers Association (**FoNTRA**) which expressed similar concerns. Both Ratepayers Associations requested that the TLAB clarify its position on whether and how the prohibition of ‘third party’ appeals would affect circumstances such as the ability of a third party to elect Party status at TLAB hearings in the case of an appeal by an applicant following a Committee of Adjustment refusal.

Additional deputations from CORRA and FoNTRA expressing concerns and requesting clarification were received by the TLAB at its April 5, 2023, Business Meeting. At that meeting, the TLAB issued a public statement confirming that while Bill 23 had

eliminated ‘third-party’ appeals, the TLAB did not need to amend its Rules of Practice and Procedure to limit persons who were seeking to be granted either Party or Participant status (TLAB Rules 12 and 13) before the TLAB to an appeal filed to elect by either the City, Minister, applicant, public body or specified persons.

At its October 27, 2023, Business Meeting, the TLAB received the Chair’s 2022 Annual Report for information and uploading to the TLAB’s website following the adoption of the document by Council. This was done in response to input from the public requesting that the Tribunal formally do so at a Business Meeting.

As an organization, the TLAB considers procedural fairness and natural justice as essential to its ‘*ethos*’. The COVID-19 pandemic accelerated the pace at which the public is harnessing technology, and the Tribunal has strived to provide those who appear before the Tribunal with appropriate support measures to allow active participation in the appeals process.

Since April 2020, the TLAB has conducted its affairs, including Hearings and Business Meetings, remotely in a ‘virtual’ environment exclusively, by way of the City’s WebEx video conferencing platform. In doing so, the Tribunal has held as paramount the safeguard of the health and well-being of Tribunal Members, Court Services administrative support staff, stakeholders in the appeals process, and the general public.

In late 2021, and again in 2022, the City undertook a series of physical improvements to the TLAB’s offices/Hearing Rooms at 40 Orchard View Blvd., with the goal of returning to ‘in-person’ Hearings, albeit with a limited capacity at first. This objective was achieved in early 2023, as City staff advised TLAB Members at their February 15, 2023, Business Meeting, that the City could begin to accommodate hearings commencing in March 2023.

Although I can report that this accommodation was in place for the latter half of 2023, the TLAB continued to schedule ‘virtual’ Hearings due to various factors including a reluctance on the part of some Panel Members as well as some members of the public,

to attend in person, the limitations in attendance.

However, City staff continued to work diligently in the latter half of 2023 to resolve technical issues restricting the City's ability to accommodate '*hybrid*' hearings/meetings, a less restrictive and more acceptable meeting option in the circumstances.

I can report that as a result of this resolve, the TLAB was able to convene its December 12, 2023, Business Meeting as a '*hybrid*' event, with the majority of Members in attendance. The TLAB anticipates that going forward, '*hybrid*' Business Meetings will continue in 2024.

An essential goal for the TLAB continues to be ensuring minimal service disruptions to those who participate in its hearing process while at the same time keeping the public safe. To date, the Tribunal has received very few complaints regarding the 'virtual' meeting model, and I can, again, confirm that no Hearings were cancelled or rescheduled due to technology-related issues in 2023.

In the past, the TLAB has conducted outreach sessions, through the Chair, primarily as a result of invitations by user groups or City Council members requesting the Tribunal to address constituent community associations or otherwise. This has included neighbourhood associations as well as organizations such as the Ontario Bar Association, which have sought to understand the role and jurisdictional responsibility of the TLAB.

As the '*persona designata*' for the TLAB, the Chair received invitations from two planning and development industry organizations in 2023 for presentations regarding the TLAB.

Both presentations were intended as 'backgrounder' information sessions to educate as to the ambit of the TLAB's responsibilities and impact on land use planning in the City of Toronto.

On September 21st, the Chair presented a curated workshop to the Ontario Professional Planners Institute (OPPI) at its Annual Conference in Ottawa titled '*TLAB*:

the New Kid on the Block’, and on November 7th, the Chair presented a similar presentation to the Building Industry and Land Development Association (BILD). I can report that these outreach sessions were well received and are seen as important sessions to communicate the work of the TLAB to user groups.

Continuous Service Improvements

The TLAB addressed a number of its policies and protocols in 2023, mostly associated with providing clarity and transparency for the public regarding its rules and the appeal process.

The TLAB adopted Motions resulting in the following technical revisions and amendments to its Rules of Practice and Procedure.

a) Amendment to Rule 28 (Costs)

At its April 5th Business Meeting, the Members adopted a Motion amending Rule 28 (Costs) of its *Rules* to provide clarity regarding whether a Motion for Costs is reviewable under Rule 31 (Review of Final Decision or Final Order).

It is noteworthy that the TLAB has continued to communicate to Parties who have inquired that no request for a review of a final decision or order should be eligible for a cost award or refusal to award costs.

The TLAB’s position in this regard is based on the understanding that the awarding of costs is a complex and rather specialized matter and the original decision-maker in an appeal before the Tribunal is in the best position to decide whether costs should be awarded.

To provide clearer guidance in its Rules of Practice and Procedure on this issue, the TLAB modified Rule 28 by amending the definition of a ‘Final Decision’ and adding a concise definition for the term ‘Costs’ under *Section 1 – ‘General’, subheading 1.2 – ‘Definitions’*.

b) New Rule 2.17 (Vacancy in Membership)

At its June 23rd Business Meeting, the TLAB adopted a Motion to revise its Rules of Practice and Procedure by introducing a new Rule (2.17) addressing the resignation of a member prior to the disposition of an appeal matter.

Although Rule 2.16 addresses vacancies in the Membership that arise from the end of a Member's appointment term, the Rules are silent as to a protocol for a circumstance in which a Member resigns after presiding over hearings in an appeal but before the disposition of that matter by issuing a final decision and order.

The new Rule was drafted based on the principles of judicial economy and the policy goal of minimizing the costs for Parties and Participants and permits the Chair to authorize a different Member to complete the appeal matter and issue a final decision.

c) New Rule 27.5 (Procedure at a Hearing)

At its December 12th Business Meeting, the TLAB adopted a Motion to add a new Rule 27.5 to its Rules of Practice and Procedure, providing a protocol for Members to follow in circumstances in which a Party of record in a hearing matter, or that Party's representative, fails to arrive on time at the commencement of the hearing, whether that be 'in-person' or remotely at a 'virtual' hearing.

d) Amendments to Rules 24.1 and 24.2

At its April 5th Business Meeting, the TLAB adopted a Motion amending the wording of Rules 24.1 and 24.2 of the Rules of Practice and Procedure to recognize that until further notice, the 'default mode' for proceedings before the Tribunal will continue to be electronic or 'virtual' hearings.

Members agreed that these rule amendments were necessary to acknowledge that while the TLAB is working cooperatively with the City to accommodate 'hybrid' hearings, the technology was unavailable in 2023 to support this hearing format.

I. Practice Directions

The TLAB periodically issues Practice Directions that provide consistent guidance on matters of procedure not addressed in its Rules or its Procedure By-law. Practice Directions can offer a roadmap to the professions and the public as to how to approach and deal with a particular subject matter.

a) Amendment to Practice Direction No. 3 (Document Referencing)

In March 2022, the TLAB formally adopted Practice Direction No. 3, introducing a Common Document Book (CDB) to streamline and establish a specific protocol for the submission of large digital files to the Tribunal representing documents that are commonly used and referred to by Parties in Hearings.

At its October 27, 2023, Business Meeting, the Tribunal adopted a Motion adding supplemental wording to the Practice Direction directing the public to the link to the “Common Document Book” on its website. Members also modified the Notice of Hearing (Form 2) adding language directing the public to the link to Tribunal’s ‘Common Document Book’ on its website.

II. Revisions to the TLAB’s Decision Writing Template

The work product of a TLAB Member is the decision that each writes and issues. This jurisprudence forms the basis of communications to the public and constitutes the body of administrative law and jurisprudence that is regularly accessed by legal and planning practitioners and the public.

TLAB decisions are reported in various industry publications including ‘*Ontario Municipal Tribunal Reports*, a subscription reporter series compiling OLT, ARB and TLAB decisions chosen for significance, and the City of Toronto edition of the weekly *Novae Re Urbis* (NRU).

The Tribunal has established a generalized decision-writing template that Members are directed to use. In 2022, the TLAB adopted a revised decision-writing template with the goal of recalibrating the template to support effective decision-writing within a uniform

framework and to assist Members in writing more concise, consistent and easier-to-read decisions.

At its December 12, 2023, Business Meeting, the Tribunal adopted a Motion updating the format of its most recently revised template by adding a section under the heading ***‘The Legislative and Policy Framework’***, with wording recognizing **Section 2 (Provincial Interest)** of the Ontario Planning Act.

III. Revisions to Administrative Forms

The TLAB reviews and revises its Forms and Notices on a continuous basis to enhance communication with the public and those residents who participate in appeals before the Tribunal. Further refinements were made to these documents in 2023.

a) Modifications to Notice of Hearing (Form 2)

At its April 5th Business Meeting, the TLAB adopted a Motion amending the wording in the Notice of Hearing (Form 2) to confirm for the public that electronic or ‘virtual’ hearings would continue to be the ‘default mode’ for proceedings before the Tribunal.

IV. Administrative/Operations Meetings

The TLAB Chair is responsible for conducting Administrative/Operations meetings with Tribunal administrative staff. These are essential to addressing evolving Tribunal operational and administrative issues and ensuring the continued effective and efficient day-to-day operations of the TLAB.

The Chair is required to identify issues of importance in advance of meetings and to prepare a detailed agenda for discussion.

In 2023, the TLAB Chair conducted three (3) Administrative/Operations meetings with Court Services Tribunal staff, on March 28th (Meeting 1), June 23rd (Meeting 2), and September 29th (Meeting 3).

Making TLAB Decisions More Accessible

Last year, the TLAB investigated the option of having its decisions searchable by way of the *Canadian Legal Information Institute (CanLII)* public legal search engine which was seen as materially advantageous for the Tribunal and the public given the convenience of accessing TLAB decisions through the *CanLII* search engine as well as the City's AIC website.

Court Services Tribunal staff were successful in implementing this initiative and, therefore, as of January 1, 2023, TLAB decisions dated January 1st and beyond, are now available on the CanLII website, searchable through various search inputs. Decisions continue to be available on the City's online Application Information Centre (AIC) as well.

Decision Writing Timelines and Member Accountability

The TLAB's reputation has been premised on a fundamental goal of timely service to the public. Its members continue to appreciate that timely decision reporting is not just a service to the public as expected by City Council, but also serves to avoid the potential for 'decision backlog building' that can overwhelm and compromise the individual Members as well as the TLAB.

Decision writing is the essential 'end product' of the appellant process, forms the basis of communication with the public and constitutes the body of administrative law and jurisprudence that is regularly accessed by legal and planning practitioners. It is also the most intensive and time-consuming component of the appeal adjudicative process.

A delay in the issuance of final decisions keeps interested Parties and Participants in regrettable suspension as to their future course of action and, in turn, impacts the established integrity of the Tribunal.

It is the job of the Chair to ensure that the TLAB issues decisions that reflect quality and consistency and to encourage the maintenance of a high standard especially in respect of decision writing. The Chair accomplishes this primarily by continually identifying, monitoring, and engaging with Members and, when necessary, implementing the available, actionable remedies to address Members' conduct.

In furtherance of this goal, the Chair introduced a '**Guidelines for Decision Quality Standards**' document in 2023 to guide its members in this regard. The 'Guidelines' document is intended to provide Members with expected standards for decision writing, decision issuance timeframes, and chair reviews, and is modelled on similar guidelines currently in place at Tribunals Ontario.

Member Professional Development and Training

a) Professional Development Business Meeting

The TLAB Chair is responsible for identifying and retaining presentations for the professional development of Members by way of annual education and training opportunities. These education and training sessions ensure that Members receive ongoing training, development and support to meet mandated responsibilities, and the most relevant knowledge in legislation and operational functions.

Each year since 2020, the Chair has scheduled Member Professional Development training sessions during one of the TLAB's regularly scheduled Business Meetings, as permitted by its Procedure By-law 1-2017. Previous TLAB Member Professional Development sessions included specifically customized and curated workshops on '*Effective Decision-writing*' and '*Mediation as an Alternative Dispute Resolution Option*'.

In 2023, the Chair approached Court Services with a proposed training and education program for its scheduled Business Meeting in November. The City of Toronto Court Services Division is responsible for the procurement of services to support the Tribunal's activities such as training and education.

Unfortunately, due to competing priorities, the City was unable to secure a presenter for this proposed workshop and, regretfully, this scheduled training session was cancelled.

b) New Member Orientation and Onboarding

The TLAB Chair is required to coordinate onboarding and tribunal-specific training sessions for new Panel Members, which must occur within six (6) months of their appointment.

As a result of the appointment to the TLAB by Council of four (4) new Members, the TLAB scheduled two (2) orientation and training sessions for those Members in 2023. The first series of sessions took place during the April 5th Business, with the second series occurring during the June 23rd Business Meeting.

These sessions included presentations by staff from various City Divisions such as Community Planning and Zoning, Urban Forestry, Public Appointments Secretariat, the City Manager's Office, the City Clerk's Office, and Court Services Division.

V. Key Principles of the TLAB

The TLAB has established the following key set of principles that Panel Members have strived to enshrine into the Rules of Practice & Procedure governing how the TLAB operates:

- a) Disputes between neighbours can become contentious and every effort should be made to ensure timely resolution, emphasizing alternative dispute resolution, within the framework that finality is a necessary hallmark of administrative justice.
- b) Justice delayed is justice denied. A lengthy interval between an appeal and an appeal decision serves no party or participant. People lose interest, events change, memories fade, reasons of convenience intercede, and delay has procedural consequences and incurs unnecessary expense. The TLAB has established Rules which provide a regimented disclosure obligation on parties and participants.

- c) One-day Hearings (variances only) – two-day Hearings (for combined variance/consent matters) should be scheduled with the definitive timeline of the Rules, approximately 115 days from the Notice of Hearing to the Hearing Date.
- d) Every person with an interest is provided with the opportunity to participate within the statutory scheme including TLAB's Rules of Practice and Procedure, limited only by relevance and repetition.
- e) A Hearing Decision and Order should be issued within fourteen (14) business days of the close of the final sitting.
- f) Moving to an all-electronic format, while requiring a learning curve for parties, participants, the public and the Members, can dramatically advance exposure, timeliness, connectivity, and cost reductions by providing instantaneous file access without the need for paper deliveries, repetitive attendances, reproduction costs, witness meetings, delays, challenges, and other risks associated with multiple pre-hearing processes.
- g) Early disclosure of the Applicant's revisions is required. In the past, practices revealed many modifications to plans and variances sought at the late stage of Hearing commencement. Parties and participants who had prepared their positions based on the material before the Committee of Adjustment were faced with changed circumstances and settlements not revealed. This dislocation of effort and resources, angst, and costs of 'trial by ambush' is remedied by the mandatory requirement of an Applicants' Disclosure up front, early and while the matter is fresh in the minds of those interested.
- h) The Rules provide for the online filing and service of Motions that can request any form of relief and any form of Hearing, written, oral or electronic. Members are open and free to grant relief in warranted circumstances made known to all concerned, even where not presented

on consent. Although there are many Forms and Rules, there is flexibility to ensure that individual hardship can be addressed and eliminated in the context of a process that is open to all.

- i) Hearing premises are generally fixed, relatively central to the geography of the municipality and are accessible by public transit. The TLAB has accommodated 'in-person' Hearings at the four (4) municipal Civic Centres in Etobicoke, North York, Scarborough, and East York in the event of a large list of participants in attendance.
- j) The TLAB and all persons participating or communicating on any matters before it shall act in good faith and in a manner that is civil, courteous, and respectful to all. Tribunal Members facilitate hearing from all participants in the Hearing including the public and are expected to treat each with dignity and are in service to all persons with an interest in an appeal.
- k) Matters that have been given consent by parties are encouraged by Members to advance through TLAB-led mediation, agreement or settlement. This results in expedited Hearings conducted less formally and encouraged by all available means, subject to statutory requirements.

VII. The TLAB Appeal Process*

NOTE: The timelines noted herein apply to post-December 2, 2020; the revisions to the Rules contributed to different processes and requirements commencing on that date.

The process and timelines associated with filing an appeal and document submission are outlined in the TLAB's Rules of Practice and Procedure (as amended on Dec. 2, 2020) available at: https://www.toronto.ca/wp-content/uploads/2020/12/9590-Consolidated-Revised-Rules-of-Practice-and-Procedure_December-2-2020.pdf.

The steps involved with the TLAB appeal process – the 'anatomy of an appeal to the TLAB', are outlined below.

Please refer to the Rules of Practice and Procedure for compliance purposes.

Step 1:	Appealing a Committee of Adjustment Decision
Submission Required:	Notice of Appeal (Form 1).
Due Date:	20 calendar days after the Committee of Adjustment Decision for minor variance appeals. 20 calendar days from the Committee of Adjustment Notice of Decision issued for consent appeals.

Responsibility: The Appellant.

Step 2:	Notice of Hearing
Submission Required:	Notice of Hearing (Form 2).
Due Date:	5 calendar days (objective) after the receipt of a Notice of Appeal from the Committee of Adjustment. Full identification of timelines for procedural obligations.

Responsibility: TLAB Staff.

Step 3:	Applicant's Disclosure of Revisions
Submission Required:	Applicant's Disclosure of Revisions (Form 3).
Due Date:	20 calendar days after the Notice of Hearing is issued.

Responsibility: The Applicant.

Step 4:	Identification of Parties and Participants
Submission Required:	Notice of Intention to be a Party or Participant (Form 4).
Due Date:	30 calendar days after the Notice of Hearing is issued.

Responsibility: Parties and Participants.

Step 5:	Document Disclosure
Submission Required:	Any documentary evidence including photographs that will be presented at the TLAB hearing, in digital format.

Due Date: 60 calendar days after the Notice of Hearing is issued.

Responsibility: Parties and Participants.

Step 6: Submission of Statements

Submission Required: Witness Statement (Form 12), Participant's Statement (Form 13), and Expert's Witness Statement (Form 14).

Due Date: 60 calendar days after the Notice of Hearing is issued.

Responsibility: Parties (Form 12 and Form 14) and Participants (Form 13).
Responses and Replies are governed by Rule 16.

Step 7 (Optional): Filing a Motion.

Submission Required: Notice of Motion (Form 7).

Due Date: 15 days before the Motion and hearing date.

Responsibility: Parties.

Step 7A: Responding to a Motion.

Submission Required: Notice of Response to Motion (Form 8).

Due Date: 7 days before the motion date.

Responsibility: Parties.

Step 7B: Replying to Response to Motion.

Submission Required: Notice of Reply to Response to Motion (Form 9).

Due Date: 4 days before the motion date.

Responsibility: Party that filed the Notice of Motion.

PERFORMANCE METRICS & SUMMARY STATISTICS



IX. Performance Metrics & Summary Statistics

An aggregate statistical measurement for each year underscoring and highlighting the overall performance of the TLAB has been published in each of the Chair's Annual Reports since 2018.

The efficacy of the Toronto Local Appeal Body rests, in part, on its ability to deliver its decisions and dispose of appeal matters in a timely fashion. The following performance metrics are collected and evaluated to assess whether the TLAB appeal process is adhering to a set of self-imposed timing, performance and service standards, to identify areas in which improvements and/or refinements can be implemented.

The metrics serve a dual purpose for the TLAB and the City: as a helpful reference point to assist Members in determining whether the Tribunal is upholding its fundamental principle of public service and the timely issuance of decisions; and, to identify opportunities for re-calibrating and optimizing the balance between service to and expectations of the public and the actual time commitments required of its *'part-time'* Members.

These service standards require reconsideration from time to time to determine whether they remain realistic and practical and whether they continue to advance the TLAB's core guiding principle – which is that it is in service to dispose of appeals in an efficient, timely, effective, open, and fair process to all stakeholders.

I am delighted to report that in 2023, the TLAB experienced an overall decrease in all but one of the five (5) key performance benchmarking categories outlined in **Chart 2 – Performance Metrics** on page 40. These decreases, some rather significant in magnitude, underscore the continued commitment from Tribunal Members and administrative staff to expedite the appeals process and complete the disposition of matters in a timely fashion.

SUMMARY STATISTICS

The categories highlighted in the following pages in this Report provide data points for screening times for appeal files, decision turnaround and issuance, and the final disposition of appeals.

1. Service Standards

A. Timely Receipt of Appeal File from Date the Appeal is filed to the date it is received by the TLAB

This metric, which represents the time from the date the Committee of Adjustment (COA) is made aware of an appeal of one of its decisions to the date the appeal file is received by the TLAB, saw a significant decrease between 2022 and 2023. The average processing time decreased from thirty-six (36) days to twenty-two (22) days, representing **a decrease of 39%**.

It is important to note that the TLAB has no direct influence over the 'flow through' of appeal packages from the Committee of Adjustment, as this is the sole responsibility of the Committee's Secretary-Treasurer. However, the current timeframe of 22 days is considered comparatively acceptable to previous years, during which these timeframes ranged from 10.5 days in 2019, to over 30 days during the COVID-19 years.

B. Timely review and setting of Hearing Dates (5 business days target metric from the date TLAB receives an appeal from the Committee of Adjustment)

The average interval between when the TLAB receives an appeal package from the Committee of Adjustment (COA) to the date Court Services Tribunal staff issues a Notice of Hearing (NoH) was fourteen (14) days in 2023. This represents **a decrease of 58% from the 2022** average of thirty-three (33) days and surpasses the targeted service standard of fifteen (15) business days set by the TLAB.

It should be noted that the TLAB recalibrated its 'Screening Time' service standard in 2022, moving to a standard of fifteen (15) days, to more accurately reflect the time required by staff to ensure that the appeal packages received are complete and include all relevant and requisite. Once this administrative function has been completed can the Tribunal proceed to schedule a Hearing in the matter.

C. Timely Hearings scheduled (115 calendar days target metric from Notice of Hearing Issue date to Hearing Date)

The Toronto Local Appeal Body's typical service standard for the scheduling of appeal hearings was set in 2017 at initially 100-105 calendar days, as reported in previous Annual Reports. However, the TLAB subsequently updated that benchmark to 115 days in 2020, to more accurately reflect the realities of scheduling.¹

Of the files received from the Committee of Adjustment in 2023, it took the TLAB ninety-nine (99) days from the day a Notice of Hearing was issued to schedule a Hearing, on average. While there is no change from the 2022 benchmark in this regard, it does represent **a substantial improvement over earlier years**.

I can report that since 2019, the TLAB's service standard in this regard has continued to steadily improve, with average scheduling times having **decreased annually**, from a high of 178 days recorded in 2020.

D. Timely issuance of Decisions (21 business days target metric from the date of Hearing or Motion to decision).

Of the decisions issued by the Toronto Local Appeal Body in 2023, the average (or 'mean') time taken in 2023 to issue a decision was 54 business days, **a decrease of 46 days, or 46%, from 2022**.

¹ This average does not include Adjournments, Continuations or Withdrawals which also impact scheduling parameters.

It is noteworthy that in the Chair's 2022 Annual Report, the TLAB introduced two separate benchmarking metrics for this service standard, a 'median' and an 'average or mean' metric,² in order to more accurately reflect actual decision issuance timeframes, as well as to account for the impact from a small "subset" of outliers that skewed the data.

For comparison purposes, the 'median' timeframe from the completion of a Hearing to the date when the TLAB issued a decision was thirty-four (34) business days in 2022. In 2023, that number decreased to thirty-one (31) days which, although only a difference of four (4) days, nevertheless underscores the continuing efforts by TLAB Members to achieve the targeted (voluntary) service standard of twenty-one (21) business days (or approximately 30 calendar days).

A more comprehensive analysis of this metric illustrates that of the 75 decisions issued by Members in 2023, **88% were issued within sixty (60) calendar days and 68% (or 47) were issued within 30 days or less.** This latter metric reflects a meaningful improvement from similar statistics for 2022, during which Members issued 70% of their decisions between 31 and 60 days.³

E. Timely disposition of appeal matters. Toronto Local Appeal Body appeals are to be completed within 120 days as a target metric from the date the Notice of Appeal is received to the date the decision is issued by the Tribunal.

² The 'median' is the middle number in a sorted list of numbers and can be more descriptive of that data set than the 'average'. The 'median' is sometimes used as opposed to the 'mean' when there are outliers in the sequence that might skew the average of the values.

³ Tables on page 48.

Of the appeals that were completed in 2023, the average time taken by the TLAB to dispose of appeal matters from the date the file was received to the time a ‘final’ decision was issued was two-hundred-and-seventy-five (275) days, representing a **20% decrease from 2022**. While the TLAB continues to view this 2023 metric as unacceptable, the decrease of fifty-one (51) days in the disposition of appeal matters from 2022, is extremely encouraging.

As in the section above, the ‘Median’ has also been measured and included in the Performance Metrics Chart in this Report. The calculated ‘Median’ time was 175 days in 2023, which reflects continued progress by the TLAB to meet the overall targeted service delivery standard of 145 days set for the disposition of an appeal.

Commentary on Other Data within the Performance Metrics

Below is a synopsis of other data outlined in the Performance Metric charts in this Annual Report.

In 2023, the TLAB received and processed 116 appeal files, representing a significant decrease of 55% (or 246 files) from the previous year. This sizeable reduction in the number of appeals received from the Committee of Adjustment in 2023, can be explained quite simply by understanding the impact on the Tribunal of the elimination of ‘third-party’ appeals resulting from *Bill 23*.⁴

Of the 116 appeal files received in 2023, 96 (or 83%) of those involved variance requests, while 20 (or 17%) included consent and associated variances. These numbers reflect a decrease of 57% and 44%, respectively, from 2022.

In 2023, the TLAB held a total of 175 Hearings, or 45% fewer Hearings than in 2022. Correspondingly, this also contributed to a 55% decrease in application outcomes at the Tribunal.

⁴ Where, prior to November 28, 2022, a person who had an interest in an application before the Committee of Adjustment could appeal a decision of that tribunal, only a prescribed and very restricted subset of entities could do so after.

Members issued a total of 169 decisions in 2023, of which 145 (59%) were Final Decisions and Orders, a 16% decrease from 2022. Of the total, 89 (64%) were approved by the TLAB, while 36% (49) were refused. I note that while the number of applications approved by the TLAB in 2023 represents a slight decrease from 2022, the percentages have remained fairly consistent over the last seven years, with approval percentages ranging from 70 to 75%.

An important service offering of the TLAB under its Rules is a 'right' to a Party aggrieved by a Decision and Order to request its review and reconsideration by the Tribunal. This is a right offered under provincial enabling legislation and has been incorporated by the TLAB in its Rule 31.

In 2023, the Toronto Local Appeal Body received eleven (11) requests to review a Member's final decision, an 18% decrease from 2022. This reflects a downward trend in the number of requests received by the Tribunal since 2019 and is indicative of the fact that fewer Parties are challenging Members' final decisions and orders at the end of the appeal process.

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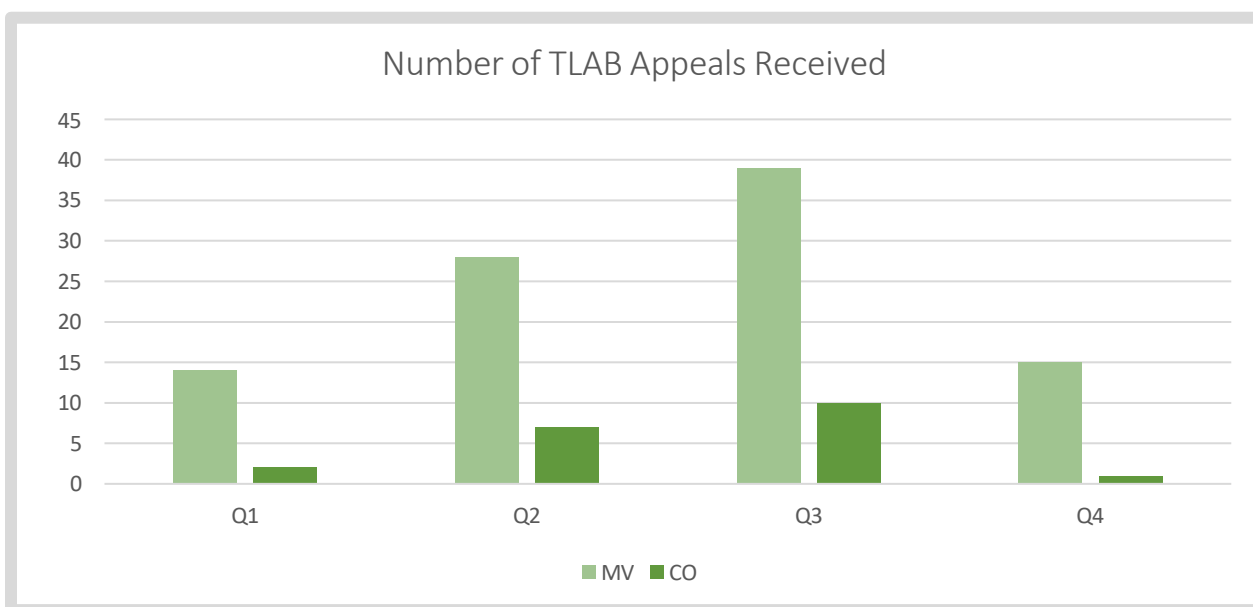
2. Performance Metrics

Monthly data points are averages (or median where identified) for the month. (Notice of Hearing (NOH))

	A	B	C	D		E	
Month Appeal is commenced by the Appellant	Appeal Package Filing Time Date Filed with COA to Date Received By TLAB	Screening Time Date Appeal is Received by TLAB to Date a NOH is Issued	Scheduling Time NOH Issuance Date to First Scheduled Hearing Date	Decision Time Hearing/Final Submission Date to Decision Issued		Disposition Time TLAB In-Date to Date Final Decision is Issued	
				Avg.	Median	Avg.	Median
January	57	26	112	73	41	228	175
February	19	11	98	62	38	224	171
March	10	8	98	56	27	292	175
April	43	6	98	42	24	320	289
May	15	21	97	123	35	380	246
June	19	10	98	59	34	261	218
July	19	16	98	60	50	227	159
August	16	11	98	80	38	385	307
September	20	14	98	21	10	265	228
October	17	12	98	30	16	411	157
November	11	18	98	22	7	144	132
December	19	15	102	20	15	167	129
2022 Average	36	33	99	90	34	326	224
2023 Average	22	14	99	54	31	275	175
2022 vs 2023	Decrease of 39%	Decrease of 58%	No change	Decrease of 40%	Decrease of 9%	Decrease of 19%	Decrease of 22%
Targeted Service Standard	N/A	15 business days	99 calendar days	21 business days is suggested		145 calendar days	

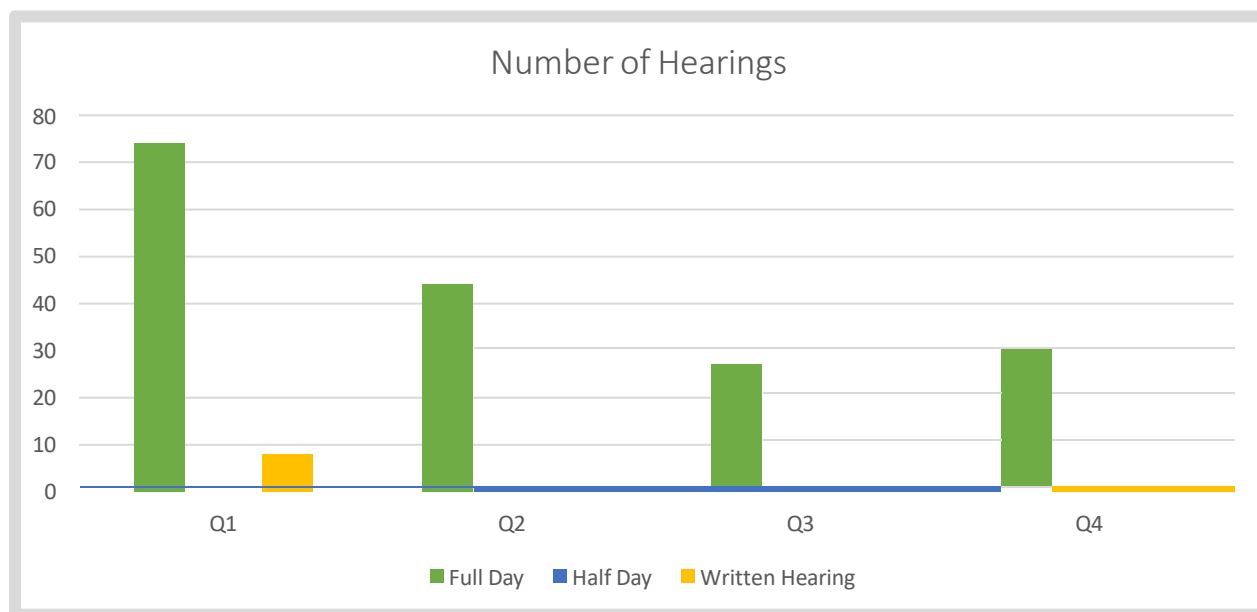
3. Summary Statistics

Number of TLAB Appeals Received			
Quarterly	MV	CO	Total
Q1	14	2	16
Q2	28	7	35
Q3	39	10	49
Q4	15	1	16
Total			116



Number of Hearings			
Quarterly	Full Day	Half Day	Written Hearing
Q1	74	3	8
Q2	44	2	1
Q3	27	1	0
Q4	30	1	1
Total	175	7	10

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Average Hearing Length (days)			
2022	2023	2022 vs. 2023	Decrease of 19%
0.42	0.34	0.1904	

Decisions Issued						
Decision Type	2022	% of Total	2023	% of Total	2022 vs 2023	
Final	145	46%	122	59%	-16%	Decrease of 16%
Interim	37	12%	25	12%	-32%	Decrease of 32%
Mediation	4	1%	1	0	-75%	Decrease of 75%
Motion	41	13%	14	7	-66%	Decrease of 66%
Order	11	4%	8	4	-27%	Decrease of 27%
Pre-Hearing			3	1		
Review Request	15	5%	11	5	-27%	Decrease of 27%
Revision	17	5%	6	3	-65%	Decrease of 65%
Settlement	5	2%	0		-100%	Decrease of 100%
Withdrawal	37	12%	17	8	-54%	Decrease of 54%
Total	376	100%	207	100%		

Decision Page Count - Average				
Type	2020	2021	2022	2023
Final	12	11.7	11	14
Review Request	13	15	14	18

Appellant Type			
Appellant Type	2022	2023	Difference (%)
Applicant/Appellant	139	102	-27 (31)
City of Toronto	21	14	-7 (40)
Appellant - Not Applicant/Owner	100	0	-100 (100)
Total	260	116	-144 (77)

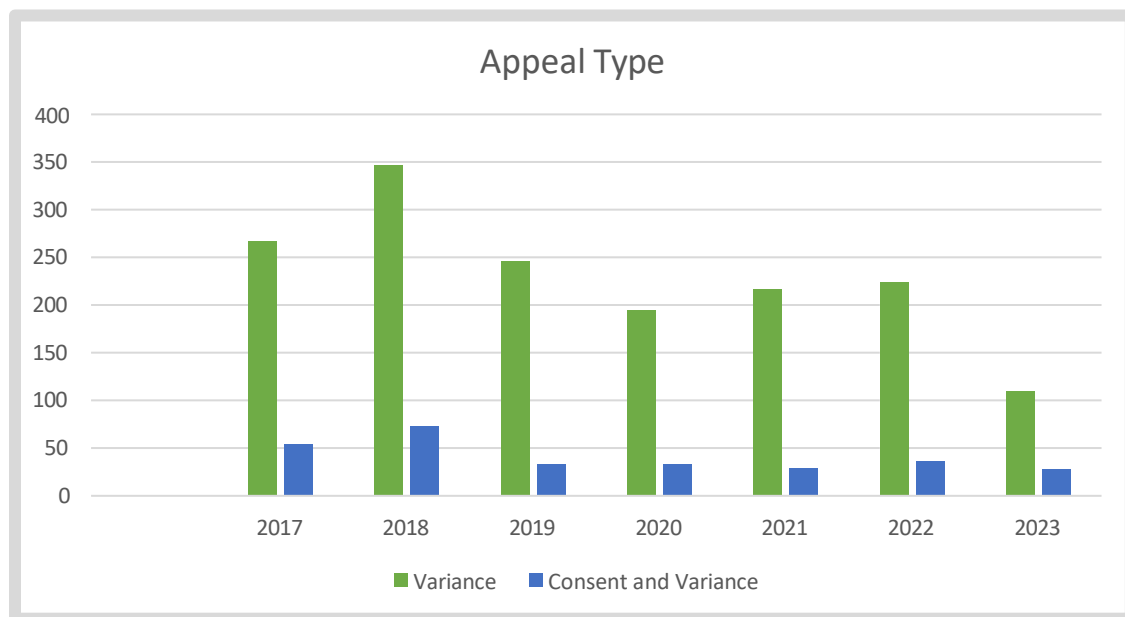
Appeal Outcomes	2021	2022	2023	%
Allowed	114	110	89	64
Dismissed	75	115	49	36
Total	189	225	138	100

Historical Average Filing Time from TLAB In Date to Final Decision Issuance	
Year	Calendar Days
2017	142
2018	137
2019	191
2020	236
2021	305
2022	224
2023	175
Average	201

*The numbers in this Chart are from the City of Toronto's IBMS Database

Review Request Disposition	2022	2023	
Review Request Dismissed - Decision Confirmed	9	9	
Granted - New Hearing	3	2	
Decision Varied	1	0	
Totals	13	11	Decrease of 18%

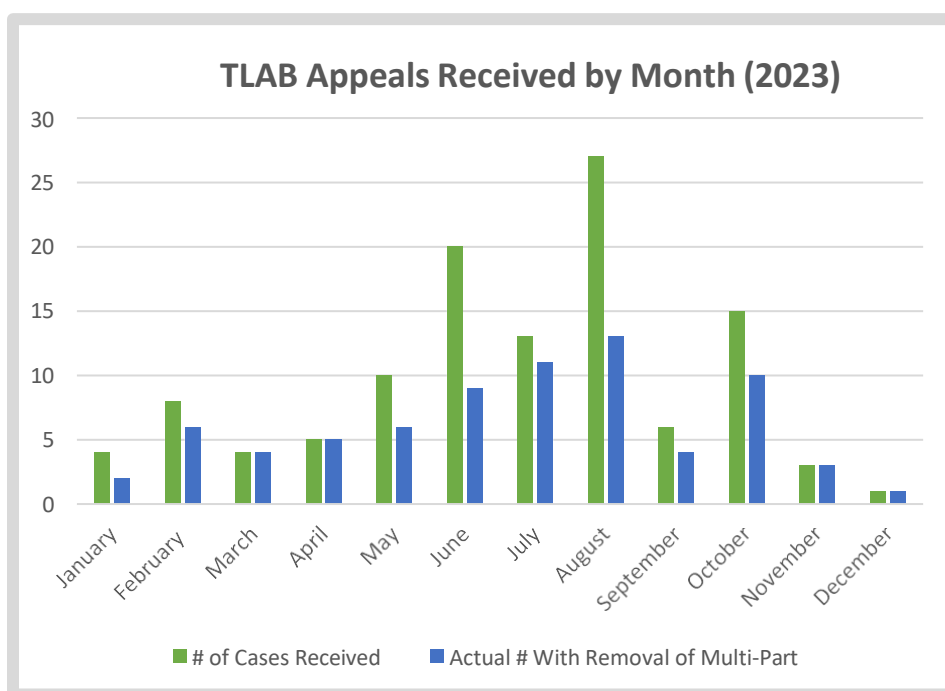
Appeal Type	2017	2018	2019	2020	2021	2022	2023	2021 vs. 2022
Variance	267	346	246	194	217	224	110	Decrease of 51%
Consent & Variances	54	73	33	33	29	36	28	Decrease of 22%



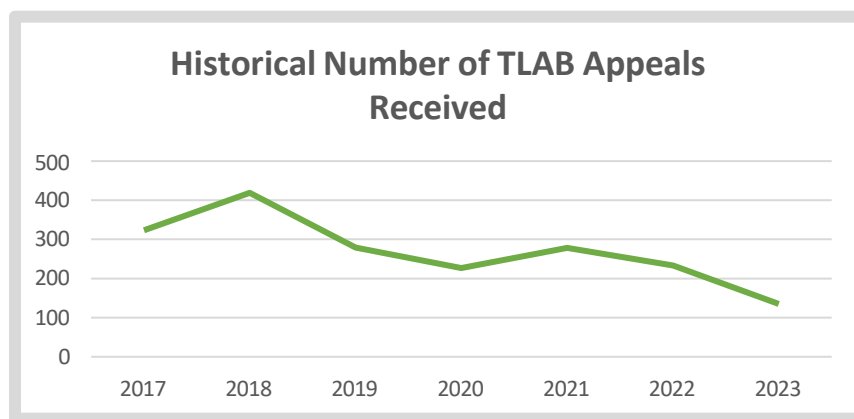
TLAB Appeals Received by Month (2023)		
Month	# of Cases Received	Actual # With Removal of Multi-Part
January	4	2
February	8	6
March	4	4
April	5	5
May	10	6
June	20	9
July	13	11
August	27	13
September	6	4
October	15	10
November	3	3
December	1	1
Total	116	74

* As of December 31, 2023

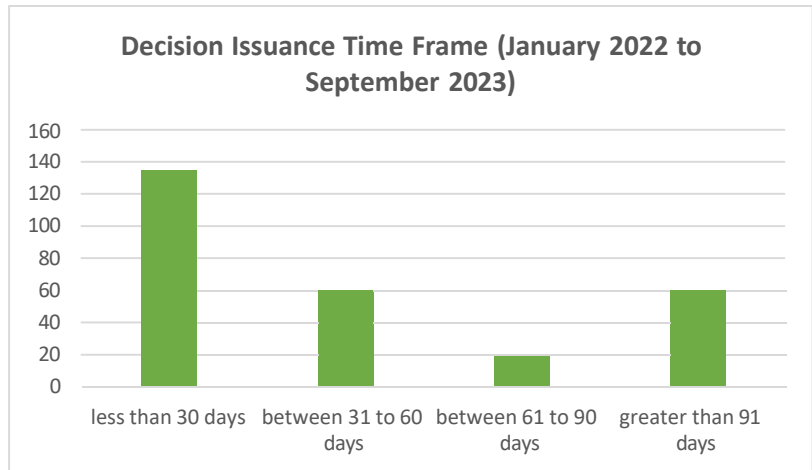
** No Change in number of cases received, meaning no multi-part cases



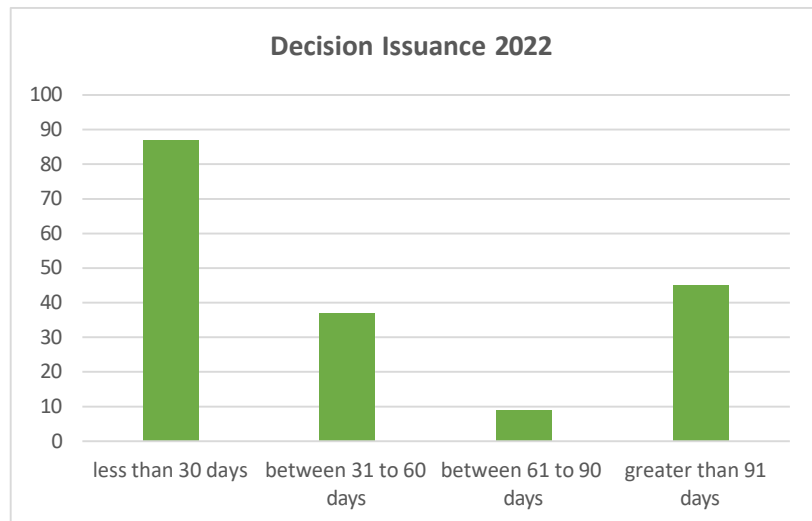
Number of TLAB Appeals Received Historically						
2017	2018	2019	2020	2021	2022	2023
323	419	279	227	278	233	135



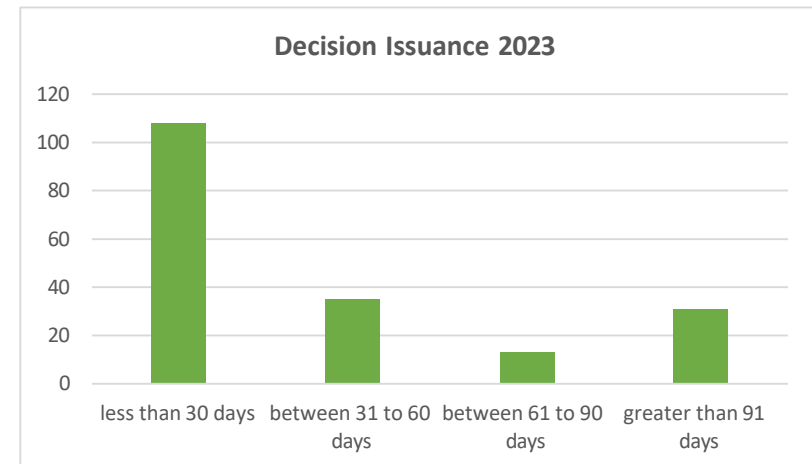
Decision Issuance Time Frame (January 2022 to September 2023)		
less than 30 days	135	49%
between 31 to 60	61	22%
between 61 to 90	18	6%
greater than 91 da	63	23%
Total	277	



Decision Issuance 2022		
less than 30 days	87	49%
between 31 to 60	37	21%
between 61 to 90	9	5%
greater than 91 da	45	25%
Total	178	



Decision Issuance 2023		
less than 30 days	108	58%
between 31 to 60	35	19%
between 61 to 90	13	7%
greater than 91 da	31	17%
Total	187	



EMERGING ISSUES AND RECOMMENDATIONS



X. Emerging Issues & Recommendations

RECOMMENDATION

In comparative terms, the Toronto Local Appeal Body is still a rather new administrative tribunal. As such, retrospection and introspection on an annual basis can assist TLAB Members in identifying emerging issues and troubling trends requiring further consideration.

In 2023, Members were successful in the review and adoption of amendments to its Rules, Forms, Practice Directions, and Principles, and the introduction of Member guidelines and standards for decision-writing and accountability.

In addition, as Chair, I have engaged in discussions with the Members and Court Services regarding several structural matters warranting attention.

The TLAB is grateful for the support shown by Council, Court Services and municipal Staff in the reception and consideration given to the Recommendations of the 2022 Annual Report even though the recommendations were not adopted.

These discussions and actions were instructive to record concerns and methodologies to address the matters raised. Some were addressed constructively within the limitations of Staff advisors and Council's formation and budget guidelines applicable to the Toronto Local Appeal Body.

As time has passed and experience has been gained, some issues previously identified in the previous Annual Reports have been resolved, but important 'legacy' issues remain. These issues continue and may be reflective of structural operating problems being experienced by the Tribunal.

For example, the TLAB is susceptible to work assignments of part-time appointments becoming too onerous, low compensation rates, Member management issues and group term

sunsets. Court Services have been helpful in addressing Tribunal support on matters within its mandate and the annual budget. There are, however, instances where that mandate and the 'Guiding Principles' related to the TLAB Tribunal are not fully sufficient.

While an Annual Report is a vehicle to raise general performance issues, it can be unsuited for timely action and response planning. A review of the Guiding Principles may enable TLAB to broaden its ability to communicate pressing issues of concern in a more timely manner directly with Tribunal staff or the Director of Court Services as the need arises.

On the issue of Member decision-writing, it is important to note that TLAB decisions form the basis of communications to the public. Tribunal decisions constitute the body of administrative law and jurisprudence that is regularly accessed by legal and planning practitioners and the public and is the essential end product of the appellate process.

Members' decisions regularly deal with combined jurisdiction, multiple parties, questions of law, policy interpretation and neighbourhood dispute resolution and typically exceed five (5) typewritten text pages, single-spaced. The 'average' decision consists of between fifteen to eighteen (15-18) text pages and can exceed twenty (20) text pages.

In drafting decisions, Members spend many hours preparing the document without clerical assistance, requiring access to online data records, often reviewing the Digital Audio Recordings (DAR) of hearings, extensive drafting and editing of text, conditions and directions, consultative syntax review by another Member, document assembly, and accessibility review by administrative staff. Members, also, have not been granted licenses for advanced versions of software that would assist in facilitating their work responsibilities.

Therefore, compensation rates should reflect the magnitude and complexity of hearing an appeal matter that requires multiple days and one that likely includes numerous Parties, Participants, legal representatives and expert witnesses.

Given that the TLAB Member's job function closely resembles that of and is often compared to the Ontario Land Tribunal (OLT), both selection and compensation packages should be adjusted to reflect the reality of experience and align with its provincial comparator.

It is noteworthy that some appointees come to the Tribunal with experience in adjudication and some with only a limited familiarity with the land use planning framework. The Chair, then, provides significant support and training, and it requires time and effort on the part of an appointee to learn and understand the fundamentals of the Official Plan, the Zoning By-law, the rules of Practice and Procedure and the adjudicative protocols. It can be some time before Members are confident enough to handle complex cases, making it doubly challenging when appointees see out their term.

Finally, it must be stressed that the appointment and retention of qualified TLAB Panel Members is extremely important in guaranteeing that the Tribunal fulfills its mandate of issuing jurisprudence in a cost-effective and timely manner. It is also important to stress that TLAB Panel Members are appointed on a '*part-time*' and perform their duties on a 'fee-for-service' basis.

It is now clear that Bill 23 and the elimination of 'third party' appeals have directly and negatively impacted the TLAB by dramatically decreasing the number of appeals that are heard by the Tribunal. This, in turn, has led to a corresponding reduction in the overall workload of the fourteen (14) Panel Member complement.

However, going forward, one of the impacts on the TLAB that remains to be evaluated is potential applications to the four panels of the City's Committee of Adjustment and the subsequent potential of appeals to the TLAB of applications dealing with 'laneway and garden suites', 'multiplexes' and other built form residential development in Toronto neighbourhoods.

These are reflective of very recently adopted legislation by the City and impacts on the

workload of the Committee of Adjustment and the TLAB from such applications have yet to be established as they work their way through the planning process. As a result, the appeal of such applications to the TLAB could see the Tribunal's caseload increase in the next few years as appeals are generated by applications related to these new types of built form.

Therefore, it may be prudent in the evolution of the TLAB at this juncture for the City to consider undertaking a structural review of its operations to determine whether the current Tribunal constitution is best suited to serve the public. This could include: revisiting whether a panel complement of fewer Members with direct performance accountability would result in a more successful Tribunal and an examination of Member issues related to the current structure, such as performance accountability, demographic profile, high turnover, and investment in training.

Doing so would address both existing and emerging issues and concerns, and better align the TLAB with the governance structure outlined for it by the City to carry out its established mandate which supports the independence and arms-length nature of the Tribunal.

Recommendation:

The Director of Court Services, in consultation with the Chair, will continue to assess the impact of recently passed Provincial legislation on the operation of the Toronto Local Appeal Body and review the business structure of the Tribunal to determine the complement, terms of reference, roles and responsibilities, employment terms for Members, and any other structural changes that would benefit the performance of the Toronto Local Appeal Body.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

May 23, 2024

XI. Contact Information

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ATTACHMENT 3

Report for Action from Court Services

Toronto Local Appeal Body- Chair's 2023 Annual Report

Date: May 30, 2024
To: Planning and Housing Committee
From: Director, Court Services Division
Wards: All

SUMMARY

Enacted on May 3rd, 2017, the Toronto Local Appeal Body (TLAB) is an independent, quasi-judicial tribunal established through City of Toronto Municipal Code Chapter 142, Local Appeal Body, the City of Toronto Act, and other provincial legislation. The TLAB has all the powers of the Ontario Land Tribunal related to the hearing of appeals to Committee of Adjustment decisions for minor variance and consent applications under subsections 45(12), 53(14), 53(19) and 53(27) of the Planning Act.

The TLAB is composed of fourteen members including the Chair, Vice-Chair, and twelve Panel Members who are nominated by an impartial citizen-member nominating panel with recommendations for appointments submitted to City Council. City Council appoints Members of the TLAB for a four-year term of office.

RECOMMENDATIONS

The Director of Court Services, recommends that:

1. City Council receive the 2023 Annual Report from the Chair of the Toronto Local Appeal Body, contained in Attachment 1 to the report for information.

FINANCIAL IMPACT

There are no financial implications arising from this report.

DECISION HISTORY

The 2022 Annual Report from the Chair of the Toronto Local Appeal body and New Arrangement for Legal Support was received for information on October 11, 2023. The link to Council's decision is available at:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH6.6>

The 2021 Annual Report from the Chair of the Toronto Local Appeal body was received for information by Council on July 19, 2022. The link to Council's decision is available at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH35.8>

At its meeting on June 8, 2021, City Council received for information the 2020 Annual Report from the Chair of the Toronto Local Appeal Body, from the Director, Court Services. City Council directed the City Manager to report back on items 1, and 3a-c as outlined in this report. The link to City Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH23.13>

The 2019 Annual Report from the Chair of the Toronto Local Appeal Body was received for information by Council on July 28 and 29, 2020. City Council directed the City Manager to review the recommendations in the TLAB 2019 Annual Report from the Director, Court Services and report back to the Planning & Housing Committee by the first quarter of 2021 on the feasibility of implementing the Chair's recommendations.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH15.4>

The 2018 Annual Report from the Chair of the Toronto Local Appeal Body was received for information by Council on May 14, 2019. The link to Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH5.7>

The 2017 Annual Report from the Chair of the Toronto Local Appeal Body was received for information by Council on June 26, 27, 28 and 29, 2018. The link to Council's decision is available at

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG30.10>

COMMENTS

The Toronto Local Appeal Body Chair's Annual Report covers TLAB activities from January 1, 2023 to December 31, 2023.

The 2023 Annual Report includes the following sections:

- Executive Summary
- About the TLAB – Background
- Organizational Structure TLAB
- Operational Highlights
- Business Meeting Highlights
- TLAB Milestones
- Key Principles of the TLAB
- The TLAB Appeal Process - Timelines
- Adopted Practice Directions
- Performance Metrics and Summary Statistics
- Going Forward: Emerging Issues and Recommendations

CONTACT

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brian.halloran@toronto.ca

SIGNATURE

Dianne Kasias
Director, Court Services

ATTACHMENTS

Attachment 1 – Toronto Local Appeal Body Chair's 2023 Annual Report