

Toronto Local Appeal Body Information Session

February 7th, 2018

****Check Against Delivery****

Ian James Lord

Chair, Toronto Local Appeal Body (TLAB)

PART 1: New Statutory Tribunal

City of Toronto Act

O.Reg. 552/06

Limited sources of jurisdiction from Planning Act:

S. 45 variances

S. 53 consent/severance

PART 2: Milestones to Date

2016:	Citizen Nominating Committee
December, 2016:	Council appointment of seven (7) members
May 3 2017:	Constituting By-law
	TLAB adoption of Rules and Forms
	File stream diversion, fixed dates
June 2017 - on:	Motions and mediations
August 2017 - on:	Hearings, motions and mediations
April 18, 2018	Public Meeting on Rules Review (website)

PART 3: Autonomy and Independence

Six degrees of separation

Four (4) year term

Administration through Court Services

Independent Legal Counsel: RFP selection

Own house: 40 Orchard View Blvd (Yonge/Eglinton)

Own: Rules/Forms/User Guides/Practice Directions

All public business meetings: notice and agendas on-line

PART 4: Service to City of Toronto

Membership varied: seven senior, experienced people as Hearing officers: from differing practice areas; lawyers; planners; all with tribunal familiarity.

Per diem 'volunteers'

Interim and permanent (April, 2018) Hearing Rooms

Digital Audio Recordings

PART 5: What's New?

Three fundamental elements:

1. All electronic process: notices, disclosure, filings.
2. Prescriptive *Rules* and *Forms* with definitive timelines, obligations and fixed hearing dates.
3. Timely, efficient and final decision making.

PART 6: Governance

Jurisdiction limitations:

- All the powers of the OMB under s. 45 (variances) and 53 (consents), Planning Act.
- Statutory Powers Procedure Act
- Municipal Freedom of Information and Protection of Privacy Act
- Municipal Conflict of Interest Act
- Access to the office of the Integrity Commissioner
- City of Toronto Code of Conduct
- Guiding Principles for the Toronto Local Appeal Body
- OReg. 552/06, Rules, Forms, Practice Directions.
- Public Consultation Policy

PART 7: Anatomy of a TLAB Proceeding (Part I)

(Illustrates philosophy and approach: public, accessible files on-line with full disclosure and filings ending one (1) month before the scheduled Hearing)

Form 1: Notice of Appeal (Appellant)

Form 2: Notice of Hearing (TLAB)

Form 3: Applicant's Disclosure (Applicant)

Form 4: Notice of Intention to be a Party or Participant

Form 5: Authorized Representative

Form 6: Acknowledgement of Expert's Duty

PART 7: Anatomy of a TLAB Proceeding (Part II)

Form 7: Notice of Motion

Form 8: Notice of Response to Motion

Form 9: Notice of Reply to Response to Motion

Form 10: Affidavit

Form 11: Request for Summons

Form 12: Witness Statement

Form 13: Participant's Statement

Form 14: Expert's Witness Statement

PART 7: Anatomy of a TLAB Proceeding (Part III)

Form 15: Notice of Non Compliance

Form 16: Notice of Proposed Dismissal

Form 17: Notice of Mediation

Form 18: Notice of Prehearing

Notice of Electronic Hearing (available)

PART 8: Flow of a Proceeding:

Committee of Adjustment Decision + statutory appeal

Notice of Appeal (Form 1):

A) Administrative Screening; Notice of Deficiencies

FIVE (5) DAYS to rectify

B) Adjudicative Screening; Notice of Intended Dismissal: process, motion or dismissal

Notice of Hearing (Form 2): establishes

a) Hearing date from TLAB

b) Applicants Disclosure date in FIFTEEN DAYS

c) Party/Participant election in TWENTY DAYS

d) Document Disclosure in THIRTY DAYS

e) Witness, Participant and Expert Statements in FORTY FIVE DAYS

PART 9: Motions:

Notice of Motion (Form 7): any purpose, any time, EXCEPT must be heard THIRTY DAYS before scheduled Hearing

- a) Motion date from TLAB, default is oral, can be written or electronic
- b) Service FIFTEEN DAYS before motion sitting
- c) Response SEVEN DAYS before motion sitting
- d) Reply FOUR DAYS before motion sitting

PART 10: Method of Proceeding:

- Heard orally, default condition*
- Digitally audio recorded
- All electronic: counsel/public screen
- Posted Decisions
- *Oral Hearings unless directed by *Rules*, a Practice Direction or the TLAB to be electronic (video/ teleconference), or written.

PART 11: Planning Expectations

- 10 Hearings/week + motions
- 2-3 Hearing rooms with permanent facilities
- Notice of Hearing to Decision: 120 days +/- (124 latest)
- Settlement emphasis:
- Access on-line to filings
- Screening and monitoring for non-compliance (6 days latest)
- Disclosure of Applicants revisions
- Prescriptive *Rules* for deliverables
- Motions
- Mediation
- Quiet Zone
- Timely disposition Issue date (11 days; 132 days TET from COA, latest)

Thank you

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Chair, Toronto Local Appeal Body (TLAB)

TLAB Practice Directions

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Practice Direction #1

Effective Date: June 14th, 2017

Number: 1

Practice Direction

Standard Consent Conditions

Direction:

In the case of the granting of a consent and in the absence of evidence and a determination to the contrary, TLAB shall impose the standard consent conditions outlined in the Schedule A attached.

Approved by the Toronto Local Appeal Body this 14th day of June, 2017.

Ian James Lord, Chair

Schedule A: Standard Consent Conditions

- (1) Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.
- (2) Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Technical Services.
- (3) Prior to the issuance of a building permit, the applicant shall satisfy all conditions concerning City owned trees, to the satisfaction of the Director, Parks, Forestry & Recreation, Urban Forestry Services.
- (4) Where no street trees exist, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting each new lot created, to the satisfaction of the General Manager, Parks, Forestry and Recreation.
- (5) Two copies of the registered reference plan of survey integrated with the Ontario Coordinate System and listing the Parts and their respective areas, shall be filed with City Surveyor, Survey & Mapping, and Technical Services.
- (6) Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
- (7) Within ONE YEAR of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the Planning Act, as it pertains to the conveyed land and/or consent transaction.

Practice Direction #2

Effective Date: October 11th, 2017

Number: 2

Practice Direction Default Format of Specific Motion Hearings

Direction:

Unless otherwise directed by TLAB, where a Party requests a date to file a Motion for a Written or Electronic Hearing (telephone or video conference) or the adjournment of a Hearing Date, or both, TLAB will treat and require the request to be conducted as a written Motion. The Party will be provided with a date for a Written Hearing motion for service. In the case of a Hearing Date adjournment request, the TLAB shall supply alternative hearing dates and the parties shall indicate their availability for those dates, in the event that the Motion may be granted. The default form of Hearing for these two specific Motion requests will not be Oral, as specified in Rule 17.3. The timeline for Motion responses outlined in the Rules for Motions will apply.

Approved by the Toronto Local Appeal Body this 11TH day of October, 2017.

Ian James Lord, Chair

Practice Direction #4

Effective Date: October 11th, 2017

Number: 4

Practice Direction Video Evidence

Direction:

On the approval of the presiding Member, video material that has been disclosed and identified, and served in accordance with the Rules may be presented at a TLAB hearing, subject to relevance. Due to current technical constraints, video material cannot be made available to the public on the Application Information Centre website. Access to video material may be made available upon appointment to the TLAB office.

Persons tendering video material who do not bring their own equipment are responsible to ensure that the video material is stored and retrievable in standard media file format (eg. AVI, MP4, MKV).

Approved by the Toronto Local Appeal Body this 11th day of October, 2017.

Ian James Lord, Chair

Practice Direction #5

Effective Date: October 11th, 2017

Number: 5

Practice Direction

Service of Physical Documents for People Who Cannot Communicate Electronically

Direction:

A physical copy of any submission must be served on all Parties who cannot communicate electronically. Likewise, all Parties and Participants who cannot communicate electronically must serve physical copies of any submission on all Parties and TLAB.

The due dates as outlined in TLAB's Rules of Practice and Procedure continue to apply. As such, service to be on time has to respect delays inherent in service. The Date of Service is deemed to be four (4) days after the date of mailing.

An Affidavit (Form 10) must be completed attesting to the method and timing of service. This must be filed with TLAB in a timely fashion for public posting.

Service requirements under Section 3 of TLAB's Rules of Practice and Procedure continue to apply for all those with an email address.

Approved by the Toronto Local Appeal Body this 11th day of October, 2017.

Ian James Lord, Chair

Excerpt from TLAB decision dated October 16, 2017 in respect of 31 Presteign Avenue (IJLord)

SUBJECT: Last minute adjournment requests by e-mail.

None of these emails were available to the panel at the commencement of the Hearing, as above described. TLAB receives a multiplicity of emails at its single address. No Party or Participant should assume that an email so proximate to the beginning of a sitting can be expected to reach the Member, let alone other Parties or Participants, whether or not they had the courtesy of a copy. These did not.

In the ordinary course, in the absence of the sending Parties or the Representative, these emails could have been put, for comment, to the Appellant who was present and who was prepared to proceed. I am not, however, in the least troubled that this did not occur. In this case, the Notice of Hearing was issued some three months earlier. That Notice had specified October 10, 2017 at 9:00 am, to be the commencement of the appeal hearing on 31 Presteign Avenue. TLAB Rules are express that Motions, if any, are to be brought at least 30 days before the scheduled Hearing date.

Not only had there been no adjournment Motion brought by the sending Parties or the Representative in accordance with the Rules, no rationale or justification for a requested deferral was contained in the correspondence beyond the convenience of the Parties and the Representative essentially identifying themselves as not being present.

Parties and Participants are obliged to inform themselves of the TLAB Rules, monitor the related file postings and meet the obligations of their participation in a deliberative, purposeful and responsible way. This is an obligation incumbent on anyone who seeks to have their voice heard on a matter of substantive interest to them or their client. A meaningful opportunity and initiative to participate must not be accessed or advanced casually, cavalierly or with minimal effort or interest. To do so not only erodes the institutions for such consideration, but does act to the disadvantage and inconvenience of the Parties, Participants, TLAB and those affected by subsequent applications and schedules, themselves requesting hearing time and attention to their own matters.