

Dear Hsing, Thank you for your information so far. Please can you forward this material to the Toronto Local Appeal Board (TLAB) body for their response to the recommendations. I am hoping they can easily satisfy the TLAB rules. Attached is my March 1 2017 letter and our correspondence. My material for the summary of evidence will follow. I am also asking that this letter be transferred to pdf and placed on file. I would suggest conferring with Bruce Krushelnicki, Executive Director of ELTO (and in charge of the OMB) to validate my points. Please acknowledge and reply to the substance as quickly as possible. Thanks, David

**SUBJECT Request to lift all deadlines relating to the file and proceed along the simpler lines operated by the OMB.**

### RECOMMENDATIONS

1) TLAB suspend the deadlines and submission by pdf. The latter can easily be done by having TLAB transfer material to pdf as the Committee of Adjustment does.

The deadlines can be removed by the simple realisation that you do not have to follow them because they are contrary to natural justice. In effect the recommendations would formally suspend their rules for this hearing.

2) It is recommended that the hearing take place in Etobicoke Civic Centre to increase accessibility for a hearing with such great interest.

### SUMMARY

TLAB's rules and procedures are (1) grossly unfair to the general public who are most impacted by appeal decisions, (2) they are much worse than the OMB's protocol and (3) are awash with bureaucratic red tape.

### INTRODUCTION

I have spent approximately a full working week (at least 40 hours) since the June 21 notification working on this file and the new Early Disclosure processes of TLAB.

I am not yet close to being able to submit material in accordance with rules and procedures for the deadline on July 11. However the fax suggestion looks hopeful. (see attached correspondence in blue)

Since I have the benefit of years of urban planning experience especially in the field of Committee Adjustment matters, I have a distinct advantage over the average citizen.

Also I keep up to date with what is a dynamic system and have a time perspective.

#### SUPPORT FOR TLAB

**I am a strong supporter of TLAB and feel the City should be making these smaller decisions itself with only a legal appeal to the Provincial level.**

**And we need to get away from the strongly pro development stance of the OMB and re-balance the power between people and profit.**

**TLAB's local knowledge and planning oriented hearing officers will help. We need skills in planning and urban design which are mostly absent at the OMB.**

**TLAB have taken up an impressive challenge and the work put in is amazing.**

#### THE ISSUES

I have learned a lot during the past two weeks but unfortunately I have discovered TLAB is not operating a fair system of deciding planning appeals, certainly in this case. This is a requirement of the Planning Act.

In their eagerness to set up an orderly and paperless process, they have overlooked the major participants in the issues - the public.

To allow special processes to trump good planning is wrong.

It is as if TLAB thinks everyone involved is part of a lawyer team.

The OMB may be court-like but it has flexibility. TLAB seem to view their role as a court with rigid rules rather than a forum for achieving good planning. None of the protagonists have done anything wrong!

Residents are supposed to be competing on at least equal terms with the City/Planning Department and applicants, both of whom are paid. The market and the wishes of the applicant are not considerations, something ignored by most decision makers.

The OMB and Committee of Adjustment approvals in Long Branch have resulted in permanent loss of quality of life for residents of nearby soldier houses (alien 3 storey houses on narrow lots) of which 100 have been approved in the last 5 years.

Views of foliage and the sky are lost, light and sunshine into yards and houses are lost, getting on for one significant tree per severance is lost and large blank walls become eyesores. These are effectively changes forever.

As for the street scene the rhythm of the public realm is destroyed because the new houses are out of scale and massing with their context and do not conform to urban design policies of the Official Plan.

This is all for maximising the profit of the applicant. Development planners are not qualified in urban design in more than a dozen hearings I have attended. They always advocate that if there is a similar house in the neighbourhood their proposal must fit in.

That destabilises the neighbourhood in that all 50 feet wide lots are suitable for severance according to them. The is course is illogical and false and it clear on OPA 320 which clarifies the intent of OP.

The Provincial Government is proposing a group to even out power for the proposed Local Planning Appeal Board.

This needs to happen for Committee of Adjustment appeals and was the aim for TLAB. The opposite is happening.

I warned TLAB about early disclosure not being appropriate for the more complex files in a letter in February. (see attached letter)

Requiring pdf submissions and signatures has made participation even more burdensome.

The rules and procedures are awash in bureaucratic red tape. For 9 38th Street I have to fill out 9 forms mostly repetitive to engage in the process when with the OMB, none were required. If I have to go to affidavits it will be even more forms. More forms will be needed

for changes of status.

Another aspect of Early Disclosure is that repetition is created by having to go through a similar process soon after the notice and again 3 or 4 months later when availability of personnel and the issues are clearer perhaps even changed. Everything will have to be refreshed

when the time of the hearing approaches. Since over 50% of workers in Toronto have precarious jobs they have no ability to plan ahead. With completely new rules I would have hoped TLAB would be out in the community educating potential parties and participants. The

OMB has a community liaison officer.

The situation at the moment with most Long Branch hearings is that a week or so before the hearing, the City's lawyers, the planners (if on the same side as the City) and interested members of the public meet to go over procedures and clarify planning issues. They give no

legal advice to the public.

Without this citizens are going to be disorganised and apparently under TLAB can have costs ordered against them for this. The cases where costs can be awarded appears to have expanded. The most chilling deterrent for the public to be a party is the award of cost

potential. People do not want or often cannot go through this at the beginning of the process and again at the end.

As well changes in anticipated participant, party, non- involvement role is going to generate a spate of emails all on complicated forms in accordance with 44 pages of Public Guide, approximately the same with legal jargon in the rules and procedures and referencing about

30 items on the Applications Information Centre web site. As well the public must keep checking the website and do all sorts of research around the TLAB and AIC websites as well as formulate analysis and strategies.

And this is just the bones of the of the issues. Lots more consultations, formal and informal will be needed.

My experience has shown that TLAB material and correspondence has deficiencies some based on that received from the Committee of Adjustment.

Although TLAB have revealed several pieces of useful information in correspondence, these are nibbles at the overarching issue.

The problem is the rules and procedures are unreasonable, grossly unfair, and unworkable in this case, probably one of the more complex cases with which TLAB will deal. The rules and procedures do not accord with due process or natural justice according to conversations I

have had.

A hearing officer working under these rules would not meet the City Code of Conduct because Council policy on public input is not followed.

Accessibility to justice has been sadly missing for the public at the OMB and has been recognised by the Province.

People who want to be involved in this file simply have not the time or inclination, especially at this time of year, to look into reams of information and they do not even understand the basics of the planning or the system in which it operates.

The Committee of Adjustment only provides basic information in their notice which is mostly meaningless to a householder and most likely discarded.

The few people who make it through to the Application Information Centre are deprived of any context analysis which is basic to decisions.

There are no street facades showing the proposal in relation to the two abutting street properties, there is no bird's eye view showing the proposal in relation to the houses around and illustrating impacts, and there is no neighbourhood character analysis. Densities are not

analysed: these relate to massing and are critical to understanding nearby context in accordance with the OP.

All these matters are essential for making good judgments and I have been pushing for the applicant to provide these over several years. The Planning Department do not provide these either. So the Committee of Adjustment members at the moment go with their

development oriented instincts in the category of "if an application is worth submitting it is worth approving". There are no planners or lawyers on this Committee. However the

Committee is influenced by members of the public especially when they arrive in large numbers.

This pro development thinking has been enhanced in the last year because of all the poor planning decisions of the OMB. The Planning Department too is now supporting much higher densities through expediency. The whole system would break down if they commented on

all applications and analysed information as in in other municipalities. There is a staff shortfall. This process would, I expect, be struck down by the courts on due diligence.

A major step forward would be to have community meetings prior to a Committee of Adjustment hearing with full facts and analysis.

TLAB simply post (and I have found omissions) what the Committee of Adjustment post, thus perpetuating a system that is not in working.

It also appears that no document larger than the regular 8 x11 inches is permissible and I am not sure if colour can be used. This would curtail essential information from being used as evidence. For example I submitted a lot size plan to an OMB hearing at double the regular

size. Details on maps would be lost especially if in black and white. Maps and plans at large scale are an essential part of an OMB hearing so that all involved can see clearly the points that are being made. Perhaps projection on to a screen would help.

## THE GENERAL PUBLIC

Not only is the average public seriously disadvantaged by lack of information, which means any application is premature, those who are less than average are even more disadvantaged.

Federal judges are being educated on diverse life situations. Hearing officers need to be fully conversant with urban design, the third dimension of planning, to enable them to make sound decisions. If they are not they need training. Many files are completely urban design

oriented such as this one.

Part of the reason that the OMB's is being reformulated is that the balance was so far tipped against the public and for the applicant.

The public do not have access to legal and planning experts unless they are able to pay out \$15,000 to \$25, 000. This has not happened in Long Branch.

Therefore party status is out of the question for residents yet they are the major stakeholder. Stakeholders are required to be at the table for planning in order to be fair. TLAB have diminished and minimised the public's participation which gives extra leverage to those who can afford Bay Street lawyers and their attendant planners. The OP includes the following statements :

"The OP is set up so citizens should shape their neighbourhood without yielding to the pressures of development." "it encourages decision making that is long range, democratic, **participatory, and respectful of stakeholders** (my emphasis). In Principles for a Successful City it is stated that "individuals and communities actively participate in decisions affecting them. And people are inspired to become involved in affecting positive change." See policy 5.5 the Planning Process.

These are the basis for all policies. It could not be clearer that the TLAB process is contradictory to the City's intent.

The City do not usually get into private property impacts. That is left to citizens. So the public are left to fend for themselves and therefore are an essential part of any decision all the way through the process.

Participants not being able to join in mediation for example maybe the legal way of thinking but it is thoroughly anti planning. And we are dealing with planning within a framework of law and not law itself.

The very issue which led to the weakening of the OMB has been even more strongly imposed by TLAB. It amounts to a lack of understanding as to who they serve and a contempt for the general public.

A member of this group describes herself as average when in fact she is a well qualified professional with strong computer skills and a conscientious nature. As the person most

affected she has spent more energy than other nearby residents trying to untie the Gordian Knot.

It may be easy for lawyers, certain other professionals and techies as this is what they deal with daily. Few would be able to take the challenge as far as she has. She is a victim of TLAB's establishment views. Here is her letter:

#### LETTER FROM A CITIZEN

I am that regular citizen you mention. This process is a huge stress on me because I simply am unfamiliar with how the appeals work, I have a full time job, a family and an ailing mother I take care of.

So I spent a few hours today reading through the Public guide and the Rules. Much of it I do not understand- I am not a lawyer- I kept having to flip back and forth to interpret some of the who is who. I am even more confused. (I believe my eyes glazed over around page 30)

1. Are we a party? or am I a participant?
2. is the city lawyer representing us? ( Miss Amini) All the legalize jargon is too much for me.
3. I have not officially received the letter
4. The dates are a concern for me- Since I am not sure which form to fill out- Is the form 3 due July 6 even for ME to fill to fill out- City lawyer? .Form 4 - Notice of attention- well since I do not know if we are a party or a participant - how do I fill out this form?
5. I will be on a long awaited vacation From July 4 to July 23. We will be out of the country. That gives you about a week more. This is unreasonable in view of the lack of information available right now.

I am awaiting word from Councillor Grimes and his office to advise us- I thought it was a good idea to meet prior to the Aug 8 date to discuss the process. This is important ,we want to have everything in order so the next appeal isn't set on a precedent.

Your short answer- I am confused, bewildered and stressed.

Here are examples of some of the many hundreds of citizens (in Long Branch mainly) I have been assisting over the last few years:

1) In an area of 27th Street and Shamrock there have been 7 OMB hearings and there will be more. There have been even more Committee of Adjustment and Community meetings. The people of this area have been traumatised and abused by the planning system and

nobody seems to care. If the OMB had been knowledgeable they would have refused the first severance and any successors. This is the sort of role expected from TLAB.

These people now have lost all faith in the system and have little fight left in them. Their environment has been ruined with loss of trees, sunlight, light, privacy, views and overpowering development; and development that destroys street character rather than respects and

reinforces it. They have had to live in a building site for years as these individual properties take small builders a long time to develop sites. The developers also go out of their way to intimidate established neighbours.

They have been made both physically and mentally unwell.

2) Many people cannot read plans well and the poor illustrations means they do not fully understand impacts or perhaps not at all.

3) Some people cannot separate the proposal from the bad tenants developers tend to rent to during application processing.

4) Many homeowners do not own computers, are not computer literate and therefore are unable to communicate digitally without help.

5) People have full time jobs and many other responsibilities and simply do not have the time or inclination to get involved. Some people even become sick!

6) Some cannot get time off so the initiative of TLAB to allow written submissions is very welcome but not as effective as attending a hearing. This can be overcome by fully written appeals as common in UK.

7) Lots of people go away for a couple of weeks and therefore cannot become parties/participants. 14 days written notice from 27 June to 11 July yells inadequacy.

8) Many people ditch notices without reading them. It is usually up to few people to do all the "donkey work" to inform the others of the issues, procedures and relevant information. Often they consult and meet with me. I have discovered that those within 60m of the subject site do not receive notification unless their names are on file. This is a breach of natural justice as within the hearing time there are changes of residents ,

resident's time available, residents discovering the issue and other matters because of tight time lines. Their chance to participate is gone after a couple of weeks unlike through the OMB rules which allow these decisions at the actual hearing.

9) Many people fear speaking in public and many people do not know how to express themselves in writing. They all need assistance.

10) Many people are rightly angry and frustrated and believe they cannot fight "the establishment". TLAB was seen as the enlightenment. Decisions are expected similar to that on 9 Meaford by the OMB - reasoned rather than repeating the most established planner's

conflicted evidence. This will enable protection of the quality of life people have trustingly bought into.

As an added concern, in the hearing itself, it seems the public are excluded from information by not being digitally plugged in. TLAB needs to fully

involve participants so witnesses can illustrate their points with full view by the public. Participant evidence is often modified (especially by me) after hearing a development planner speak sometimes to correct wrong information. Large maps such as the lotting in the whole

neighbourhoods (essential to analysing character) cannot seem even to be used.

Further small barriers to participation by the public are the 9 am start which means travelling through rush hour and the out of the way hearing offices from Long Branch and much of Etobicoke. Last week a similar application just round the corner from these applications

attracted over 20 residents and 30 submissions. Because the residents spent much time organising, there were only 6 speakers. This type of effort takes time and consultation and needs to be done just before the hearing to decide all the matters that TLAB have scheduled at the beginning of the process. It is probable that 38 36th Street will land up at TLAB. It is impossible to do this properly within 14 days after the notice.

9 38th Street is likely to attract more attention particularly from across Long Branch. The OMB used to conduct evening hearings for the public and this is another idea to make their process more accessible. While the OMB were a monument to injustice they had many well honed and helpful procedures.

## CONCLUSION

The public are being deprived of all or full participation by TLAB rules. The process has been convoluted by TLAB for their own benefit of making their life simpler and putting all the work on to those they serve. The major reason for TLAB taking OMB responsibilities was unfair discrimination against the public because so many OMB decisions were overly influenced by development considerations. The legalistic approach to planning was the death knell of the OMB's role. TLAB have stepped up the legalistic unfair requirements.

This needs nipping in the bud. The rules discriminate against the public even more than the OMB. TLAB's needs to maximise accessibility to hearing officers by giving greater credibility to the public. Experts have succeeded in corrupting the system. so and bending over is

This can happen if TLAB's rules are suspended and the hearing officer uses their own urban design/planning skills as a basis for judgment as in the OM hearing for 9 Mafood PL161048. Citizens are being overwhelmed by a process completely unsuited for planning appeals

such as 9 38th Street in Long Branch. It is therefore encouraged that the 9 Meaford case be used as a model.

Yours truly,

David Godley

401 Lake Promenade

Toronto, M8W 1C3

416-255-0492