

Municipal, Planning and Property Tax

August 11, 2014

Toronto City Council Approves Creation of Local Appeal Body

Council Decision

On July 10, 2014, Toronto City Council voted 32-8 in favour of establishing a Local Appeal Body (LAB) to hear appeals of minor variance and consent applications from the Committee of Adjustment (COA). The LAB was established under section 115 of the *City of Toronto Act, 2006*, which permits City Council to constitute and appoint an appeal body for local land use planning matters. The LAB will have all the same powers and duties previously exercised by the Ontario Municipal Board (OMB) for these types of appeals.

At the same meeting, City Council requested that the Minister of Municipal Affairs and Housing amend the *Planning Act*, *Heritage Act*, and the *City of Toronto Act*, to abolish the OMB's jurisdiction over the City of Toronto's Zoning By-law Amendments, Official Plan Amendments, Site Plan, Subdivision and Condominium Plan Approvals and Community Improvement Plans, and appeals under the *Heritage Act*. It also requested that the Province of Ontario amend the *Planning Act* to clearly define a "minor variance." Similar requests have been made to the Province before (by the City of Toronto and others), and there does not appear to be any indication that the Province intends to act on these requests.

LAB Procedure and Fees

City Council directed that the LAB be in place to hear all appeals made after September 1, 2015. Appeals from the COA will no longer be made to the OMB and will instead be made to the LAB.

The City Manager will oversee the establishment of the LAB. The City Manager will report to the Executive Committee in early 2015 with recommendations for the governance and administration of the LAB, including the number of members, their remuneration, and a proposed fee structure. City Council has requested that the minimum appeal fee be at least equal to the COA fee (which presently ranges from approximately \$1000 to \$4200 depending on the application). A previous staff report written in June estimated that to fully cover projected costs, the fee would have to total approximately \$6700 per application. However, City Council could choose to adopt a fee that reflects partial cost recovery, with the balance recovered through property taxes.

There is currently no determined procedure for appealing to the LAB, or for LAB hearings. Under the *City of Toronto Act, 2006*, appeals from the LAB on questions of law may be made to the Divisional Court with leave (as is currently the case with appeals from OMB decisions).

Under the *City of Toronto Act, 2006*, the members of the appeal body may not include city employees, a member of City Council, and members of a land division committee, a committee of adjustment, or a planning advisory committee. The LAB will be subject to the *City's Code of Conduct for Members of Adjudicative Boards*, and will conduct itself in accordance with the *Statutory Powers Procedures Act*, the *Municipal Conflict of Interest Act*, and the *Municipal Freedom of Information and Protection of Privacy Act*.

For more information on the LAB and its implications, please contact any member of our Municipal, Planning and Property Tax Group.