



## MISSISSAUGA APPEAL TRIBUNAL

---

### RULES OF PRACTICE AND PROCEDURE

#### INTRODUCTION

The City of Mississauga Appeal Tribunal is an all-citizens tribunal established to conduct hearings of appeals under the City of Mississauga's Licensing By-laws and Animal Care and Control By-law. The conduct of such hearings will be in accordance with these Rules of Practice and Procedure.

ENACTED AND ADOPTED this 17<sup>th</sup> day of September, 2008.

Chair

Tribunal Coordinator

**INDEX**

**RULE 1: APPLICATION AND DEFINITIONS**

**RULE 2: TRIBUNAL MEETINGS AND CHAIR**

**RULE 3: NOTICE REQUESTING AN APPEAL**

**RULE 4: NOTICE OF HEARING**

**RULE 5: PRE-HEARING CONFERENCE**

**RULE 6: SERVING AND FILING DOCUMENTS**

**RULE 7: TIME**

**RULE 8: MOTIONS**

**RULE 9: ADJOURNMENTS**

**RULE 10: DISCLOSURE**

**RULE 11: WITNESSES**

**RULE 12: EVIDENCE**

**RULE 13: HEARINGS**

**RULE 14: HEARING PROCEDURES**

**RULE 1: APPLICATION AND DEFINITIONS****1.01 Definitions**

- (1) In these Rules, unless the context requires otherwise,

"Animal Care and Control By-law" means By-law 98-04, as amended.

"Agent" means, in respect of an appeal, counsel or any other person authorized to represent one of the parties to the hearing, including the City and the Appellant.

"Appeal" means an appeal to the Tribunal.

"Appellant" means an applicant or Licensee that has filed a notice of appeal requesting an appeal hearing before the Tribunal.

"Council" means the Council of the Corporation of the City of Mississauga.

"Chair" means the Chair of the Tribunal.

"File" means to send to the Tribunal Coordinator and requires that the material is either deemed to be or has actually been received by the Tribunal Coordinator.

"Hearing" means the hearing of an Appeal made to the Tribunal.

"In person proceeding" means an oral hearing at which the parties or their counsel or agents attend in person before the Tribunal.

"Licensee" means the holder of a license issued pursuant to the provisions of the City of Mississauga's Licensing By-laws, as amended.

"Licensing By-law" means one of the City of Mississauga's licensing by-laws being the Adult Entertainment Establishment Licensing By-law 507-05, Business Licensing By-law 1-06, Public Vehicle Licensing By-law 420-04, Tow Truck Licensing By-law 521-04, Vehicle Licensing By-law 520-04, Vendors By-law 522-04, or Fireworks By-law 340-01.

"Licensing Decision" means the decision of the License Manager or the Manager of Animal Services with respect to a license under one of the City's Licensing By-laws, or muzzle order under the Animal Care and Control By-law.

"Licence Manager" means the Manager of the Compliance and Licensing Enforcement Unit or the Manager of Mobile Licensing of the City's Enforcement Division and includes his or her designates.

"Manager of Animal Services" means the Manager of the Animal Services section of the City of Mississauga and shall include his or her designates.

"Meeting" means a business Meeting of the Tribunal and shall not include the hearing of an Appeal.

"Member(s)" means the person(s) appointed by Council to be a member(s) of the Tribunal for a specified term.

"Notice of Decision" means a written Licensing Decision issued to an applicant/Licensee.

"Party(ies)" includes the applicant or Licensee who have been served with a decision of the License Manager or Manager of Animal Services, and the City of Mississauga.

"Rules" means the Rules of Practice and Procedure of the Tribunal.

"Tribunal" means the Mississauga Appeal Tribunal.

"Tribunal Coordinator" means the member of City staff who has been assigned to perform the administrative tasks required by the Tribunal, on behalf of the office of the City Clerk.

## 1.02 General

- (1) These Rules apply to all proceedings before the Tribunal.
- (2) These Rules apply subject to the *Statutory Powers Procedure Act* and any other legislation governing the Tribunal.
- (3) The Tribunal may, at any time, as it deems necessary, dispense with compliance with any Rule, save and except those prescribed as mandatory by the *Statutory Powers Procedure Act* and any other legislation governing the Tribunal.
- (4) If these Rules do not provide for a matter of procedure that arises during a Meeting of the Tribunal as a whole or during a Hearing, the practice shall be determined by the Tribunal as a whole at a Meeting or the Tribunal at the Hearing.
- (5) These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits.
- (6) Substantial compliance with requirements respecting the contents of forms, notices or documents under these Rules is sufficient.

- (7) The Tribunal may exercise any of its powers under these Rules on its own initiative or at the request of a Party.

**RULE 2: TRIBUNAL MEETINGS AND CHAIR****2.01 Meetings**

- (1) The Tribunal shall hold its inaugural Meeting as a Tribunal of the whole on a date and time to be determined by the City Clerk following the appointment by Council of the Tribunal Members for the current term.
- (2) The Tribunal shall meet as a Tribunal of the whole at the request of the Chair, and the Chair shall summon a Meeting of the Tribunal of the whole when requested to do so in writing by a majority of the Members.
- (3) When the Chair is absent from the City, or is absent through illness, or refuses to act, or when the office of the Chair is vacant, a Meeting of the Tribunal as a Tribunal of the whole may be summoned by the Tribunal Coordinator on 24 hours' notice when requested to do so in writing by a majority of the Members.
- (4) Meetings of the Tribunal shall be held at City Hall or such other location, as the Tribunal deems advisable.
- (5) A majority of the Members constitutes a quorum at Meetings of the Tribunal as a whole.

**2.02 Tribunal Chair**

- (1) At its inaugural Meeting the Tribunal shall elect one of its Members as Chair for the current term, or until a successor is appointed.
- (2) When the Chair of the Tribunal is absent through illness or otherwise, the Tribunal may appoint another Member as Acting Chair.
- (3) If the Chair of the Tribunal resigns as a Member of the Tribunal or resigns as the Chair of the Tribunal, the Tribunal shall appoint another Member as Chair for the balance of the current term, or until a successor is appointed.

**2.03 Duties of the Chair**

- (1) The Chair shall preside at every Hearing and Meeting of the Tribunal and may vote.
- (2) The Chair shall call the Hearing or Meeting to order.
- (3) The Chair shall put motions brought by any Party or Member to a vote of the Tribunal.

- (4) The Chair shall enforce the observance of order and decorum during Meetings and Hearings.
- (5) The Chair is the liaison between the Members and the Tribunal Coordinator on matters of policy and process.
- (6) The Chair shall administer the oath of each witness at a Hearing.

#### **2.04 Minutes of Tribunal Meetings**

- (1) The Tribunal Coordinator shall prepare Minutes of the Meetings of the Tribunal
- (2) The Tribunal shall review and adopt the Minutes of its previous Meeting at its next Meeting.
- (3) Tribunal Members, including the Chair, may vote on all motions and other questions submitted at a Tribunal Meeting.
- (4) In the case of a tie vote, the motion or question shall be deemed to have been lost.

#### **2.05 Quorum for Meetings**

- (1) A majority of the Members must be present to achieve quorum for a Meeting.
- (2) If no quorum is present 30 minutes after the time appointed for the commencement of the Meeting, the Tribunal Coordinator shall re-schedule the Meeting.
- (3) Notwithstanding clause (1) of this Section, when the number of Members who refrain from participating in debate of a matter, or voting by reason of having declared an interest according to the provisions of the *Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50*, leaves a remaining number of Members that does not make quorum, the remaining Members will be deemed to constitute quorum, provided that not less than two (2) Members to remain present to continue the Meeting.

**RULE 3: NOTICE REQUESTING AN APPEAL****3.01 Notice Requesting an Appeal**

- (1) An Appeal to the Tribunal by a Party who has received a Notice of Decision must be made by sending a Notice of Appeal in the form of a letter to the Office of the City Clerk within the time prescribed by the Notice of Decision and the applicable City By-law.
- (2) The Notice of Appeal shall be transmitted to the Office of the City Clerk before close of business on the last day for appeals:
  - (a) by personal delivery,
  - (b) by regular or registered mail,
  - (c) by courier, or
  - (d) by facsimile.
- (3) The Notice of Appeal shall include:
  - (a) a copy of the Notice of Decision appealed from;
  - (b) a statement setting out the grounds for the Appeal;
  - (c) the name, telephone number, and address for service of the Appellant and Agent, if represented by an Agent; and
  - (d) a non-refundable Appeal fee prescribed in the applicable By-law made payable to the City of Mississauga.
- (4) The Notice of Appeal in (1) shall be sent by one of the methods described above to:

Mississauga Appeal Tribunal Coordinator  
The Corporation of the City Of Mississauga,  
Office of the City Clerk,  
3<sup>rd</sup> Floor, Civic Centre,  
300 City Centre Dr.  
Mississauga Ont., L5B 3C1  
Fax: (905) 615-4181

- (5) If a Notice of Appeal is received after the appeal deadline the Tribunal Coordinator shall refuse the Notice of Appeal and shall advise the sender by registered mail that:

- (a) the appeal is denied based on the late filing, and
- (b) the Licensing Decision under appeal is final and binding.

### **3.02 Where Notice of Appeal is Incomplete**

- (1) Where a Notice of Appeal is not substantially in accordance with Rule 3.01, the Tribunal Coordinator shall send a letter to the Appellant, or the Appellant's Agent, if represented, within 20 days of receipt of the Notice of Appeal stating the additional information required by the Tribunal Coordinator in order to complete the Notice of Appeal substantially in accordance with paragraph 3.01.
- (2) The information requested in paragraph (1) shall be sent to the Tribunal Coordinator within 20 days of the date of the Tribunal Coordinator's letter, at the address listed in paragraph 3.01 (4), failing which the Notice of Appeal is deemed to be abandoned and the Licensing Decision is final and binding.

### **3.03 Where Notice of Appeal is Complete**

- (1) Where an Appellant has completed a Notice of Appeal in substantial accordance with paragraph 3.01 the Tribunal Coordinator, in consultation with the Parties, shall appoint a time and place for the Hearing of the Appeal.

### **3.04 Withdrawal of Appeal Prior to Hearing**

- (1) An Appeal may be withdrawn prior to the Hearing Date scheduled for the hearing of that Appeal by filing a letter of withdrawal with the Office of the City Clerk as set out in Rule 3.01.

**RULE 4: NOTICE OF HEARING****4.01 Notice of Hearing**

- (1) The Tribunal Coordinator shall provide a Notice of Hearing at least fifteen (15) days prior to the Hearing to the following:
  - (a) the Appellant,
  - (b) the Tribunal Members,
  - (c) the City Solicitor,
  - (d) Counsel to the Tribunal,
  - (e) the Licensing Manager,
  - (f) the Manager of Animal Services,
  - (g) the Manager of Prosecutions, and
  - (h) any other Party to the hearing not listed above.
- (2) A Notice of Hearing shall include:
  - (a) a statement of the statutory authority to hold a Hearing and the time, place and purpose of the Hearing; and
  - (b) a statement that if the Appellant, or his or her Agent, does not attend at the Hearing, the Tribunal may proceed in the Appellant's absence and the Appellant will not be entitled to any further notice in the proceeding.
- (3) The Tribunal shall have a standard Hearing date each month for the hearing of appeals on a basis to be determined by the Tribunal. If no appeals are scheduled two weeks prior to a standard Hearing date, the Hearing is cancelled and notification via email or telephone is provided by the Tribunal Coordinator to the following:
  - (a) the Tribunal Members,
  - (b) the City Solicitor,
  - (c) Counsel to the Tribunal,
  - (d) the Licensing Manager,

- (e) the Manager of Animal Services, and
  - (f) the Manager of Prosecutions.
- (4) If the Tribunal Coordinator receives a withdrawal of appeal prior to the Hearing date, notice of cancellation of the Hearing shall be sent to all persons who received Notice of the Hearing.

#### **4.02 Effect of Non-Attendance at a Hearing**

- (1) Where Notice of a Hearing has been given to a Party in accordance with these Rules and the Party does not attend at the Hearing, the Tribunal may proceed in the absence of the Party and the Party is not entitled to any further notice in the proceeding.

**RULE 5: PRE-HEARING CONFERENCE****5.01 Request for Pre-Hearing Conference**

- (1) The Tribunal may, at the request of a Party or on its own initiative, direct that a pre-hearing conference be held in any proceeding and that the Parties participate in the conference.

**5.02 Purpose of and Procedure of Pre-Hearing Conference**

- (1) The purpose of the pre-hearing conference will be to:
  - (a) exchange information between the parties, including disclosure of particulars, physical or documentary evidence, lists of witness(es) and witness statements;
  - (b) narrow or simplify any issues of law or fact;
  - (c) identify agreed upon facts, evidence or law;
  - (d) provide notice of any preliminary motions;
  - (e) establish dates by which any steps in the proceeding are to be started or completed;
  - (f) determine the estimated duration of the hearing;
  - (g) determine any other matter that may assist in the just and expeditious disposition of the proceeding; and
  - (h) mediate or settle any or all outstanding issues in dispute.
- (2) A pre-hearing conference may be conducted in person, in writing, or by telephone conference call at the discretion of the Tribunal or as may be agreed upon by the Parties;
- (3) The Tribunal Chair may designate any member of the Tribunal to preside at the pre-hearing conference.
- (4) Quorum for a pre-hearing conference may be reduced to one member of the Tribunal at the discretion of the Tribunal Chair.
- (5) If a Member of the Tribunal presides at a pre-hearing conference, that Member shall not be a Member of the panel Hearing the proceeding related to such pre-hearing conference unless all parties consent thereto in writing or on the record.

- (6) At the conclusion of the pre-hearing conference the Parties or their Agents may sign a memorandum setting out the results of the pre-hearing conference and a copy of the signed memorandum shall be placed before the Tribunal presiding at the Hearing.
- (7) No information shall be provided or made available to the Tribunal presiding at the Hearing with respect to any statement made at a pre-hearing conference except as disclosed in the memorandum referred to above.
- (8) A Party may be represented by an Agent at the pre-hearing conference and where the Party is not in attendance at the conference, such Agent shall ensure that the Party is available, either by telephone or other means.

**RULE 6: SERVING AND FILING DOCUMENTS****6.01 Documents Filed with Tribunal**

- (1) If a Party intends to make use of any written or documentary evidence at the Hearing, that Party is required to serve one copy of the documents on all other parties no later than ten (10) days before the Hearing date and shall file eight (8) copies of the documents with the Tribunal Coordinator no later than ten (10) days before the Hearing date.
- (2) Every written document in a proceeding shall be on either 8 ½ by 11 inch or 8 ½ by 14 inch paper and the text shall be printed, typed, written or reproduced legibly with spaces between the lines, or in such alternate format as may be directed by the Tribunal in order to accommodate the needs of a Party to the Hearing.
- (3) For the purposes of paragraph 6.01 (1), "document" includes a sound recording, videotape, file, photograph, map, plan survey, and any information recorded or stored by any means, and any expert reports to be relied upon and a copy of the curriculum vitae of the authors of any such expert reports.

**6.02 Serving documents**

- (1) "Service" means the effective delivery of the documentation to any Party or to the Party's Agent.
- (2) Service is deemed to be effective when delivered:
  - (a) personally to the Party, or the Party's Agent, if represented; or
  - (b) by regular or registered mail on the seventh day after the day of mailing; or
  - (c) by facsimile transmission, on the same day as the transmission, if the document consists of sixteen (16) pages or less inclusive of the cover page. A document of more than 16 pages may be served by facsimile transmission if the Party receiving the transmission gives prior consent; or
  - (d) by courier, including Priority Post, on the second full day after the document was given to the courier by the Party serving.
- (3) In the case of subsection (2) paragraphs (b) and (d) service by regular or registered mail or courier is effective if it is sent to the last known address, unless the Party to whom the notice is to be given establishes that he or she, acting in good faith and through absence, accident, illness or other causes beyond his/her control, failed to receive the notice until a later date or at all.

- (4) Documents delivered after 4:30 p.m. shall be deemed to have been delivered on the next day that is not a holiday.
- (5) A Party who serves or files a document shall include with it a statement of the Party's address, telephone number and the name of the proceeding to which the document relates.
- (6) This Rule 6.02 regarding deeming of receipt date for facsimile transmission does not apply to the filing of the notice of appeal, which must be filed pursuant to Rule 3.

### **6.03 Filing Documents**

- (1) Documents may be filed with the Tribunal Coordinator by any of the methods of service set out in Rule 6.02.
- (2) Where a document is filed, the date of the receipt stamp on the document shall be deemed to be the date of the filing, unless the Tribunal orders otherwise.
- (3) No Party may file a document by way of facsimile transmission that is more than sixteen (16) pages long unless prior consent for such service was obtained from the Tribunal Coordinator.
- (4) Any Party filing documents must file, with the documents, a statement indicating who has been served and what documents have been served.
- (5) Documents must be filed with the Tribunal Coordinator at:

Mississauga Appeal Tribunal Coordinator  
The Corporation of the City Of Mississauga,  
Office of the City Clerk,  
3<sup>rd</sup> Floor, Civic Centre  
300 City Centre Dr.  
Mississauga Ont., L5B 3C1

### **6.04 Failure to Serve and File Documents**

- (1) If a Party fails to serve and file a document pursuant to this Rule, the Party may not refer to the document in evidence at the Hearing without the consent of the Tribunal which may be given on terms and conditions as the Tribunal considers just.
- (2) Where the Tribunal Coordinator has no record of the receipt of a document alleged to have been filed, the document shall be deemed not to have been filed, unless the Tribunal orders otherwise.

**RULE 7: TIME****7.01 Computation**

- (1) In the computation of time under these Rules, unless the context requires otherwise:
  - (a) "days" means calendar days;
  - (b) where there is a reference to a number of days between two events, they shall be counted excluding the day on which the first event happens and including the day on which the second event happens;
  - (c) where the time for doing an act under these Rules expires on a holiday, the act may be done on the next day that is not a holiday; and
  - (d) service of a document made after 4:30 p.m. or at any time on a holiday shall be deemed to have been made on the next day that is not a holiday.
  
- (2) Under these rules, "holiday" means:
  - (a) any Saturday or Sunday;
  - (b) New Year's Day;
  - (c) Family Day;
  - (d) Good Friday;
  - (e) Easter Monday;
  - (f) Victoria Day;
  - (g) Canada Day;
  - (h) Civic Holiday;
  - (i) Labour Day;
  - (j) Thanksgiving Day;
  - (k) Remembrance Day;
  - (l) Christmas Day;
  - (m) Boxing Day; and

- (n) Any day on which the staff administrative offices of the City are closed.

**7.02 Extension or Abridgement of Time**

- (1) The Tribunal may, upon motion by any Party or upon motion by the Tribunal, extend or abridge the time prescribed by these Rules or make an order on such terms, if any, that the Tribunal deems necessary.
- (2) The Tribunal may exercise its discretion under subrule (1) before or after the expiration of the time prescribed.

**RULE 8: MOTIONS****8.01 Motions**

The Tribunal may hold a motion upon the request of a Party or, if in its own discretion, it deems a motion advisable for the following purposes:

- (a) to give directions concerning Tribunal procedures; and
- (b) for any other purpose which the Tribunal feels is necessary to carry out its functions.

**8.02 Procedure to bring a motion**

- (1) Where a Party intends to bring a motion, the Party shall request a time and date for the hearing of the motion from the Tribunal Coordinator.
- (2) A Party bringing a motion shall then file a Notice of Motion with the Tribunal Coordinator and serve the Notice of Motion on every other Party at least 5 days before the date for which the motion is scheduled to be heard.
- (3) The Notice of Motion shall be in writing and shall:
  - (a) contain the decision or order sought, the reasons for bringing the motion and state the documentary or other evidence to be relied upon in support of the motion;
  - (b) be accompanied by any documents that may support the motion.
- (4) A Party who wishes to respond to the motion may file with the Tribunal Coordinator and serve on all Parties, at least two (2) days before the date for which the Hearing is scheduled, a summary of their responding position and any supporting material to be relied upon.
- (5) The Tribunal may hold a motion by way of an oral or written hearing.

**RULE 9: ADJOURNMENTS****9.01 Adjournments**

- (1) A Hearing may be adjourned at the discretion of the Tribunal upon its own motion or upon the motion of a Party where that Party satisfies the Tribunal that the adjournment is required to permit an adequate Hearing to be held.
- (2) In deciding whether to grant an adjournment, the Tribunal may consider one or more of the following factors:
  - (a) the sufficiency of the reasons advanced for the request to adjourn;
  - (b) the timeliness of the request;
  - (c) the resources of the Tribunal;
  - (d) the prejudice to the parties;
  - (e) whether any adjournments have been granted previously;
  - (f) the consent of the parties;
  - (g) any other relevant factor.
- (3) The Tribunal may grant adjournments on such terms and conditions as it considers advisable.
- (4) Any Parties seeking an adjournment shall seek the consent of the opposing Party or Parties before bringing a motion before the Tribunal.
- (5) If consent is obtained pursuant to subsection (4) above, the Party seeking the adjournment shall contact the Tribunal Coordinator and provide evidence in writing of the request for an adjournment, the reasons for the request and the consent of the other Party or parties. The Tribunal Coordinator shall then provide the request to the Tribunal who will decide whether or not to grant the adjournment. If the Tribunal declines to grant the adjournment, the Party may seek a hearing of the request under subsection (6).
- (6) If the Party seeking an adjournment is unable to obtain the consent of the other Party or Parties, the Party seeking the adjournment may:
  - (a) by way of Notice of Motion request an adjournment at the hearing; and

- (b) file with the Tribunal Coordinator at least five (5) days before the date for which the Hearing is scheduled, any affidavit or other supporting material to be relied upon.
- (7) The Tribunal may, in its discretion, refuse an adjournment even though the parties consent.

**RULE 10: DISCLOSURE****10.01 Disclosure**

- (1) "document" includes a sound recording, videotape, file, photograph, map, plan survey, and any information recorded or stored by any means.
- (2) At any stage of the proceeding before completion of the Hearing, the Tribunal may make orders for:
  - (a) the exchange of documents;
  - (b) the oral or written examination of a Party;
  - (c) the exchange of witness statements and reports of expert witnesses;
  - (d) the provision of particulars;
  - (e) a Party to provide a list disclosing all relevant documents and things in the possession or control of the Party;
  - (f) to provide a Party with an opportunity to view documents; or
  - (g) any other form of disclosure relative to the subject matter.
- (3) Subsection (2) does not authorize the making of an order requiring disclosure of privileged information.
- (4) Members of the Tribunal holding a Hearing shall not have taken part, before the Hearing, in any communication directly or indirectly in relation to the subject-matter of the Hearing, with any person, or with any Party or Representative of the Party, except upon notice to and with opportunity for all Parties to participate, but the Tribunal may seek legal advice from Counsel to the Tribunal and, in such case, the nature of the advice should be made known to the Parties in order that they may make submissions as to the law.

**10.02 Failure to Disclose**

- (1) If a Party fails to comply with an order of the Tribunal, or this Rule, the Party may not refer to the document or thing or introduce the document or thing in evidence at the Hearing without the consent of the Tribunal which may be on terms and conditions as the Tribunal considers just.

**10.03 Order for witness statements**

- (1) The Tribunal may order a Party to the Hearing to provide to every other Party and file with the Tribunal Coordinator, witness statements or summary of the evidence witnesses will give.
- (2) If a Party fails to provide a witness statement or a summary of the evidence a witness will give in accordance with Rule 10.03 (1), the Party may not call the person as a witness without the consent of the Tribunal which may be on such terms and conditions as the Tribunal considers just.
- (3) A Party may not call a witness to testify to matters not disclosed in the witness statement or summary of evidence without the consent of the Tribunal which may be on such terms and conditions as the Tribunal considers just.

**10.04 Expert Witness**

- (1) A Party that intends to call an expert witness at the Hearing shall provide to every other Party and file with the Tribunal Coordinator a written report signed by the expert containing the name, address and qualifications of the expert and the substance of the expert's proposed evidence including a list of all the documents to which the expert will refer.
- (2) If a Party fails to comply with the provisions of Rule 10.04 (1), the Party may not call the expert witness without consent of the Tribunal which may be on such terms and conditions as the Tribunal considers just.

**RULE 11: WITNESSES****11.01 Administration of Oaths**

- (1) A Member of the Tribunal has the power to administer oaths and affirmations for the purpose of any of its proceedings.

**11.02 Rights of parties to examine witnesses at Hearings**

- (1) A Party to a proceeding may, at a Hearing:
  - (a) call and examine witnesses and present evidence and submissions; and
  - (b) conduct cross-examinations of witnesses at the Hearing to the extent reasonably required for a full and fair disclosure of all matters relevant to the issues in the Hearing.

**11.03 Rights of Witnesses to an Agent**

- (1) A witness at a Hearing is entitled to be advised by an adviser as to his or her rights but such adviser may take no other part in the Hearing without leave of the Tribunal.
- (2) Where a Hearing or portion thereof is closed to the public, the Agent for a witness is not entitled to be present except when that witness is giving evidence.

**11.04 Summons to Witness**

- (1) The Tribunal may issue a summons to a witness on its own initiative or upon request of a Party.
- (2) The Tribunal may require any person, including a Party, by summons:
  - (a) to give evidence on oath or affirmation at a Hearing; and
  - (b) to produce in evidence at a Hearing documents and things specified in the summons or by the Tribunal;relevant to the subject matter of the proceeding and admissible at a Hearing.
- (3) A summons issued under subsection (1) shall be in the form prescribed by the *Statutory Powers Procedure Act* (in English or French) and, shall be signed by the Chair of the Tribunal.
- (4) The summons shall be served personally on the person summoned by the Party who requested the summons.

- (5) The person summoned shall receive the same fees or allowances for attending at or otherwise participating in the Hearing as are paid to a person summoned to attend before the Ontario Superior Court of Justice, and payment to such fees is the responsibility of the Party who requested the summons.
- (6) In the event that a warrant is issued by a judge of the Ontario Superior Court of Justice the procedures outlined in the *Statutory Powers Procedure Act* apply.
- (7) The Party requesting the summons from the Tribunal shall ensure that it is served within a minimum of five (5) days before the date the witness' attendance is required.

#### **11.05 Abuse of Processes**

- (1) The Tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.
- (2) The Tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.
- (3) The Tribunal may exclude from a Hearing anyone, other than a person licensed under the Law Society Act, appearing on behalf of a Party or as an adviser to a witness if it finds that such person is not competent to properly represent or to advise the Party or witness or does not understand and comply at the Hearing with the duties and responsibilities of an advocate or adviser.

**RULE 12: EVIDENCE****12.01 Admissible Evidence at a Hearing**

- (1) Subject to subsections (2) and (3) below, the Tribunal, in its discretion, may admit as evidence at a Hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court:
  - (a) any oral testimony; and
  - (b) any document or other thing;relevant to the subject matter of the Hearing and may act on such evidence, but the Tribunal may exclude anything unduly repetitious.
- (2) Nothing is admissible in evidence at a Hearing:
  - (a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or
  - (b) that is inadmissible by the statute under which the proceeding arises or any other statute.
- (3) Nothing in subsection (1) overrides the provisions of any *Act* expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding before the Tribunal.
- (4) Where the Tribunal is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a Hearing.
- (5) Where a document has been filed in evidence at a Hearing, the Tribunal may, or the person producing it or entitled to it may with leave of the Tribunal, cause the document to be photocopied and the Tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a Member of the Tribunal.
- (6) A document purporting to be a copy of a document filed in evidence at a Hearing, certified to be a copy thereof by a Member of the Tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document.

**RULE 13: HEARINGS****13.01 Hearings**

- (1) A Hearing shall be open to the public except where the Tribunal is of the opinion that:
  - (a) matters involving the public security may be disclosed; or
  - (b) intimate financial or personal or other matters may be disclosed at the Hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that Hearings be open to the public;

in which case the Tribunal may hold the Hearing, or portion thereof, in the absence of the public.

**13.02 Right to Counsel**

- (1) A Party to a proceeding may be represented by an Agent.

**13.03 Location**

- (1) Hearings shall be held at the City of Mississauga Civic Centre, 300 City Centre Dr. Mississauga ON L5B 3C1 unless otherwise specified in the Notice of Hearing.

**13.04 Agenda**

- (1) The Tribunal Coordinator shall compile an Agenda for each Hearing, to be distributed to all persons who received a Notice of Hearing, which shall include:
  - (a) a copy of the Notice of Decision appealed from;
  - (b) the Notice of Appeal and any accompanying documentation.

**13.05 Disposition of proceeding without a Hearing**

- (1) If the Parties consent, the proceeding may be disposed of by a decision of the Tribunal given without a Hearing.

**13.06 Recording of a Hearing**

- (1) No person shall take or attempt to take a photograph, motion picture, audio recording or other record capable of producing visual or aural representations by

electronic means or otherwise at a Hearing before the Tribunal that is open to the public, without the Tribunal's consent.

- (2) With the consent of the Tribunal, any Party may arrange for the attendance of a qualified verbatim reporter at his or her own expense for the purpose of recording all or part of the testimony and submissions during a Hearing. In considering whether to provide its consent, the Tribunal will consider, among other matters, whether to permit a record of only part of the Hearing would result in prejudice to a party.
- (3) If a Party orders a transcript or partial transcript, the Party must notify the Tribunal, and the other parties to the Hearing, that it has done so, and the Tribunal shall receive a copy free of charge, if the Tribunal requests a copy. The Party must furnish the copy of the transcript to the Tribunal within three days of the date of the Party's receipt of the transcript.
- (4) The Tribunal may at its own expense and, on notice to the Parties, order a transcript or partial transcript from the qualified verbatim reporter without furnishing a copy of the transcript to the Parties, however, in any such case the Tribunal will advise the Parties that it has ordered the transcript and where the Tribunal orders a partial transcript the Tribunal shall notify the Parties as to the part of the transcript the Tribunal has ordered.

**RULE 14: HEARING PROCEDURES****14.01 Quorum and Voting**

- (1) A minimum of three Members must be present to achieve quorum for a Hearing.
- (2) If no quorum is present within 30 minutes of the scheduled start time, all Hearings are rescheduled for the next standard Hearing date, and a fresh Notice of Hearing will be sent as if it were the first Notice of Hearing.
- (3) Notwithstanding clause (1) of this Section, when the number of Members who recuse themselves by reason of having declared an interest according to Section 14.03, leaves a remaining number of Members that does not make quorum, the remaining Members will be deemed to constitute quorum, provided that not less than two (2) Members remain present to continue the Hearing.
- (4) If constituted quorum for a Hearing is two (2) Members, a unanimous decision of the Tribunal is required.
- (5) Tribunal Members, including the Chair, may vote on all motions and other questions submitted at the Hearing.
- (6) In the case of a tie vote, the motion or question shall be deemed to have been lost.

**14.02 Opening Procedures**

- (1) The Chair shall call the Hearing to order and read an opening statement outlining the procedure and format of the Tribunal Hearing process.
- (2) The Chair will read out the proceedings listed on the Agenda.

**14.03 Statements**

- (1) The Chair will entertain any statements from Tribunal Members at this time.
- (2) Where a Tribunal Member has any pecuniary interest, direct or indirect, in any proceeding that is before the Tribunal, the Tribunal Member,
  - (a) shall, prior to any consideration of the Appeal, disclose the interest and the general nature thereof;
  - (b) shall recuse him or herself from the Hearing of that Appeal; and
  - (c) shall not attempt in any way whether before, during or after the Hearing to influence the decision of the Tribunal.

**14.04 Motions**

- (1) The Tribunal will hear motions regarding any proceeding listed on the Agenda.
- (2) The Tribunal will hear motions for adjournment requests prior to the commencement of any Hearing.
- (3) If a Party brings a motion regarding a proceeding not listed on the Agenda, the Tribunal may decide to hear the motion at that time or order that it be brought at a later date.

**14.05 Hearing of Appeals**

- (1) Subject to any motions previously adopted by the Tribunal, the Chair will indicate that the Tribunal will now hear the first Appeal on the Agenda.

**14.06 Parties to an Appeal**

- (1) The Chair requests that the Parties to an Appeal to identify themselves, including any witnesses who intend to give evidence on behalf of either Party to the Appeal.

**14.07 Order of Presentation**

- (1) The City may make an opening statement.
- (2) The Appellant may make an opening statement.
- (3) The City is requested to present the Licensing Decision and related evidence and witnesses.
- (4) The Appellant may cross –examine each of the City’s witnesses and the City may re-examine those witnesses.
- (5) The Tribunal Members may ask questions of any witness, through the Chair.

**14.08 Presentation of the Appeal**

- (1) The Appellant is requested to present evidence which may include witnesses with respect to the Appeal of the Licensing Decision.
- (2) The Tribunal will allow the Appellant to complete their presentation before asking any questions, unless clarification is required before the presentation is completed.
- (3) The Tribunal may, through the Chair, ask questions of the Appellant or any of his or her witnesses to clarify any evidence presented.

- (4) The City may cross - examine the Appellant or his or her witnesses and the Appellant may re-examine those witnesses.

#### **14.09 Other representations; Right of Reply**

- (1) After the Appellant's presentation, the Tribunal will hear from anyone else who wishes to make representations before the Tribunal pertaining to the matter.
- (2) Persons giving evidence under subsection (1) are subject to questions by the Tribunal, the Appellant or the Appellant's Agent, and the Agent for the City.
- (3) The City's Agent has the right of reply on matters which could not have been anticipated prior to hearing the Appellant's evidence.

#### **14.10 Closing Statements**

- (1) At the conclusion of all evidence presented, both Parties are entitled to make final submissions to the Tribunal.

#### **14.11 Tribunal Decision**

- (1) The Tribunal may give an oral decision or may reserve its decision.
- (2) The Tribunal may recess at any time to consider its final decision or any interim decision during the Hearing.
- (3) If the decision is reserved the Chair will advise the Appellant that the Appellant will be notified by registered mail of the Tribunal's decision.

#### **14.12 Notice of Decision**

- (1) The Tribunal Coordinator will forward notice of the Tribunal's decision within fourteen (14) days of the Hearing to all persons who received Notice of the Hearing and to everyone who appeared before the Tribunal at the Hearing.
- (2) The written decision sent in the Notice of Decision will be signed by all Members of the Tribunal that took part in the Hearing and will contain written reasons to support the decision.
- (3) The Notice of Decision shall contain a record of the proceedings, compiled by the Tribunal Coordinator, which shall include:
  - (a) list of persons present;
  - (b) list of witnesses and for whom they testified;
  - (c) any interlocutory orders made by the Tribunal; and

- (d) all documentary evidence filed with the Tribunal, subject to any limitations expressly imposed by any other *Act*.

#### **14.13 Exceptions from Procedures**

- (1) The Tribunal may grant all necessary exceptions from the procedures listed in this Rule as it considers appropriate to ensure that a fair and just Hearing is conducted.