




INFORMATION REPORT

Hamilton

TO:	Chair and Members Licensing Tribunal
COMMITTEE DATE:	June 12, 2018
SUBJECT/REPORT NO:	Broadcasting Policy (LS18017) (City Wide)
WARD(S) AFFECTED:	City Wide
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SIGNATURE:	

TRIBUNAL DIRECTION:

Item 4.2 respecting the Broadcasting Policy of the Minutes 17-001 from the June 15, 2017 Hamilton Licensing Tribunal directed City Solicitor to report back to the tribunal with information about the recording and broadcasting policy used by the City of Toronto for its tribunal hearings.

INFORMATION:

TORONTO:

Toronto Licensing Tribunal:

Toronto Licensing Tribunal ("TLT") administration staff confirmed that TLT has not adopted any written policy respecting recording/broadcasting of hearings. Recording/broadcasting of hearings is also not addressed in the *City of Toronto Act*, the Toronto Licensing By-law or the Toronto Licensing Tribunal Rules of Procedure.

While the TLT hearings are open to the public in accordance with the jurisprudence developed under the "open courts principle", as a general practice, media coverage is not allowed. Any requests to record/broadcast are considered by the TLT on a case-by-case basis. In the opening script, the TLT Hearing Panel Chair advises the attendees to turn off all media devices as it interferes with the audio recording of hearings. If a request to record/broadcast is received, TLT seeks input from the affected parties, including any third party, such as the media, who wish to record/broadcast. Given that

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the hearings often involve intimate financial or personal matters (including matters that may be criminal in nature), staff advised that in Toronto, subject to input from the parties and absent exceptional circumstances, to ensure consistency with the common practice in Ontario, staff advocate against permitting any recording/broadcasting of TLT proceedings.

TLT's practice is consistent with that adopted in the *Courts of Justice Act* by courts in Ontario. Section 136 of the *Courts of Justice Act* attached as Appendix "A" to Report LS18017 prohibits the recording/broadcasting, reproduction and dissemination of aural or visual recordings or representations, subject to exceptions listed in that section, which include the authorization of a judge.

Toronto Local Appeal Body (planning matters):

The Toronto Local Appeal Body Rules of Practice and Procedure, attached as Appendix "B" to Report LS18017, expressly addresses media coverage by prohibiting the recording of hearings unless permitted by the presiding member. The following are the relevant excerpts of the Rules:

Media Coverage - Photographic, Audio or Video Recording

27.5 No Person shall take or attempt to take a photograph, motion picture, video recording, or other recording capable of producing visual or auditory representations by electronic means, or otherwise, at any Proceeding of the Local Appeal Body, unless the presiding Member authorizes such recording, on such terms or conditions as the presiding Member may direct.

Withdrawal of Approval 27.7

27.7 If any authorization to record is granted under Rule 27.5 the Local Appeal Body may withdraw permission to record temporarily or permanently

MISSISSAUGA

Licensing Tribunal

In Mississauga, the Appeal (Licensing) Tribunal Rules of Practice and Procedure, attached as Appendix "C" to Report LS18017, contain a general prohibition of audio recording without the consent of the Tribunal. Unlike the Broadcasting Policy proposed in the City of Hamilton, the Mississauga Rules do not expressly set out the standard/test to be applied when considering whether consent to record/broadcast should be granted. Specifically, section 13.06 of the Rules provides as follows:

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.

Property Standards Tribunal

Mississauga's Property Standards Committee Rules of Practice and Procedure also contain a general prohibition of audio recording of hearings, though they do not expressly provide for a consent by the Committee, except in a case of a qualified verbatim reporter. Specifically, section 12.6 of the Property Standards Rules provides as follows:

12.6 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 Committee that is open to the public.
- (2) Any Party may arrange for the attendance of a qualified verbatim reporter at his or her own expense for the purpose of recording all testimony and submissions during a Hearing.

- (3) Before a qualified verbatim reporter is permitted to record only part of a Hearing, the Party retaining the qualified verbatim reporter must obtain the consent of the Committee. In considering whether to provide its consent, the Committee will consider, among other matters, whether to permit a record of only part of the Hearing would result in prejudice to a party.
- (4) If a Party orders a transcript or partial transcript, the party must notify the Committee, and the other Parties to the Hearing, that it has done so, and the Committee shall receive a copy free of charge, if the Committee requests a copy. The Party must furnish the copy of the transcript to the Committee within three days of the date of the party's receipt of the transcript.
- (5) The Committee 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 Committee will advise the Parties that it has ordered the transcript and where the Committee orders a partial transcript the Committee shall notify the Parties as to the part of the transcript the Committee has ordered.

Apart from these sections, recording or broadcasting is not otherwise addressed in the Licensing or Property Standards Rules in Mississauga.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – *Courts of Justice Act*, R.S.O. 1990, c. C 43 – excerpt

Appendix "B" – Mississauga Appeal Tribunal rules of Practice and Procedure

Appendix "C" – Mississauga Property Standards Committee Rules of Practice and Procedure

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