

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 9, 2020
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	APPOINTMENT OF HEARINGS OFFICERS TO CONDUCT HEARINGS UNDER VARIOUS CITY OF LONDON BY-LAWS

RECOMMENDATION

That, on the recommendation of the City Clerk, the attached proposed by-law (Appendix "A") being "A by-law to approve the appointments of Hearings Officers in accordance with By-law A.-6653-121, as amended", BE INTRODUCED at the Municipal Council meeting to be held on March 24, 2020.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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April 13, 2011, Finance and Administration Committee
June 19, 2018, Corporate Services Committee

BACKGROUND

The Municipal Council, at its meeting held on April 11, 2011, enacted "A By-law to establish the positions of Hearings Officer" to hear appeals under various City by-laws and to approve the "Rules of Practice and Procedure for Hearings Before a Hearings Officer", pursuant to Section 23.1 of the *Municipal Act, 2001* and the *Statutory Powers Procedure Act*.

Three Hearings Officers have been appointed by Municipal Council and delegated the authority to hear appeals under various City by-laws. A single officer conducts the hearings and issues a final decision with reasons. The Hearings Officers have been rotating the responsibilities for conducting hearings based on the availability of the individual. This has provided flexibility in setting hearing dates and has resulted in timely responses to appeals.

The Hearings Officer By-law requires Hearings Officers to be Canadian citizens and possess the following:

- knowledge and prior experience in administrative law;
- be of good character;
- ability to carry out a fair and impartial hearing;
- ability to write a clear and concise decision;
- ability to communicate effectively with the public;
- an understanding of *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22*; and,
- an understanding of the *Municipal Act, 2001, S.O. 2001, c. 25*.

Since 2012, the City of London’s Hearings Officers have dealt with 102 appeals under various City of London by-laws. The chart below summarizes the appeals that have been considered to date.

TYPE OF APPEAL	# of Appeals Received
Dog muzzle appeals	59
Sign and Canopy appeals	3
Vital Services By-law appeals	4
Tree Conservation By-law appeals	17
Residential Rental Units Licensing By-law appeals	8
Vehicle For Hire By-law appeals	15
Business Licensing By-law appeals	10
Administrative Monetary Penalties (Parking Violations)	35
Total	151

Subsequent to the appointment of the Hearings Officers in 2011 and 2018, additional City of London By-laws have been added to the list of By-laws appealable to a Hearings Officer. In addition, commencing November 1, 2019, the Hearings Officers are now responsible for considering appeals under the Administrative Monetary Penalties By-law A-54, with respect to parking violations. Commencing in June 2020, the Hearings Officers will also consider appeals under the Property Standards By-law that had previously been dealt with by the Committee of Adjustment. It is noted that Property Standards By-law appeals requires a minimum of three Hearings Officers to hear the appeals, rather than a single Hearings Officer.

As a result of the additional responsibilities and the need to have a minimum of three Hearings Officers to consider a Property Standards Appeals, the Civic Administration is recommending that two (2) additional Hearings Officers be appointed to assist with the number of appeals being received, so that the appeals can be dealt with in a timely manner.

The Civic Administration has approached Dan Ross and Christene Scrimgeour who are currently members of the 2018 Municipal Election Compliance Audit Committee to also serve as Hearing Officers. Both individuals have expressed an interest in being appointed and meet the qualifications as set out in the Hearings Officer By-law. The applicants have submitted a summary of their qualifications which are attached as Appendix “B” to this report, for the information of the Municipal Council.

A copy of the Hearings Officer By-law A.-6653-121, as amended, is attached as Appendix “C” to this report, for the information of the Municipal Council.

To-date, the Hearings Officers have not received remuneration for the work undertaken by them, however it is recommended that a fee of \$100.00 per day be implemented commencing May 1, 2020. It is recommended that the remuneration and costs to conduct the Hearings be funded from budget transfers to the City Clerk’s Office from Development and Compliance Services under the Administrative Monetary Penalties By-law and revenue received from the fee submitted with an appeal request. It is noted that an appeal fee is not applicable under the Administrative Monetary Penalties By-law.

Conclusion

The Civic Administration is recommending that the Municipal Council appoint Dan Ross and Christene Scrimgeour as additional Hearings Officers to assist with the appeals workload.

PREPARED AND RECOMMENDED BY:
CATHY SAUNDERS CITY CLERK

APPENDIX “A”

Bill No.
2020

By-law No.

A by-law to approve the appointments of Hearings Officers in accordance with By-law A.-6653-121, as amended, being “A by-law to establish the positions of Hearings Officer”.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 23.2 of the *Municipal Act, 2001*, as amended permits a municipal Council to delegate its powers and duties to an individual who is an officer of the municipality;

AND WHEREAS the Council of The Corporation of the City of London enacted By-law No. A.-6653-121 being “A by-law to establish the positions of Hearings Officer” on April 18, 2011 and amended on June 26, 2018;

AND WHEREAS the Council of The Corporation of the City of London wishes to appoint Dan Ross and Christene Scrimgeour as Hearings Officers in accordance with By-law A.-6653-121, as amended, being “A by-law to establish the positions of Hearings Officer”;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Dan Ross and Christene Scrimgeour be hereby appointed as Hearings Officers in accordance with By-law A.-6653-121, as amended, being “A by-law to establish the positions of Hearings Officer”.
2. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on March 24, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

APPENDIX “B”

Christene Scrimgeour

Christene Scrimgeour is managing partner of Scrimgeour & Company CPA, Professional Corporation. The firm was established in 1998 and currently audits thirteen municipalities in Southwestern Ontario, as well as many not-for-profit organizations, registered charities and foundations. In addition, the firm provides extensive tax, accounting and advisory services.

Christene's professional activities include teaching A.M.C.T.O. courses and delivering speeches at various municipal functions. She attends Municipal Finance Officers Association's (MFOA) annual conference and CPA Ontario PSAB courses.

Christene is a member of CPA Ontario's Practice Inspection Committee and past founding member of CPA Ontario's Small Practice Committee.

Dan Ross

Dan Ross is a retired London lawyer and local business owner who has served on many community organizations, including the London Health Sciences Foundation and the Richard Ivey School of Business. He continues to be strongly engaged in various local volunteer opportunities. Mr. Ross has also served as a Commissioner on Ontario's Health Services Restructuring Commission and as Chair of the Council Compensation Review Task Force.

In addition to his legal and business expertise, Mr. Ross has diverse skills covering such areas as Planned Giving, Stewardship, Fundraising, Annual Giving, Event Management, Philanthropy, Volunteer Management, Strategic Planning, Non-profits, Leadership, Coaching, Event Planning Community Development, Community Outreach, Grant Writing, Strategic Communications, Media Relations, Leadership Development, Public Relations, Public Speaking, Board Development, Prospect Research, Corporate Communications and Marketing Communications.

APPENDIX “C”

By-law No. A.-6653-121, as amended
being “A by-law to establish the
positions of Hearings Officers”.

WHEREAS Council of The Corporation of the City of London considers it necessary and desirable to establish the positions of Hearings Officers to whom may be delegated quasi-judicial and legislative authority under various City By-laws;

AND WHEREAS Section 23.2 of the *Municipal Act, 2001* permits a municipal Council to delegate its powers and duties to an individual who is an officer of the municipality;

NOW THEREFORE the Council of The Corporation of the City of London enacts as follows:

1. In this By-law,
 - (a) “Child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of her or his family;
 - (b) “City” means The Corporation of the City of London;
 - (c) “Council” means the Council of the City;
 - (d) “Delegated Power of Decision” means a power or right, conferred by or under a City By-law, to make a decision deciding or prescribing,
 - i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is legally entitled thereto or not;
 - (e) “hearing” means any hearing in a proceeding;
 - (f) “Hearings Officer” means each person from time to time appointed by Council pursuant to section 3 of this By-law;
 - (g) “Parent” means a person who has demonstrated a settled intention to treat a child as a member of her or his family whether or not that person is the natural parent of the child;
 - (h) “proceeding” means any matter brought before a Hearings Officer for a hearing; and
 - (i) “Spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.
2. The positions of Hearings Officers are hereby established for the purpose of exercising Delegated Powers of Decision.
3. Hearings Officers shall be appointed by Council on the recommendation of the City Clerk which recommendation shall give preference to eligible candidates:
 - a) with knowledge and prior experience in administrative law;
 - b) of good character;
 - c) able to carry out a fair and impartial hearing;

- d) able to write a clear and concise decision;
 - e) able to communicate effectively with the public;
 - f) with excellent written and oral communication skills;
 - g) with an understanding of the *Statutory Powers Procedure Act, R.S.O. 1990, c.S.22*;
 - h) with an understanding of the *Municipal Act, 2001, S.O. 2001, c. 25*;
 - i) who are Canadian citizens;
 - j) who can provide a satisfactory Police records check.
4. The following are not eligible for appointment as Hearings Officer:
- a) an employee or member of Council of the City;
 - b) the Child of a person referenced in 4(a);
 - c) the Parent of a person referenced in 4(a);
 - d) the Spouse of a person referenced in 4(a); or
 - e) a person indebted to the City other than:
 - i) in respect of current real property taxes; or
 - ii) pursuant to an agreement with the City the terms with which the person is in compliance.
5. Each Hearings Officer shall hold office at the pleasure of Municipal Council.
6. The Rules of Practice and Procedure governing all proceedings before a Hearings Officer are set out in Schedule 1 to this By-law.
7. A decision by a Hearings Officer is a statutory power of decision within the meaning of the *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22* and that Act, except for Sections 17.1 (power to award costs), 18 (requirement to send copies of final decision and order) and 19 (enforcement of order by filing with Superior Court of Justice), applies to a Hearings Officer and any hearing conducted by her or him.
8. The City Clerk or his or her designate, shall determine the scheduling of hearings before any Hearings Officer having regard to the efficiency and timeliness of hearings processes and to the availability of Hearings Officers.
9. No person shall attempt, directly or indirectly, to communicate with or influence a Hearings Officer respecting the determination of an issue respecting a Delegated Power of Decision in a proceeding that is or will be pending before the Hearings Officer except a person who is entitled to be heard in the proceeding or the person's lawyer or licensed paralegal and only by that person or the person's lawyer or licensed paralegal during the hearing in which the issue arises. Failure to comply with this section constitutes an offence.
10. Section 9 does not prevent a Hearings Officer from seeking and receiving legal advice including from a lawyer in the City Solicitor's Office.
11. The City Clerk shall provide administrative support related to proceedings before a Hearings Officer, including without limitation, the making and keeping of minutes and records of all requests for hearings and appeals and decisions arising therefrom and of all other official business of Hearings Officers.
12. Section 253 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended (Inspection of Records) applies with necessary modifications to documents made or kept pursuant to section 11.
13. This by-law may be referred to as the "Hearings Officer By-law".

14. This By-law is in force and effect on the date it is passed.

PASSED in Open Council on April 18, 2011.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

SCHEDULE 1

RULES OF PRACTICE AND PROCEDURE FOR HEARINGS BEFORE A HEARINGS OFFICER

1. DEFINITIONS

1.1 In these Rules, unless the context otherwise requires, the following terms have the following meanings:

"appellant" means a person making an appeal under any by-law of the City which permits an appeal to a Hearings Officer;

"City" means The Corporation of the City of London;

"Clerk" means the City Clerk of The Corporation of the City of London or her or his designate;

"document" includes a written document, sound recording, videotape, file, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device;

"electronic hearing" means a hearing held by conference telephone call or some other form of electronic technology allowing persons to hear one another;

"hearing" means any hearing in a proceeding;

"Hearings Officer" means a Hearings Officer appointed under the City's Hearings Officer By-law;

"holiday" means:

- (i) any Saturday or Sunday;
- (ii) New Year's Day;
- (iii) Family Day;
- (iv) Good Friday;
- (v) Easter Monday;
- (vi) Victoria Day;
- (vii) Canada Day;
- (viii) Civic Holiday;
- (ix) Labour Day;
- (x) Thanksgiving Day;
- (xi) Christmas Day;
- (xii) Boxing Day; and extended holiday closure, and
- (xiii) Any special holiday proclaimed by the Governor General of Canada or the Lieutenant Governor of Ontario, and where New Year's Day or Canada Day falls on a Saturday or Sunday, the following Monday is a holiday, and where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are holidays, and where Christmas Day falls on a Friday, the following Monday is a holiday;

"motion" means a request for a decision, order or direction of the Hearings Officer made during a proceeding;

"oral hearing" means a hearing at which the parties or their counsel, agents or other representatives attend in person;

"party" means a party specified as a party by law, the person who is the subject of a hearing, a person who has requested a hearing pursuant to law and any person who has been given party status by a Hearings Officer, and shall where applicable, include the City;

"proceeding" means a matter brought before a Hearings Officer for a hearing;

"Rules" means these rules; and

"written hearing" means a hearing held by means of the exchange of documents whether in written form or by electronic means.

2. APPLICATION

- 2.1 These Rules apply to all proceedings before a Hearings Officer exercising a delegated power of decision under the City's Hearings Officer By-law.
- 2.2 These Rules do not apply if a statute or by-law provides for a different procedure to govern proceedings of a Hearings Officer in the exercise of his or her duties.

3. INTERPRETATION

- 3.1 These Rules shall be broadly interpreted so as to ensure the most just and expeditious determination of a hearing on its merits.
- 3.2 Where procedures are not provided for in these Rules, a Hearings Officer may do whatever is necessary and permitted by law to effectively determine the matter before him or her.
- 3.3 A Hearings Officer may exercise any of his or her powers under these Rules on his or her own initiative or at the request of a party.
- 3.4 A defect in form or other technical breach will not make a proceeding invalid.
- 3.5 Where a party to a proceeding has not complied in full with any Rule or procedural order, the Hearings Officer may:
 - (a) grant all necessary amendments or other relief, subject to such conditions as the Hearings Officer considers just;
 - (b) adjourn the proceeding until it is satisfied that such Rule or procedural order has been complied with; or
 - (c) take such other steps as the Hearings Officer considers just and reasonable.

4. CALCULATION OF TIME

- 4.1 To calculate time under these Rules or a procedural order:
 - (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;
 - (b) 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;
 - (c) where a time of day is mentioned in these Rules or in any order in a proceeding, the time referred to shall be the time observed locally in the City of London; and
 - (d) Where a document is filed or served after 4:00 p.m. on any day or at any time on a holiday, the document shall be deemed to have been filed or served on the next day that is not a holiday.

5. EXTENDING OR ABRIDGING TIME

- 5.1 A Hearings Officer may extend or abridge any time prescribed in these Rules or established by a procedural order during a proceeding, on such terms as are just. Where a party cannot meet a time limit prescribed by the Rules, the party shall promptly notify the Clerk and apply for an extension of time by motion.

6. FILING

- 6.1 Filing of any document by any party to a hearing with the Clerk may be effected by personal delivery, by ordinary or registered mail, by fax transmission, by courier, by email or otherwise as the Hearings Officer may order.
- 6.2 All written documents filed shall be legible.

- 6.3 All documents filed with the Clerk by a party shall be served on all other parties by the party forthwith after filing.
- 6.4 Where a document is filed, the Clerk shall date stamp the document. Subject to Rule 4.1, the date of the receipt stamp on the document shall be deemed to be the date of filing, unless the Hearings Officer orders otherwise. A party may request confirmation from the Clerk that a document filed was properly received.
- 6.5 Where the Hearings Officer and the Clerk have no record of the receipt of a document alleged to have been filed, the documents shall be deemed not to have been filed, unless the Hearings Officer orders otherwise.
- 6.6 Where a filing is made by fax, the document shall include a cover page containing the following items:
- (a) the name, address and telecommunication numbers of the sender;
 - (b) the date and time the document is transmitted;
 - (c) the telephone number from which the document is transmitted;
 - (d) the total number of pages transmitted including the cover page; and
 - (e) the name and telecommunication numbers of a person to contact if a problem arises with the transmission of the fax.
- 6.7 The Hearings Officer may direct that where a document is filed by electronic transmission, by email, or by fax, the original and all copies required shall be delivered by a specified time.

7. SERVICE OF DOCUMENTS

- 7.1 Service means the effective delivery of a document to a person or to the representative of that person. Service may be made by:
- (a) personal delivery by delivering the document to the person;
 - (b) courier service to the person's last known address;
 - (c) ordinary or registered mail to the person's last known address;
 - (d) email to the person's last known email address;
 - (e) fax to the person's last known fax transmission number; or
 - (f) otherwise as the Hearings Officer may order.
- 7.2 Without limiting the ability of the Hearings Officer to order service in some other manner, the Hearings Officer may direct service be made by public advertisement.
- 7.3 Where an oral or electronic hearing is in progress, service may also be made by:
- (a) providing the document to the parties present at the hearing;
 - (b) serving the document on any other party who is not present and requests a copy of the document; or
 - (c) any other means directed by the Hearings Officer.
- 7.4 Where a service is made by fax, the document shall include a cover page containing the following items:
- (a) the name, address and telecommunication numbers of the sender;
 - (b) the name of the person to be served;
 - (c) the date and time the document is transmitted;
 - (d) the telephone number from which the document is transmitted;
 - (e) the total number of pages transmitted including the cover page; and
 - (f) the name and telecommunication numbers of a person to contact if a problem arises with the transmission of the fax.
- 7.5 A document that is more than 20 pages may not be served by fax on other parties unless prior consent from the intended recipient is obtained.

- 7.6 Subject to Rule 4.1, service will be effective:
- (a) if the document is delivered by personal delivery, courier, email or fax, on the same day that delivery is made;
 - (b) if the document is delivered by regular or registered mail, on the 5th day after the date of mailing;
 - (c) if service is made by public advertisement, on the last day of publication where there is more than one day of publication or the day of publication where there is only one day of publication; or
 - (d) if service is made by any other means, within the time frames directed by the Hearings Officer.
- 7.7 The Hearings Officer may direct a party who has served a document to file an affidavit of service that indicates how, when and to whom service was made.

8. NOTICE OF APPEAL / REQUEST FOR HEARING

- 8.1 Where an appellant requests a hearing before a Hearings Officer, the notice of appeal shall be in writing, shall be filed with the Clerk and shall include:
- (a) an identification of the appellant and any other party;
 - (b) the addresses, telephone numbers, email address and, where available, fax number for each person identified in clause (a);
 - (c) the name, address telephone number and email address of any agent, representative or lawyer representing the appellant or any other party identified in clause (a);
 - (d) whether special services or accommodation are required, including translation services or services for the visually or hearing impaired;
 - (e) the reasons in support of the appeal; and
 - (f) the signature of the appellant or representative.
- 8.2 Within 5 days after receiving a notice of appeal, the Clerk shall notify the appellant or the appellant's representative, if:
- (a) the documents are incomplete;
 - (b) the documents are received after the time required for filing a notice of appeal has elapsed; or
 - (c) there is some other technical defect in the notice of appeal.
- 8.3 Where the Clerk decides not to process the notice of appeal due to a deficiency listed in Rule 8.2, the Clerk shall provide the party filing the request for hearing notice of such decision, specifying the deficiencies which need to be corrected. Such notice shall advise that the notice of appeal may be commenced upon the party correcting the deficiencies listed in the notice except if the notice has been received after the time required for commencing the proceeding has elapsed.
- 8.4 Subject to Rules 8.2 and 8.3, upon receipt of a request for hearing pursuant to Rule 8.1, the Clerk shall set the hearing date and determine the location and format of the hearing. Upon setting the hearing date and determining the location and format of the hearing, the Clerk shall, provide a written notice of hearing to the parties and others as required by law and as the Clerk considers necessary.
- 8.5 A Notice of Hearing shall contain:
- (a) a reference to the statutory authority or by-law authority under which the hearing is being held;
 - (b) a statement of the time and the purpose of the hearing;
 - (c) a statement that if the party does not participate in the hearing in accordance with the notice, the Hearings Officer may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding;
 - (d) any other information the Clerk considers necessary for the proper conduct of the hearing.

- 8.6 In addition to the requirements for a notice of hearing set out in Rule 8.5, a notice of hearing for an oral hearing shall contain:
- (a) the location of the hearing; and
 - (b) a statement that the hearing will be open to the public unless the Hearings Officer directs otherwise.
- 8.7 In addition to the requirements for a notice of hearing set out in Rule 8.5, a notice of hearing for an electronic hearing shall contain:
- (a) details about the manner in which the hearing will be held; and
 - (b) a statement that a Hearings Officer shall not hold an electronic hearing if a party satisfies the Hearings Officer that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.
- 8.8 In addition to the requirements for a notice of hearing set out in Rule 8.5, a notice of hearing for a written hearing shall contain:
- (a) a statement that the parties will be required to exchange documents with other parties;
 - (b) a statement that the parties will have an opportunity to ask questions in writing on the documents, which the other parties will be required to answer, and will have an opportunity to make submissions; and
 - (c) a statement that the Hearings Officer shall not hold a written hearing if a party satisfies the Hearings Officer that there is good reason for not doing so.

9. DISMISSING PROCEEDINGS WITHOUT A HEARING

- 9.1 The Hearings Officer may dismiss a proceeding without a hearing if:
- (a) the proceeding is frivolous, vexatious or is commenced in bad faith;
 - (b) the proceeding relates to matters that are outside the jurisdiction of the Hearings Officer; or
 - (c) some aspect of the statutory requirements for bringing the proceeding has not been met.
- 9.2 Before dismissing a proceeding under this Rule, the Hearings Officer shall give notice of his or her intention to dismiss the proceeding to all parties setting out the reasons for the dismissal and informing the parties of their right to make written submissions to the Hearings Officer within 10 days of notice being given.

10. PROCEDURAL ORDERS

- 10.1 In any proceeding, the Hearings Officer may issue procedural orders which shall govern the conduct of the proceeding.
- 10.2 The Hearings Officer may, at any time during a proceeding, amend any procedural order which he or she has issued.
- 10.3 The Hearings Officer may, where satisfied that the special circumstances of the proceeding so require, vary or waive compliance with all or any part of any Rule at any time by making a procedural order.
- 10.4 Where a provision of these Rules is inconsistent with a procedural order, the procedural order shall prevail.
- 10.5 Subject to any procedural order issued by the Hearings Officer, the parties to a proceeding may, on consent, waive any of the provisions of these Rules.
- 10.6 A party seeking a waiver of any of the provisions of these Rules shall do so on a timely basis.

11. MOTIONS

- 11.1 The party bringing the motion shall file with the Clerk a copy of the notice of motion setting out the relief sought, the grounds for the motion, the evidence to be relied upon, and the relief sought and serve a copy of the material filed on the other parties.

- 11.2 The Hearings Officer shall direct the procedure to be followed for hearing the motion and may set applicable time limits.
- 11.3 A motion may be made during a hearing, with or without notice, and shall be disposed of in such manner as the Hearings Officer considers appropriate.

12. DISCLOSURE

- 12.1 The Hearings Officer may, at any stage in a proceeding make orders for:
 - (a) the exchange of documents;
 - (b) the oral or written examination of a party; or
 - (c) any other form of disclosure.
- 12.2 The Hearings Officer's power to make orders for disclosure is subject to any statute or regulation that applies to the proceeding and nothing in this Rule requires the disclosure of any document which is privileged by law.
- 12.3 Where the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto.

13. SUMMONSES

- 13.1 The Hearings Officer may require any person, including a party, to attend at the hearing to give evidence under oath or affirmation and to produce in evidence documents and things as specified by the Hearings Officer relevant to the subject matter of the hearing and admissible at a hearing.
- 13.2 A party may request a summons to witness which may be issued by the Hearings Officer provided that he or she is satisfied by the party requesting the summons that the person to be summoned is able to give material evidence in the proceeding.
- 13.3 A summons issued under Rule 13.1 or 13.2 shall be in the form prescribed by the *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22* and signed by the Hearings Officer and shall be served personally on the person summoned.
- 13.4 A person summoned under Rule 13.1 is entitled to receive from the City and a person summoned under Rule 13.2 is entitled to receive from the party who summoned him/her the fees or allowances for attending at or otherwise participating in the hearing as are paid to a person in accordance with Tariff 'A' of the Rules of Civil Procedure.

14. HEARINGS

- 14.1 The Hearings Officer may hold:
 - (a) an oral hearing;
 - (b) a written hearing;
 - (c) an electronic hearing; or
 - (d) a hearing which combines one or more of the above formats.
- 14.2 A party to a proceeding may be represented by counsel, agent or other representative. A representative may act on behalf of and represent a person in respect of a proceeding or hearing before the Hearings Officer where the Hearings Officer is satisfied that:
 - (a) the person is entitled to be heard by the Hearings Officer;
 - (b) the representative is a lawyer, a licensed paralegal or a person who is exempt from the requirement to be licensed by By-law passed pursuant to the *Law Society Act, R.S.O. 1990, c. L.8*;
 - (c) the person has authorized in writing the representative to act on behalf of and to represent the person in the particular proceeding or hearing;
 - (d) the written authorization specifies the representative's qualification for the purpose of paragraph 6.3(b) including, in the case of a representative who claims to be exempt from the requirement to be licensed, the particular ground prescribed by By-law passed pursuant to the *Law Society Act*,

R.S.O. 1990, c. L.8 upon which the representative purports to be exempt; and

- (e) the written authorization has been filed in the proceeding or hearing before the Hearings Officer and remains in effect.
- 14.3 If a person requires a translator at any time during a proceeding, the person must provide the translator at the person's own expense.
- 14.4 Hearings shall be open to the public except where the Hearings Officer is of the opinion that,
- (a) matters involving public security may be disclosed; or
 - (b) intimate financial or personal matters 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 Hearings Officer may hold the hearing in the absence of the public.
- 14.5 No person shall take or attempt to take a photograph, motion picture, video recording, or other recording capable of producing visual or aural representations by electronic means or otherwise, at any hearing otherwise open to the public, except in the following circumstances:
- (a) No fewer than three (3) days prior to the hearing, the person gives written notice to the Clerk of the person's intention to request the Hearings Officer for permission to record the hearing which notice specifies the proposed means of recording;
 - (b) The person bears all costs related to the proposed recording;
 - (c) Where the person proposes verbatim transcription:
 - i) the recording is undertaken by a qualified verbatim reporter;
 - ii) all testimony and submissions respecting the hearing are recorded; and
 - iii) the person delivers to the Clerk no fewer than two (2) certified copies of the transcript prepared by the qualified verbatim reporter within three (3) days of the reporter's completion of the transcript;
 - (d) the Hearings Officer determines that the hearing will not be disrupted or delayed if approval is given;
 - (e) the Hearings Officer determines that the approval will not result in any prejudice to any party to the proceeding;
 - (f) prior to the commencement of the hearing, the Hearings Officer authorizes the recording and has not revoked the authorization; and
 - (g) the recording is undertaken only in accordance with the Hearings Officer's approval including any terms or conditions to such approval.
- 14.6 A party may:
- (a) at any hearing, present evidence and submissions; and
 - (b) at an oral or electronic hearing, call and examine witnesses and conduct cross-examinations of witnesses reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding.
- 14.7 Unless the Hearings Officer directs otherwise, the process for all hearings shall be as follows:
- (a) the Hearings Officer will call the hearing to order and may advise the parties of the hearing process;
 - (b) the Hearings Officer may decide which of the parties it wished to hear from first, but it is customary that the City proceed first;
 - (c) a party may make a brief opening statement;
 - (d) the Hearings Officer will swear or affirm the witnesses;
 - (e) each party will present its case by calling witnesses. The process for each witness to give evidence is: direct examination, cross-examination and re-examination, if any;

- (f) the Hearings Officer may ask questions of the witnesses at any time;
 - (g) a party may make a brief closing statement;
 - (h) this process is subject to change by the Hearings Officer if he or she finds that there is a fairer way of proceeding.
- 14.8 All parties to a hearing shall bring to the hearing legible copies of all documents they intend to rely on during the hearing for the Hearings Officer and the other parties.
- 14.9 The Hearings Officer may adjourn a hearing at any time on such conditions as he or she considers just.
- 14.10 Where a person is properly notified of a hearing and does not attend at the time and place appointed, the Hearings Officer may proceed in that person's absence and without further notice to that person.

15. EVIDENCE AT HEARINGS

- 15.1 The Hearings Officer may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible in a court,
- (a) any oral testimony; and
 - (b) any document or other thing,
- relevant to the subject matter of the proceeding and may act on such evidence, but the Hearings Officer may exclude anything unduly repetitious.
- 15.2 Nothing is admissible in evidence at a hearing, that would be inadmissible in a court by reason of any privilege under the law of evidence or that is inadmissible by the statute or by-law under which the proceeding arises or any other statute.
- 15.3 Nothing in Rule 15.1 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 hearing.
- 15.4 Where the Hearings Officer is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.
- 15.5 Where a document has been filed in evidence at a hearing, the Hearings Officer may, or the person producing it or entitled to it may with the leave of the Hearings Officer, cause the document to be photocopied and the Hearings Officer 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 the Hearings Officer.
- 15.6 In any hearing before the Hearings Officer, a statement respecting a matter related to the hearing purporting to be signed by any of the following individuals in relation to their respective individual areas of responsibility is receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the statement for all purposes in the hearing:
- (a) the City Planner
 - (b) the City's Licence Manager
 - (c) the City's Manager of By-law Enforcement
 - (d) an Animal Control Officer of the City of London
 - (e) a person authorized by a City by-law to undertake inspections.
- 15.7 The Hearings Officer may, in making a decision in any hearing,
- (a) take notice of facts that may be judicially noticed; and
 - (b) take notice of any generally recognized scientific or technical facts, information or opinions within his or her scientific or specialized knowledge.

16. WITNESSES

- 16.1 Unless these Rules provide otherwise, witnesses at a hearing shall be examined orally and the examination may consist of direct examination, cross-examination and re-examination. The Hearings Officer may determine whether or not evidence from a witness needs to be under given under oath or affirmation.

- 16.2 There shall be no undue harassment or embarrassment of a witness as he or she is giving evidence. The Hearings Officer may disallow a question put to the witness that is vexatious or irrelevant to any matter that may be properly inquired into at the hearing.
- 16.3 The Hearings Officer may at any time during a hearing direct that a witness be recalled for further examination.
- 16.4 Where a witness appears unwilling or unable to give answers to the questions being asked, the Hearings Officer may permit the party calling the witness to examine the witness by means of leading questions.
- 16.5 A witness has the right to be advised by counsel or an agent as to his or her rights. Such counsel shall take no other part in the hearing without the permission of the Hearings Officer.

17. EVIDENCE WRITTEN HEARINGS

- 17.1 Where a proceeding is conducted in writing, the evidence of a witness shall be given by affidavit or, subject to the approval of the Hearings Officer, as agreed upon by the parties.
- 17.2 All parties are entitled to receive copies of every document that the Hearings Officer receives in a written hearing.

18. DECISIONS

- 18.1 The Hearings Officer will determine the issues before him or her as he or she considers just. All decisions of a Hearings Officer shall be in writing.
- 18.2 The Hearings Officer does not have the power to award costs of the proceedings to a party.
- 18.3 The Hearings Officer will provide his or her decision with his or her reasons in support of the decision, if any, to the Clerk and the Clerk shall send a copy of the decision to the parties.
- 18.4 The Hearings Officer may at any time correct a typographical error, error of calculation, misstatement, ambiguity, technical error or other similar error made in his or her decision, direction or order.

19. RECORD OF PROCEEDINGS

- 19.1 The Clerk shall compile a record of any proceedings before a Hearings Officer which shall include:
- (a) the notice of the hearing;
 - (b) all orders and decisions made by the Hearings Officer;
 - (c) all documentary evidence filed at the hearing subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceeding;
 - (d) any other documents that in the opinion of the Clerk or the Hearings Officer should be included in the record of proceedings.

20. STATUTORY POWERS OF PROCEDURE ACT

- 20.1 These Rules have been approved by the Council of the Corporation of The City of London and are intended to be rules contemplated by section 25.1 of the *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22.*

21. SEVERABILITY

- 21.1 If any provision of these Rules is or becomes illegal, invalid or unenforceable, the illegality, invalidity or enforceability of that provision shall not affect the legality, validity or enforceability of the remaining provisions of these Rules.