

LICENCE AND COMMUNITY STANDARDS APPEAL BOARD BYLAW AMENDMENTS

EXECUTIVE SUMMARY

A 10-year cumulative term limit is proposed for the service of public members on the Licence and Community Standards Appeal Board (LCSAB), in the interests of the sustainability and stability of the Board's membership and operations.

CITY CLERK'S RECOMMENDATION(S)

That the Priorities and Finance Committee recommend that Council:

1. Give three readings to the proposed bylaw (Attachment 1) to amend the Licence and Community Standards Appeal Board Bylaw, Bylaw 50M2011, as amended, to establish a 10-year term limit for members of the Calgary LCSAB.

RECOMMENDATION OF THE PRIORITIES AND FINANCE COMMITTEE, DATED 2016 SEPTEMBER 20:

That Council give three readings to **Proposed Bylaw 38M2016** to amend the Licence and Community Standards Appeal Board Bylaw, Bylaw 50M2011, as amended, to establish a 10-year term limit for members of the Calgary LCSAB.

PREVIOUS COUNCIL DIRECTION / POLICY

Members of the Calgary LCSAB are appointed under terms of the Calgary Licence and Community Standards Appeal Board Bylaw, Bylaw 50M2011, as amended.

At its 2015 December 14 Regular Meeting, Council appointed members to the LCSAB for 2016. At its 2016 February 22 Regular Meeting, Council acknowledged a resignation from the Board and appointed a new member to fill the vacancy on the Board.

At its 2016 April 25 Regular Meeting, Council adopted a new Council policy on Governance and Appointments of Boards, Commissions and Committees (CP2016-03). Members of the LCSAB must meet the requirements of that new policy and therefore must be 18 years of age or older, and a current resident of Calgary. The policy also established that, "a Public Member may serve up to a maximum of six consecutive years on a [Board, Commission or Committee (BCC)], unless otherwise outlined in a BCC's Governance Document(s)."

BACKGROUND

The service of public members on the LCSAB was not subject to term limits until Council established a new policy to govern its appointments to BCCs, which established a six-year consecutive term limit as a default term limit, absent other indication in a Governance Document (eg. bylaw or terms of reference). Board members are appointed for one-year terms.

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INVESTIGATION: ALTERNATIVES AND ANALYSIS

A 10-year cumulative service term limit for members of the LCSAB is being recommended and is reflected in the proposed amending Bylaw (Attachment 1).

Council's policy provides for the possibility of terms limits other than the default six-year consecutive term limit established in policy CP2016-03. Term limits are a best practice for governance of appointments to boards. In 2007, the Alberta government established a Board Governance Review Task Force to improve the transparency, accountability and governance of Alberta's agencies, boards and commissions. The Task Force recommended a term limit of ten consecutive years as a best practice. In the *Alberta Public Agencies Governance Act*, which arose from the work of the Task Force, ten consecutive years was established as a standard for most appointments made by the province; however, section 14(2) of that statute established an exception, which is that term limits are "... (a) 12 consecutive years, in the case of a public agency that is empowered to perform an adjudicative function...".

The current six-year term limit applicable to the LCSAB would bar reappointment of the Chair and Vice-Chair for 2017, leaving no members who have experience presiding over LCSAB hearings or writing its decisions.

The 10-year cumulative service term limit recommended in this report, and reflected in the proposed Bylaw (Attachment 1), would subject service on the LCSAB to the same term limits that apply for service on the Calgary Subdivision and Development Appeal Board (SDAB).

Edmonton's equivalent of the LCSAB is called the Community Standards and Licence Appeal Committee (CSLAC), and it is comprised of four municipal councillors, who may be appointed to the Committee for no more than eight consecutive years.

Adjudicative boards such as the LCSAB require members who are able to fluidly apply the principles of natural justice to the complex procedural and legal matters that come before them. The LCSAB is a particularly challenging tribunal due to the combination of the breadth of subject matters which may come before it, and the infrequency of its hearings. The latter provides limited opportunities for members to accumulate the experience and practice necessary to develop mastery over its mandate. In this context, longer limits on service provide a more reasonable opportunity for LCSAB members to develop the competencies necessary to serve the Board, as well as time to apply them and pass them on to members with less experience.

The efforts of the Board and its administration to carry out adequate succession planning will also be reinforced with the clarity and certainty of a longer, 10-year cumulative service term limit, as it will provide an adequate time for members to accumulate the experience necessary to develop the subject-matter expertise and institutional knowledge of the Board that are necessary to lead it.

A transition to establishing term limits for the LCSAB is proposed, through grand-fathering the service of current members of the Board prior to 2017 January 01. This approach is the same one taken by Council in introducing term limits for service on the SDAB, and should allow time

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to integrate appropriate changes to training, development and succession planning in the Board's practices and procedures.

Stakeholder Engagement, Research and Communication

The Chair is satisfied that a 10-year cumulative term limit, with grand-fathering of current members' past service, appropriately balances the need for a refreshing of members' perspectives and qualifications with the need to attract and retain capable and qualified members.

Strategic Alignment

The recommendations in this report align with Council's priority relating to a well-run city, and also with Council's policy on the Governance and Appointments of Boards, Commissions and Committees (CP2016-03), which indicates:

5.10.3 A Public Member may serve up to a maximum of six consecutive years on a BCC, unless otherwise outlined in a BCC's Governance Document(s).

Social, Environmental, Economic (External)

There are no direct social, environmental, or external economic implications as a result of this report.

Financial Capacity

Current and Future Operating Budget:

None

Current and Future Capital Budget:

None

Risk Assessment

The term limit which currently applies to LCSAB members is that which is now specified in Council's new policy, six consecutive years. If no other term limit is put in place, the Chair and Vice Chair of the Board will not be eligible for reappointment, leaving no current members (nor new applicants) with experience presiding over LCSAB hearings or writing decisions. A term limit that is too short for an adjudicative body such as the LCSAB may result in a decline in the cumulative experience and ability of its member complement. If the quality of the Board's decisions decline, there is a risk that they will be increasingly subjected to costly litigation in the Courts.

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REASON(S) FOR RECOMMENDATION(S):

Establishing a 10-year term limit that is sensitive to the adjudicative mandate of the LCSAB, and allowing a period for transition to the application of a term limit, will support continuation of a sustainable and stable complement of LCSAB members, and help maintain a capacity to attract and retain qualified members.

ATTACHMENT(S)

1. Proposed **Bylaw 38M2016** to amend Bylaw 50M2011 to institute term limits for LCSAB board members