

TORONTO LANDS CORPORATION
Real Estate Guideline: Temporary Access Agreements

To: Chair and Members of the Toronto Lands Corporation

Date: November 12, 2019

Recommendation:

That the report, *Real Estate Guideline: Temporary Access Agreements*, be received for information.

Rationale

As TDSB is a landowner of approximately 600 individual real estate sites across the City of Toronto, it then is adjacent to thousands of private property owners as neighbouring properties. Over time, many private property owners require repairs, renovations or are building new on their properties. In tight City areas, property owners approach the TDSB for short-term access or use of TDSB property in order to complete their projects. Short-term is defined anywhere from one day to a maximum of less than three months for use or access to TDSB property.

For student safety, efficiency, transparency and fiscal responsibility, it is prudent that there is a standard process and a standard legal agreement when private property owners or organizations require the use of TDSB real estate, on a short term basis. A Guideline would allow third parties to quickly review and understand TDSB requirements in order to proceed with their request with speed and efficiency which will support enhanced customer service.

Context

During its new mandate over this first year, TLC has taken into account some of the guidelines that were already in place with TDSB and reviewed the types of requests received from the public during this timeframe. As a result, TLC has created a new *Real Estate Guideline: Temporary Access Agreements*. The Guideline, attached as Appendix 1, is available to anyone interested in requesting short term access to a TDSB property. In addition, in conjunction with legal counsel, a standard real estate agreement template has been prepared that sets out the detailed terms and conditions of temporary access or use, of less than three months of TDSB property. Risk Management at TDSB has also reviewed the indemnity and insurance provisions within the agreement. The final Agreement will be completed by TLC staff and execution is required by all parties prior to entering upon the TDSB sites.

The Guideline, which will be amended from time to time, outlines the responsibility and process to obtain access or temporary limited use of TDSB sites. It states the documentation required, highlights terms and conditions, costs, restrictions related to student safety, insurance/indemnity and provides for an open, transparent and efficient approach in working with requests from the public on TDSB lands for a period of less than three months. The standard agreement to be executed sets out the specific details of each applicant's request for use or access as highlighted in the guideline. TLC be-

believes this new guideline has worked effectively over the course of this past summer with six agreements completed and property owners being able to finalize their work in a timely manner.

Appendix

Appendix 1 Real Estate Guideline: Temporary Access Agreements

Routing

TLC Board: 12 November 2019
TLC Web Site – Information Posting

From

Daryl Sage, Executive Officer, Toronto Lands Corporation, at dsage.tlc@tdsb.on.ca or at 416-393-0575

Anita Cook, Senior Manager, Real Estate, Toronto Lands Corporation at acook.tlc@tdsb.on.ca or at 416-393-0632

GO5 (2020 Board Mtgs/November 12, 2019/Guideline: Temporary Access Agreements)
Last update November 7, 2019

Appendix 1

NOVEMBER, 2019
(amended from time to time)

Real estate Guideline: TEMPORARY ACCESS AGREEMENTS

Purpose

The purpose of this guideline is to provide Toronto Lands Corporation (TLC)/Toronto District School Board (TDSB) with direction to staff when they become aware of an individual or organization "Applicant" requiring temporary access for a period, of LESS THAN THREE (3) MONTHS, to TDSB real estate. The Applicant is usually an abutting property owner. In order to be granted temporary access to a TDSB site a Temporary Access Agreement is prepared by the Toronto Lands Corporation, (TLC) agent of TDSB, and timing and access must be approved by the TDSB on-site Facility Team Leader, the Project Supervisor or designated Facilities Representatives of the School.

Objectives

- To promote an open, transparent and efficient process when an Applicant requires short term access or occupation of TDSB real estate.
- To provide general standard terms and conditions for a Temporary Access Agreement, which are available to all parties and circulated as inquires arise.
- To protect the health and safety of the students and TDSB interests while providing Applicants limited access to TDSB real estate for a period of less than three months.

Responsibility & Process

1. Any TDSB/TLC staff member may be approached by an Applicant who requires temporary access to TDSB real estate for a variety of reasons.
2. The Guideline and Standard Temporary Access Agreement may be provided for review.
3. The Applicant should then contact TLC, Real Estate, who will discuss the access request, prepare the final agreement, discuss the various terms and conditions and then seek TDSB on-site staff approval.
4. The TDSB staff designate will be responsible to complete an initial site inspection with the Applicant, encouraged to take photographs, to finalize routes of access, timeframe, and any other terms and conditions to ensure the health and safety of the school children and protect the property.
5. TLC will incorporate any additional terms and conditions as reasonably requested from TDSB staff.

6. TLC will ensure the Temporary Access Agreements are executed and TDSB staff has a copy prior to the date of access. Original Agreements will be kept with TLC.
7. Upon completion, TDSB staff is to return on-site with the Applicant for a final sign-off to ensure the TDSB property has been returned to its original condition and there is no damage or repairs required. TDSB staff to advise TLC of project satisfactory completion. Photographs for file are encouraged.
8. If there is damage/repair required, TDSB staff to contact TLC, and further discussions will be undertaken.

Temporary Access Agreement

Standard Terms & Conditions, as amended from time to time:

Agreement type: Temporary Access Agreement

Parties to Agreement: Toronto Lands Corporation (TLC), as agent for Toronto District School Board (TDSB), and Applicant, property owner requesting access/occupation of TDSB real estate

Purpose: An Applicant to obtain temporary access or occupation, for less than three (3) months, of TDSB real estate in order to complete a project on abutting or land in close proximity to the TDSB asset, subject to the approval of TDSB designated staff for the specific site.

Fee: An administrative fee ranging from \$500.00 to \$3,500.00 will be applied, at the discretion of TLC, dependent upon timeline, activities, type of access or occupation. The total fee must be provided in money order, certified cheque or bank draft upon execution of the Agreement and made payable to "The Toronto District School Board".
If access or occupation is granted on Saturdays, Sundays or Holidays, there will be a requirement to pay for caretaking overtime fees plus any additional costs associated with weekend work, which will be a flat fee of \$250.00 per day.
All Fees are subject to HST.

Security Deposit: Upon execution of the Agreement, a Security Deposit is to be provided by money order, bank draft or certified cheque, made payable to "The Toronto District School Board" and the amount may range from \$5,000 to \$25,000 dependent on the timeline and type of access or occupation required at the discretion of TLC. The Security Deposit will be held, not deposited, in trust by the TDSB as security for all costs that would be incurred by the TDSB for repairs and damages associated with the works and activities, in accordance with the terms and conditions of the Agreement.
Once the project and all activities are complete and final inspection has taken place, if satisfactory, the Security Deposit will be returned to the Applicant. Should repairs or damages be evident and not completed or there is an unwillingness to complete, the TDSB will immediately deposit the funds from the Security Deposit to complete the necessary work.

Insurance: A copy of a Certificate of Insurance evidencing insurance coverage during the specified term having a minimum of \$2,000,000 per occurrence and an aggregate limited of no less than \$2,000,000 naming TDSB and TLC as additional insureds to the policy.
The Certificate is required as specified with the execution of the Agreement, prior to access or occupation to complete any activities on TDSB property.

Term: The access or occupation, if granted, will not exceed a period of three (3) months.

Should an Applicant request access or occupation of TDSB real estate for longer than three (3) months, please have the Applicant directly contact, TLC, Senior Manager, Real Estate, 416-393-0632

Preferred Access/Occupation Times:

- It is preferred that all temporary access or occupation be completed during non-operating school days. Specifically, requests are preferred in the summer months.
- Access/occupation is then preferred during regular business hours.
- If access/occupation is required during school days, it may be restricted to after school hours or weekends.

Additional Requirements by the Applicant:

- Provide the full legal owner's name on the property title or the full legal name of Incorporation on the Articles of Incorporation
- Provide the address where the work/activities will be conducted
- Provide the full legal name and operating address of any Contractors and Subcontractors requiring access or occupation of TDSB property
- Provide a drawing/site plan of the proposed work, access, or occupation of the TDSB property, including egress and ingress (point of entry/exit)

- Comment if any fences, gates, etc. need to be removed. If TDSB property needs to be removed for access, additional fees are required as only TDSB Union staff are able to complete the work. Allow additional time in your request to have TDSB Union staff provide an estimate and this additional amount will be required payable at the execution of the Agreement.

- General work plan
- Utility locates, if required.

- All the aforementioned information is to be provided to TLC which may be incorporated into the Agreement and for discussion with TDSB staff.

Please be advised that the requirements to complete the Agreement take time from all parties, it is therefore recommended that the Applicant allow approximately three weeks lead time prior to expecting access or occupation or approval to use the TDSB property.