

## DECISION AND ORDER

**Decision Issue Date**      Friday, March 02, 2018

PROCEEDING COMMENCED UNDER subsection 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant(s): EDITH EYLOTT, MALCOLM EYLOTT

Applicant: ANTHONY GREENBERG

Property Address/Description: 64 AVONDALE AVE

Committee of Adjustment Case File Number: 17 139076 NNY 23 MV

TLAB Case File Number: **17 212585 S45 23 TLAB**

**Hearing date:**      Thursday, December 21, 2017

### DECISION DELIVERED BY T. Yao

This is a request from Isaac Tang, lawyer for the Oulahen group of companies (the “Oulahen group”) to amend a decision issued January 4, 2018.

### BACKGROUND

The request is pursuant to Rule 30.1<sup>1</sup> that allows the TLAB to correct minor errors in decisions. Mr. Tang’s proposed<sup>2</sup> amendment is:

The other party is a group of three corporations: GlenO Ltd., 1350728 Ontario Limited and ~~2107253~~ 2017253 Ontario Inc., represented by an officer, Jeff Oulahen. Mr. Oulahen appeared at the hearing but did not take part. Mr. Oulahen and the Eyllotts agreed to the following fact:

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<sup>1</sup> The Local Appeal Body may at any time and without prior notice to the Parties correct a technical or typographical error, error in calculation or similar minor error made in a Decision or order. There is no fee if a Party requests such corrections.

<sup>2</sup> From a Feb 6, 2018 email.

The Eyllotts are aware that the Oulahen group is assembling properties in the area ~~with the intention of erecting a building in accordance with the Secondary Plan~~ on lands within this block that are permitted to develop up to 65 metres according to the North York Secondary Plan. The Eyllotts do not waive their right to oppose such building.

## **MATTERS IN ISSUE**

The misspelling of the numbered company should be corrected. There are three possible outcomes for my characterization of the agreed “fact” between Messrs. Laskin and Oulahen:

1. Leave the January 4 decision the way it is.
2. Use the wording suggested by Mr. Tang, agreed to by Mr. Laskin in private correspondence between them.
3. Go back to the tape and simply reproduce what Mr. Laskin said for the record.

## **ANALYSIS, FINDINGS, REASONS**

This situation arose because Mr. Oulahen asked for certain wording in the decision, which is not just a dispute between the City and the Eyllotts, but a public document on relevant planning issues in the area.

Since there was no documentary evidence as to the agreement between Messrs. Laskin and Oulahen, I asked Mr. Laskin to reduce the agreement to writing and forward it to me. Owing to the intervention of the holiday season, he did not or was unable to do so. Rather than wait for his email I thought it best to summarize his on-the-record statement and issue the decision in prompt fashion. By asking for the decision to be amended, Mr. Oulahen has indicated that in his opinion, my summary is not accurate, and so, option 1 must be rejected.

Mr. Tang’s alternative wording, which refers to a 65 m height limit may have been discussed but was not in evidence. Ms. Czajkowski (lawyer for the City) is correct that there is no jurisdiction to make this change under Rule 30.1. Option 2 must be rejected.

This leaves Option 3, which I will follow. It contains an “aside” that acknowledges that Mr. Oulahen intervened without having previously filed any documentation, and Mr. Tang asked me not to reproduce this aside. That is what was said on the record, and there is no point in trying to edit the transcript after the fact.

## **DECISION AND ORDER**

The following portion of the Decision of January 4, 2018 (file number 17 212585 S45 23 TLAB), beginning with the phrase “The other party is a group of

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three corporations: . . .” and ending with: “The Eylotts do not waive their right to oppose such building” is deleted and replaced with:

The other party is a group of three corporations: GlenO Ltd., 1350728 Ontario Limited and 2017253 Ontario Inc., represented by an officer, Jeff Oulahen. Mr. Oulahen appeared at the hearing but did not take part. After outside-the-hearing room discussion, Mr. Laskin made the following statement for the record:

We spoke to Mr. Oulahen over the break and he confirmed for us that he is happy to take no position on the appeal and the application, provided you indicate in your decision, as you mentioned before, that Mr. Oulahen appeared and made a statement today that he intends to make a development application on the block and that my clients, the Eylotts are aware of it. Now Mr. Oulahen also understands that that statement does not prejudice our clients' right to object to that proposal at the time it comes forward, and does not prejudice his right to appeal, of course. But also, I would note as an aside, that this type of discussion is precisely why the Rules require the advance disclosure of materials, and all of this could have been sorted out well in advance if Mr. Oulahen had done so.

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*Ted Yao*

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Ted Yao  
Panel Chair, Toronto Local Appeal Body  
Signed by: Ted Yao