

# DECISION AND ORDER

**Decision Issue Date** Monday, July 23, 2018

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), and Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): BABAK ZARGHAMI

Applicant: JANICE ROBINSON

Property Address/Description: 82-84 EMPRESS AVE

Committee of Adjustment Case File Number: 17 136483 NNY 23 CO (B0027/17NY), 17 136480 NNY 23 CO (B0028/17NY), 17 136546 NNY 23 MV (A0347/17NY), 17 136833 NNY 23 MV (A0349/17NY), 17 136838 NNY 23 MV (A0350/17NY)

TLAB Case File Number: **17 273216 S53 23 TLAB, 17 273217 S53 23 TLAB, 17 273218 S45 23 TLAB, 17 273219 S45 23 TLAB, 17 273220 S45 23 TLAB**

**Motion Hearing date:** Tuesday, July 24, 2018

**DECISION DELIVERED BY Ian James Lord**

## APPEARANCES

Stewart, Amber

Written Motion for Adjournment

## INTRODUCTION

A late request has been made for the adjournment of the above noted matter scheduled to be heard July 24, 2018.

## **BACKGROUND**

The request is in proper form and has been considered in writing by a Member pursuant to Practice Direction 2.

By Affidavit, the Applicant advises that despite the scheduled Hearing date of the Toronto Local Appeal Body (TLAB), the former Ontario Municipal Board (OMB) has subsequently set a conflicting Hearing Date, involving the Applicants counsel. The Local Planning Appeal Tribunal (LPAT) has declined the courtesy to the Applicant of adjourning its Hearing in recognition of the previously scheduled Hearing before the TLAB.

## **MATTERS IN ISSUE**

At issue is whether an adjournment is appropriate arising by virtue of a conflict in scheduling involving counsel for the Applicant as between the Local Planning Appeal Tribunal (LPAT) and the Toronto Local Appeal Body (TLAB).

## **JURISDICTION**

Under its Rules, the TLAB is obliged to consider the relief requested, the rationale therefore and prejudice to the Parties and Participants.

In addition, the Practice Directions of the TLAB provide the following direction for the consideration of adjournment requests, including those on short notice. The TLAB must consider the request and provide a just, expeditious and appropriate resolution of the request with a minimum of disadvantage and inconvenience to the Parties and Participants. The Practice Direction provides as follows:

### ***“Practice Direction 2 - Default Format of Specific Motion Hearings***

Unless otherwise directed by TLAB, where a Party requests a date to file a Motion for a Written or Electronic Hearing (telephone or video conference) or the adjournment of a Hearing Date, or both, TLAB will treat and require the request to be conducted as a written Motion. The Party will be provided with a date for a Written Hearing motion for service. In the case of a Hearing Date adjournment request, the TLAB shall supply alternative hearing dates and the parties shall indicate their availability for those dates, in the event that the Motion may be granted. The default form of Hearing for these two specific Motion requests will not be Oral, as specified in Rule 17.3. The timeline for Motion responses outlined in the Rules for Motions will apply.”

## **EVIDENCE**

I am advised the City of Toronto consents to the request for an adjournment.

## **ANALYSIS, FINDINGS, REASONS**

As described, a request has been made for the adjournment of the above noted matter scheduled to be heard July 24, 2018. The request is in proper form and has been considered in writing pursuant to Practice Direction 2.

A party is generally entitled to the counsel of their selection. In this case, the action of the LPAT has created a conflict and declined relief. It is, however, open to the TLAB to address the relief requested.

I find that it is reasonable and appropriate to grant the relief requested in the circumstances. While it is regretful that a sitting day is lost and the Parties and Participants inconvenienced in the manner described, such should not deprive the Applicant a fair opportunity to make its case, especially in the absence of knowledgeable representation being available on short notice.

The short notice is regretful but required, all as described in the affidavit filed by counsel for the Applicant

## **DECISION AND ORDER**

1. The adjournment is granted. No attendance is required.

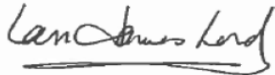
A new Notice of Hearing shall issue; no change to the required filing dates is made. The new Notice of Hearing shall establish the rescheduled Hearing Date.

The Toronto Local Appeal Body provides the following dates for a rescheduled recommencement of this matter, namely one of:

October 3, 2018; October 30, 2018; November 13, 2018

2. Counsel for the Applicant, Ms. Stewart, is directed to canvass the availability of Parties and Participants within 10 days of the date hereof and advise the TLAB of an agreed date. In the event a rescheduled date cannot be agreed upon, the Toronto Local Appeal Body shall fix the date.

**Decision of Toronto Local Appeal Body Panel Member: I. Lord  
TLAB Case File Number: 17 273216 S53 23 TLAB, 17 273217 S53 23 TLAB, 17  
273218 S45 23 TLAB, 17 273219 S45 23 TLAB, 17 273220 S45 23 TLAB**



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Ian James Lord

Panel Chair, Toronto Local Appeal Body

Signed by: Ian Lord