

# DECISION AND ORDER

**Decision Issue Date**      Tuesday, August 28, 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): MURRAY MALCOLM FISHER

Applicant: PETER HIGGINS ARCHITECT INC

Property Address/Description: 80 BRAESIDE RD

Committee of Adjustment Case File: 17 205121 NNY 25 MV

TLAB Case File Number: **18 188647 S45 25 TLAB**

**Motion Hearing date:**      Friday, August 24, 2018

**DECISION DELIVERED BY G. Burton**

## REGISTERED PERSONS

Name	Role	Representative
LEILA TAHERZADEH	Owner	
PETER HIGGINS ARCHITECT INC	Applicant	
MURRAY MALCOLM FISHER	Appellant	JOE HOFFMAN
LEILA TAHERZADEH	Party (TLAB)	
CITY OF TORONTO	Party (TLAB)	DERIN ABIMBOLA NATHAN MUSCAT
STELLA HUNG	Participant	
PEDER ENHORNING	Participant	
SALLY PETERSON	Participant	

STACEY ENHORNING	Participant
LOUISE ENHORNING	Participant
ANNE COGHLAN	Participant
TARZAN MARR	Participant

## **INTRODUCTION**

This is a decision on a written motion, on the consent of both the original parties and the City of Toronto, for an extension of the dates for filing and exchange of written materials contained in the Toronto Local Appeal Body (TLAB)'s original Notice of Hearing. This would allow for continuing settlement discussions.

## **BACKGROUND**

On April 16, 2018, the owner of the subject property at 80 Braeside Road in Toronto, Leila Taherzadeh, applied to the Committee of Adjustment (COA) for minor variances. These would permit the construction of a new dwelling with an integral garage. The COA approved the application on June 14, 2018, subject to conditions. On July 3, 2018, Dr. Murray Fisher, the owner of 76 Braeside Hill Road, the adjacent property to the north, filed an appeal to TLAB.

The City of Toronto elected party status in this matter on July 26, 2018.

TLAB issued a Notice of Hearing on June 10, 2018, for this proceeding. This indicated that the hearing was scheduled for October 30, 2018, and set out dates for the filing and exchange of documents.

The parties are now engaged in settlement discussions, and wish to extend these deadlines to forestall preparation of written materials if such are not ultimately needed for a hearing.

## **MATTER IN ISSUE**

Should the dates for filing documents in preparation for a contested hearing be extended, in light of all parties acknowledging that settlement discussions are underway?

## **JURISDICTION**

The TLAB has the power under Rule 4.4 to extend a time limit provided in the Rules.

## ANALYSIS, FINDINGS, REASONS

All the parties identified as of the August 24, 2018 motion return date, wish to postpone the exchange dates by approximately six weeks. This would enable them to continue settlement discussions. This would not only facilitate these discussions, but also prevent the contemporaneous preparation of written materials for a contested hearing. The appellant concurs with this request. I note that in the supporting affidavit of Monica Roblin filed by the applicant's solicitor, she attests on p. 2 that the City of Toronto, a party to the appeal, also agrees with the remedy sought in this motion.

As the mover states, the disclosure rules are intended, in part, to ensure that the positions of all parties are disclosed to all other parties well in advance of any hearing taking place. Given that the hearing in this proceeding is not scheduled to take place until October 30, 2018, an extension of the dates for filing and exchange would still leave ample time before the hearing for the preparation and exchange, should a settlement not be reached.

I agree that prehearing preparation and filing of extensive materials required for the hearing itself may not be needed. Should the matter settle, all such preparation time and cost could be wasted. In my view no one would be likely to be prejudiced by an extension of the filing dates. An extension here would be in the interest of resolution of the appeal, as well as saving time and money as the mover claims.

## DECISION AND ORDER

The Motion is granted. The Notice of Hearing issued by the TLAB in this matter on July 10, 2018 is hereby amended by substituting for the filing dates therein the following:

- **Document Disclosure** as per Rule 16 **DUE** no later than September 13, 2018
- **Witness Statement** as per Rule 16.4 (Form 12) **DUE** no later than September 27, 2018
- **Participant Statement** as per Rule 16.5 (Form 13) **DUE** no later than September 27, 2018
- **Expert Witness Statement** as per Rule 16.6 (Form 14) **DUE** no later than September 27, 2018
- **Notice of Motion** as per Rule 17 (Form 7) **DUE** no later than October 4, 2018

In every other respect, the Notice of Hearing remains as issued.

X 

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G. Burton  
Panel Chair, Toronto Local Appeal Body