

# DECISION AND ORDER

**Decision Issue Date**      Friday, October 19, 2018

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

Appellant(s): RONIT SHARMA

Applicant: RUBINOFF DESIGN GROUP

Property Address/Description: 106 POYNTZ AVE

Committee of Adjustment Case File Number: 17 185801 NNY 23 CO; 17 185808 NNY 23 MV; 17 185812 NNY 23 MV

TLAB Case File Number: **17 260926 S53 23 TLAB; 17 260927 S45 23 TLAB; 17 260928 S45 23 TLAB**

**Motion Hearing date:**      Thursday, October 18, 2018

**DECISION DELIVERED BY DINO LOMBARDI**

## INTRODUCTION

This is a decision in response to a written motion by a Party (the City of Toronto) for a request for an adjournment of the hearing of the above referenced matter and a further order setting a new rescheduled hearing date for Day 2.

## BACKGROUND

The hearing date for Day 2 of this matter was set for October 18, 2018, and the motion was for an adjournment due to an illness to the solicitor for the City of Toronto, a Party in this matter.

## **MATTERS IN ISSUE**

There are no matters in issue as all persons on the Peoples List for this appeal were served and all parties consented to the adjournment. I note that the solicitor for the Appellant/Owner has requested as much flexibility as possible in obtaining a new hearing date that is sooner rather than later.

## **JURISDICTION**

Pursuant to the Toronto Local Appeal Body (TLAB) Rules of Practice and Procedures and, particularly, Rules 2.10, 4.4, 4.5, 17 and 23, the hearing can be adjourned and a new hearing date set.

In deciding whether to grant an adjournment, the TLAB may consider, among other things:

- The reasons for an adjournment;
- The position of the other Parties on the request;
- Whether an adjournment will cause or contribute to any existing or potential harm or prejudice to others; and
- The effect an adjournment may have on the ability of the TLAB to conduct a Proceeding in a just, timely and cost effective manner.

## **EVIDENCE**

On October 16, 2018, the City of Toronto (City), a Party to the above-referenced appeal, filed a Notice of Motion (Form 7) with the TLAB requesting an order to adjourn the hearing scheduled for October 18, 2018 (Day 2) of the appeal hearing for 106 Poyntz Avenue.

The City also filed an Affidavit (Form 10) on the same date outlining reasons in support of its request for an adjournment. The Notice of Motion and Affidavit demonstrated that the City solicitor assigned to this matter, Mr. Daniel Elmadany, attended Day 1 of the Hearing for 106 Poyntz Avenue and continues to be the assigned solicitor for this file.

On October 15, 2018, Mr. Elmadany fell ill and it became clear to him that he would not be in a position to attend the hearing scheduled for October 18, 2018. On the same day the City contacted the Appellant's solicitor, Ms. Amber Stewart, requesting an adjournment and she provided consent on behalf of her client, contained in correspondence attached to Mr. Elmadany's Affidavit as Exhibit 1.

**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI  
TLAB Case File Number: 17 260926 S53 23 TLAB; 17 260927 S45 23  
TLAB; 17 260928 S45 23 TLAB**

The City attempted to bring the motion for adjournment at the earliest possible date. Given that illness is not a situation that one can predict, the City contacted the Appellant and obtained consent to the adjournment.

In its Affidavit, the City advised that at this stage in the proceedings, where the City will be cross-examining the Appellant's expert witness, Mr. Frank Romano, it will be difficult for another solicitor to be assigned in a short time frame to prepare for the hearing. It argued that forcing another solicitor to be assigned to this matter at this juncture would prejudice its ability to deal with the hearing.

## **ANALYSIS, FINDINGS, REASONS**

Based on the documents filed, and the fact that this order request is made on consent, the TLAB finds that a new hearing date for Day 2 will enable the TLAB to effectively and completely adjudicate matters before it and facilitate a hearing process that is just, fair, expeditious and cost effective.

## **DECISION AND ORDER**

The TLAB adjourns the hearing to February 7, 2019, and the Hearing scheduled for October 18, 2018 is cancelled and no further attendance is required.



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Dino Lombardi  
Panel Chair, Toronto Local Appeal Body