

## DECISION AND ORDER

Decision Issue Date: Monday, December 31, 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): HAMED ISMAILZADEH

Applicant: GLENN RUBINOFF DESIGN GROUP

Property Address/Description: 80 THIRTY NINTH ST

Committee of Adjustment Case File: 17 228728 WET 06 CO (B0079/17EYK), 17 228734 WET 06 MV (A0789/17EYK), 17 228731 WET 06 MV (A0790/17EYK)

TLAB Case File Number: 18 152342 S53 06 TLAB, 18 152353 S45 06 TLAB, 18 152350 S45 06 TLAB

**Motion Hearing date:** Thursday, December 20, 2018

**DECISION DELIVERED BY S. Makuch**

## **APPEARANCES**

Appellant's Legal Rep.      Ron Kanter

Party                              Long Branch Neighbourhood Association, Judy Gibson

## **INTRODUCTION**

This decision is the result of a telephone conference call respecting the submission of revised plans by the appellant to the opposing parties during an adjournment of the hearing of the matter. The adjournment was the result of the need for more hearing time. The conference call was at the requested by the City Solicitor on an urgent basis as the hearing is to recommence on January 7, 2019. The call occurred at a time and date requested by the City solicitor, Mr. Longo. However, he was not available to participate. The participants on the call were the solicitor for the appellant, Mr. Kanter, and the representative of the Long Branch Neighbourhood Association (LBNA), Ms. Gibson. An additional issue was raised on the call regarding material to be put into evidence and filed by Ms. Gibson.

## **BACKGROUND**

In the absence of the City Solicitor I was very reluctant to made any findings which might affect the procedural rights of the City and yet wished to make clear whether the hearing would proceed as scheduled in order to give the parties and participants some certainty.

## **MATTERS IN ISSUE**

The matters in issue were related to whether the hearing of evidence at the commencement of the adjourned hearing should be altered to permit the introduction of revised plans which had been served on the other parties. The alteration in the hearing, proposed by Mr. Kanter, would involve, among other changes, a hiatus in the cross examination of the City's planner and the immediate recalling of the appellant's planner. Mr. Kanter, on the other hand, was opposed to the introduction, by the LBNA, of additional material, pursuant to a previous motion decision in these proceedings. Although Mr. Longo was unable to present oral argument it was clear from his correspondence that he had legitimate and serious concerns with respect to Mr. Kanter's proposal.

## **JURISDICTION**

TLAB has jurisdiction under its Rules of Practice and Procedure to determine the conduct of hearings in accordance with its Rules and to interpret the Rules "to secure

the just, most expeditious and cost-effective determination of every Proceeding on its merits.” In order to achieve these goals, probative evidence should be allowed provided there is no prejudice to other parties. In particular, no party should be faced with new evidence to which it is unable to prepare a full and proper response.

## **EVIDENCE**

There was no evidence submitted for me to review.

## **ANALYSIS, FINDINGS, REASONS**

I am very reluctant to order any alterations to the proceedings in the absence of hearing from the City solicitor in person. In any event, I am not persuaded that there needs to be any alteration to the standard proceedings of this hearing.

I find, therefore, that the hearing should proceed on the following basis. The hearing will recommence on January 7, 2019 as previously determined with the cross examination of Mr. Graham continuing. After the completion of the City’s and LBNA’s evidence, Mr. Kanter may seek to introduce reply evidence. That evidence may include the revised plans which are the subject of this motion. At that time the City and/or LBNA may object to that evidence and/or seek an adjournment to review it, prior to its introduction. All findings as to whether any evidence will be allowed will be on the basis set out above in the TLAB Rules of Practice and Procedure.

## **DECISION AND ORDER**

The hearing will continue on the basis previously determined, including an opportunity for the appellant to seek the submission of reply evidence and an opportunity for LBNA to seek to submit documents it has served.

X 

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S. Makuch  
Panel Chair, Toronto Local Appeal