

DECISION AND ORDER

Decision Issue Date **Tuesday, January 8, 2019**

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

Appellant(s): ROBERT ULICKI

Applicant: LEA WILJER

Property Address/Description: 459-461 SACKVILLE ST

Committee of Adjustment Case File Number: 17 253383 STE 28 MV

TLAB Case File Number: **18 150889 S45 28 TLAB**

Hearing date: Friday, December 07, 2018

DECISION DELIVERED BY STANLEY MAKUCH

APPEARANCES

Name	Role	Representative
Lea Wiljer	Applicant	
Sherry D'Costa Correia	Owner	
Robert Ulicki	Primary Owner/Appellant	Ian Flett
City of Toronto	Party	Matthew Longo
Jane Pepino	Party's Legal Rep	
Paul Stagl	Expert Witness	
Alun Lloyd	Expert Witness	
Michael Tedesco	Expert Witness	
David Sajecki	Expert Witness	

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Name	Role	Representative
Ryan Sankar	Expert Witness	
Kassel Prince	Expert Witness	
Saius Jaskus	Party	
Patricia Brubaker-Poulin	Party	
Judy Woodin	Party	
Glen Woodin	Party	
David Cole	Party	
Colette Hegarty	Party	
Gary Hill	Party	
Lillian Maniscole	Party	
Lorraine Mackenzie	Party	
Michael Butler	Party	
Patricia Milne	Party	
Shauna Macdonald	Party	
Robert Jerrard	Party	
Nara Jung	Party	
Alexandra Vandelle-Gillespie	Party	
Gregory Turcot	Party	
Trudy Macneill	Party	
Douglas Woodall	Party	
Abdurrahman Al-Hesayan	Party	
Patrick Robertson	Party	
Jason Van Bruggen	Party	
Name	Role	Representative
Russell Goodfellow	Party	

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Deirdre Sadler	Party	
Gabrielle Mcintire	Party	
Thomas Keeling	Party	
Howard Bortenstein	Party	
Mark Angelis	Party	
Katherine Tozer	Party	
Blaine Pearson	Party	
Caroline De Angelis	Party	
Alastair Dadds	Party	
Hasan Uran	Party	
Erin Blair	Party	
Jane Roffey	Party	
Mark Alboino	Party	
Jutta Polomski	Party	
Jim McNamara	Party	
Charles Fahlenbock	Party	
Kenneth Mathieson	Participant	
Beverley Jenkins	Participant	
Elizabeth Reynolds	Participant	
Johanne Laperriere	Participant	
Louise Garfield	Participant	
Brandeis Jolly	Participant	
Susanne Hudson	Participant	
Name	Role	Representative
Christina Best	Participant	
Randy Brown	Participant	

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Judy Lu	Participant
Sara Josselyn	Participant
Thorben Wiedilz	Participant
Rosemary Macklem	Participant
Maggie O'Connor	Participant
Marc Cote	Participant
Catherine Steinmann	Participant
Jocelyn Richardson	Participant
Ronan Rogers	Participant
Lee Anne Rogers	Participant
Janice Williams	Participant
Douglas Wilson	Participant
Lindsay Matheson	Participant
Derek Sweeney	Participant
Allen Zhang	Participant
Christopher Wirth	Participant
Alexandra Conliffe	Participant
Linnea Obern	Participant

INTRODUCTION

The purpose of this decision is to put in writing the oral decision made at the second commencement of the hearing of the ~~the~~ above matter on Friday December 7, 2018.

BACKGROUND

At that hearing it was brought to the my attention that certain evidence, primarily a 15 hour video of traffic in the area of the property subject to the application, was to be submitted into evidence by the appellant's traffic engineer, but that evidence had not been served in a timely matter on the opposing parties. It was not disputed that the material had not been served within the applicable time limit.

MATTERS IN ISSUE

The question before me was how to address the issue of the new evidence which the parties in opposition had not received in a timely manner. A number of alternatives were proposed, including that: the additional new evidence should not be allowed into evidence at all; the hearing should proceed with the evidence of the appellant's traffic engineer as the first witness but the new evidence would not be heard until a later date and cross examination on the new evidence would follow that later date; and the hearing should be adjourned to hear a formal motion on how to deal with the late filing of the new evidence.

JURISDICTION

TLAB has jurisdiction under its Rules of Practice and Procedure to deal with the ~~the~~ manner in which hearings should be conducted.

EVIDENCE

There was no evidence submitted by any parties and I heard the argument of all counsel present as well as members of the public who were in attendance and wished to speak.

ANALYSIS, FINDINGS, REASONS

The goal of the TLAB according to its Rules of Practice and Procedure is to have ~~have~~ a just, expeditious and cost effective adjudication of matters before it. In order to accomplish this goal I find the hearing should be adjourned to allow the proper and timely service of the new material. It would not be just to commence the hearing and allow the ~~the~~ applicant's engineer to present traffic evidence without prior disclosure of all the evidence to be presented. A delay to allow a formal motion is unnecessary and costly as there was essentially no dispute as to the failure to serve the additional evidence in a timely manner. It was not disputed that the material may be relevant to the proceedings. None of the parties objected to the adjournment although members of the public did express concerns about the need to re-attend at the hearing.

DECISION AND ORDER

The hearing is adjourned until January 14, 2019. Additional hearing dates are: January 16, 2019 and January 25, 2019.

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NOTE: an additional day of March 19, 2019 was added at the hearing but I have since been informed that date is not available. As a result March 22, 2019 has been added as an alternative additional day for the hearing.

The appellant is to have served all additional material by December 11, 2018, and responding parties are to have filed all reply material by January 7, 2019.

X 

S. Makuch
Panel Chair, Toronto Local Appeal