

# DECISION AND ORDER

**Decision Issue Date**      Tuesday, February 05, 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): KRONIC RELIEF INC

Applicant: THE BIGLIERI GROUP LTD

Property Address/Description: 1160 BIRCHMOUNT RD

Committee of Adjustment Case File Number: 17 250240 ESC 37 MV

TLAB Case File Number: **18 256530 S45 37 TLAB**

**Motion hearing date:**      Monday, February 04, 2019

<b>NAME</b>	<b>ROLE</b>	<b>REPRESENTATIVE</b>
Kronic Relief Inc	Tenant and Occupant	Meaghan McDermid
City of Toronto	Party	Ben Baena
Salvatore Triglia	Participant (see Background for further information)	

## DECISION DELIVERED BY TED YAO

### INTRODUCTION

This is a motion to convert the hearing in this matter to settlement hearing. The motion is on consent.

## **BACKGROUND**

Kronic Relief Inc applied for minor variances from separation distance requirements for a marihuana production facility. The Committee refused the variances on November 8, 2018, and Kronic appealed. Thus this matter comes before the TLAB.

On November 29, 2018, the TLAB sent a notice of hearing for April 17, 2019. On December 19, 2018, Salvatore Trigilia, a tenant at 1160 Birchmount, gave notice of an intention to become a participant.

On January 18, 2019, Ms. McDermid (lawyer for Kronic) brought a motion claiming the following relief:

1. This is an appeal by Kronic Relief Inc. (the "Appellant") concerning its application for minor variances for the property at 1160 Birchmount Road, Unit #6 in the City of Toronto (the "Subject Property"). The application was refused by the Committee of Adjustment and subsequently appealed to the TLAB.
2. The City is the only other Party in this appeal.
3. The Appellant, through its counsel, notified the TLAB by email on January 4, 2019 that the Appellant and the City are fully settled with respect to the appeal and requested a date for a settlement hearing.
4. At the time, the Appellant and the City requested that the settlement hearing be conducted as an Oral Hearing given that there was one participant, Mr. Sam Trigila who objected to the variance application.
5. On January 14, 2019, the Minutes of Settlement between the Appellant and the City were filed with the TLAB, as required by the TLAB to confirm the settlement hearing.
6. On January 14, 2019, the Participant Mr. Trigila notified the TLAB and the Parties that he withdrew his participant status and did not intend to participate in the hearing. There are no other participants identified in this appeal.
7. As the Appellant and the City are now the only interested persons in this matter and they are fully settled with respect to the appeal, it is appropriate to hold the settlement hearing by way of a teleconference.
8. Pursuant to the Minutes of Settlement, the Parties will be asking the TLAB to approve four (4) variances for the Subject Property subject to three (3) conditions.

Just to recap the dates: The motion was served on January 18, 2019, returnable February 4, 2019. It seeks to create a settlement conference for March 5, 2019; previously the TLAB had set April 17, 2019 to be the hearing date.

The settlement hearing is suggested to be via a **telephone conference**. In my view, since distances are an important issue, it would be more convenient for the


determination of facts that it be an **in-person (i.e. oral) hearing**. Therefore, all that needs to be done by way of formal Order is to switch the hearing date from April 17, 2019 to March 5, 2019. If this causes difficulty, would the parties please advise me.

Since I will be conducting the settlement hearing, I will be using the same ground rules as I set out in *263 Gamble Ave*:

1. I retain independence and need not approve any agreed-upon order and conditions by reason only that they are on consent.
2. However, if I depart from the agreed-upon order, it should be done judicially, which means there should be a high degree of deference to what is arrived at by parties, particularly because one of those parties represents a public interest, as does the City of Toronto.
3. If I do depart from the agreed upon order, it will be on notice to the parties, so that they will have a further opportunity to advance evidence in support of the agree-upon order, if they wish.
4. Finally, I should not “tinker” with any agreed-upon order, either up or down. That is to say, the order should be either accepted or rejected in its entirety, following this process.

## **DECISION AND ORDER**

The hearing date of April 17, 2019 is cancelled, and the new date will be Tuesday, March 5, 2019. A fresh notice will be sent out.

X 

Ted Yao  
Panel Chair, Toronto Local Appeal Body  
Signed by: Ted Yao