

DECISION AND ORDER

Decision Issue Date Tuesday, March 19, 2019

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): ABDUR ROUF

Applicant: JOHN BENCZKOWSKI

Property Address/Description: 8 MIDBURN AVE

Committee of Adjustment Case File: 18 132201 STE 31 CO, 18 132209 STE 31 MV, 18 132216 STE 31 MV

TLAB Case File Number: 18 239516 S53 31 TLAB, 18 239517 S45 31 TLAB, 18 239518 S45 31 TLAB

Hearing date: Thursday, February 14, 2019

DECISION DELIVERED BY J. TASSIOPOULOS

APPEARANCES

NAME	ROLE	REPRESENTATIVE
JOHN BENCZKOWSKI	APPLICANT	
ABDUR ROUF	APPELLANT/OWNER	JONATHAN BENCZKOWSKI AMBER STEWART
CITY OF TORONTO	PARTY (TLAB)	MARC HARDIEJOWSKI
JULIUS DE RUYTER	EXPERT WITNESS	

INTRODUCTION & BACKGROUND

This is a Motion for an Adjournment of the Toronto Local Appeal Body (TLAB) hearing of this Appeal, scheduled for March 5, 2019. The City of Toronto (City) filed a Motion to Dismiss on January 19, 2019 and that it be heard orally on February 14, 2019. On February

13, 2019 a Notice of Response to Motion was filed by Ms. Amber Stewart requesting that the Motion to Dismiss be refused, that the hearing scheduled for March 5, 2019 be adjourned to a date after mid-April and that a new exchange date be set for the Witness Statement by Mr. Benczkowski. Prior to the hearing on February 14, 2019 both Mr. Roman Ivanov of the City and Ms. Amber Stewart had reached an agreement: the City consented to the adjournment of the hearing to a date after mid-April 2019; a condition that a deadline be set for the submission of the Witness Statement by Mr. Benczkowski; and that the City be afforded the right of reply evidence to Mr. Benczkowski's Witness Statement.

MATTERS IN ISSUE

There are no matters in issue as the only other party to the proceedings, the City has withdrawn its Motion to Dismiss, consents to the adjournment, and no participants were in attendance.

JURISDICTION

Rule 23.4 b) permits the TLAB, on a motion for an adjournment, to grant the motion and fix a new date for the hearing.

By rule 16.1 (b), the TLAB may, at any stage of a proceeding, make an order for the exchange of witness statements and reports of expert witnesses.

EVIDENCE

On January 18, 2019 Mr. Ivanov, City of Toronto, submitted to the TLAB a Motion to dismiss the appeal pursuant to Rule 2.11 of the TLAB Rules of Practice and Procedure. On February 13, 2019 Ms. Amber Stewart, Counsel for the Appellant, submitted a Notice of Response to Motion including an Affidavit of Mr. Benczkowski. Ms. Stewart explained that Mr. Benczkowski originally submitted the appeals to the TLAB. Due to a combination of Mr. Rouf's financial constraints and that Mr. Benczkowski and his wife were expecting their first child on March 8, 2019, it was requested that the March 5, 2019 hearing be adjourned to a later date after mid-April.

Prior to the start of the February 14, 2019 hearing, both Mr. Ivanov and Ms. Stewart came to an understanding and Mr. Ivanov consented to the adjournment to a later date.

ANALYSIS, FINDINGS, REASONS

The adjournment, at the request of the Appellant, will not prejudice the TLAB from conducting the proceeding in a just, timely and cost-effective manner. There are no other parties or participants that would be affected.

The City withdrew its Motion to Dismiss and agreed to the adjournment.

Both parties are in agreement with the adjourned dates on the condition of a deadline for Witness Statement submission and the right of Reply.

DECISION AND ORDER

The Motion to Dismiss by the City has been withdrawn and the hearing of this appeal is adjourned, to be heard on **Thursday July 4 and Friday July 5, 2019**, as agreed. The Appellant's Witness Statement is to be filed by May 1, 2019. The City is afforded the right of response thereto, which is to be filed by June 3, 2019.

The TLAB will issue and post a new Notice of Hearing including the dates as specified herein. There are no other changes.

In the event of any changes to the Rules, those in effect on the date hereof shall prevail.

The Parties are instructed to advise the TLAB at the earliest opportunity upon any resolution of the matters, all in accordance with Rule 19.



John Tassiopoulos

Panel Chair, Toronto Local Appeal Body