

DECISION AND ORDER

Decision Issue Date Thursday, March 14, 2019

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

Appellant(s): HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF GOVERNMENT AND CONSUMER SERVICES

Applicant: CYNTHIA MACDOUGALL

Property Address/Description: 15-27 GROSVENOR ST & 26-32 GRENVILLE ST

Committee of Adjustment Case File: 18 115208 STE 27 CO, 18 115230 STE 27 MV, 18 115635 STE 27 MV

TLAB Case File Number: 18 258367 S53 27 TLAB

Hearing date: Friday, March 8, 2019

DECISION DELIVERED BY T. YAO

APPEARANCES

NAME	ROLE	REPRESENTATIVE
Her Majesty The Queen in Right of Ontario as represented by the Minister of Government and Consumer Services	Owner/Appellant	Cynthia MacDougall ¹
City of Toronto	Party	Jason Davidson
Choice Properties REIT, Greenwin Inc	Parties	Sidonia Tomasella

¹ The Province has appointed Choice Properties REIT and Greenwin as its agents in this hearing.

Michael Dror

Expert Witness

INTRODUCTION

The Province of Ontario, owner of 15-27 Grosvenor St and 26 and 32 Grenville St, and Greenwin Holdings Inc. and Choice REIT seek to develop the lands as a new mixed-use development containing a mix of affordable and market rental housing, including 210 affordable housing units, subject to a future zoning amendment. As a preliminary step, the lands must be severed in a complex way, summarized in the report of Engineering and Construction Services:

- Conveyed Lot - 27 Grosvenor St and 26 Grenville Street (Parts 1 to 6 and Part 8);
- Retained Lot 1 - 15-25 Grosvenor Street (Part 7); and
- Retained Lot 2 - 32 Grenville Street (Part 9).

On October 24, 2018, the Committee of Adjustment granted the severances and easements/rights of way subject to 8 conditions. The owner appealed on November 19, 2018, with respect to the wording of four of the conditions, summarized in the affidavit of Michael Dror, the owner's planner:

- (a)** condition 3 of the Engineering and Construction Services Conditions required that an application, at no cost to the City, be filed with the City's Toronto Water District Operations to provide for the installation of the proposed water service for the Severed Parcel;
- (b)** condition 4 of the Engineering and Construction Services Conditions required that the existing water connection that served the Site be disconnected from the Severed Parcel and a new water service connection be installed for 27 Grosvenor Street;
- (c)** condition 5 of the Engineering and Construction Services Conditions required that certain lands be conveyed to the City in order to facilitate a public highway widening; and
- (d)** condition 9 of the Engineering and Construction Services Conditions set out the City's standard requirements related to the environmental site assessment and remediation associated with the lands to be conveyed to the City.

Essentially the thrust of the appeal was that certain conditions should not have to be satisfied as conditions precedent to the consents being given but may be handled by a section 53 agreement to be entered into prior to the issuance of a consent certificate. In view of the time sensitivity of this affordable housing project, the City of Toronto consents to a modification of wording of these conditions and to the severances as granted by the Committee of Adjustment, subject to conditions as revised. The order that follows is the order agreed upon by the parties.

DECISION AND ORDER

The Toronto Local Appeal Body (TLAB) has considered the provisions of Section 51(24) of the *Planning Act* and is satisfied that a plan of subdivision is not necessary. The TLAB therefore consents to the transaction as shown on the plan filed with the Committee of Adjustment on the condition that before a Certificate of Consent is issued, as required by Section 53(42) of the *Planning Act*, the applicant is to file the following with the Committee office:

- (1) Written confirmation from the Chief Engineer & Executive Director, Engineering & Construction Services that the owner/applicant has submitted a revised plan showing, the following:
 - (a) A notation that the lands to be conveyed to the City must be paved to City standards, at no expense, to the City and with grades set at an elevation high enough to allow-run-off from the future widening to drain towards the centre of the laneway; and
 - (b) The required 0.26 m wide strip of land to the full extent of the site (27 Grosvenor St) abutting the east limit of St. Vincent Lane, for public highway widening purposes, clearly labeled as such and a notation that such lands are to be conveyed to the City free and clear of all encumbrances, at no expense to the City, as detailed in Condition (2)(d) below.
- (2) Written confirmation from the City Solicitor that the owner/applicant has entered into an agreement authorized by subsection 53(12) of the *Planning Act* and registered such agreement against title, to the satisfaction of the City Solicitor, containing the following conditions:
 - (a) That the parking supply required to meet the parking demand of the retained lot, being 15-25 Grosvenor Street (the "Retained Lot 1"), will ultimately be provided within the future redevelopment of the severed lot, being 27 Grosvenor Street and 26 Grenville Street (the "Severed Lot") substantially in accordance with the report titled "Assessment of Proposed Severance, 15/25 Grosvenor Street, 27 Grenville Street, 26 Grenville Street and 32 Grenville Street, and Minor Variances – Parking and Loading Assessment", dated August 13, 2018, prepared by BA Consulting Group Ltd.;
 - (b) That the loading supply required to meet the loading demand of the Retained Lot 1 will ultimately be provided within the future redevelopment of the Severed Lot substantially in accordance with the report titled "Assessment of Proposed Severance, 15/25 Grosvenor Street, 27 Grenville Street, 26 Grenville Street and 32 Grenville Street,

Decision of Toronto Local Appeal Body Panel Member: T. YAO
TLAB Case File Number: 18 258367 S53 27 TLAB

and Minor Variances – Parking and Loading Assessment", dated August 13, 2018, prepared by BA Consulting Group Ltd.;

- (c) That the requirements to be satisfied in respect of Conditions (2)(a) and (2)(b) above, will be incorporated within the future site plans for the Severed Lot;
- (d) That the owner/applicant shall, prior to the approval of plans and drawings pursuant to section 114 of the *City of Toronto Act, 2006*, prepare all documents and convey to the City, for nominal consideration, in fee simple, a 0.26 m strip of land to the full extent of the site (27 Grosvenor Street) abutting the east limit of St. Vincent Lane, for public highway widening purposes, such lands to be free and clear of all physical and title encumbrances, save and except for utility poles and subject to a right-of-way for access in favour of the Transferor until as time as the said lands have been dedicated as a public highway, all to the satisfaction of the Chief Engineer & Executive Director, Engineering & Construction Services and the City Solicitor;
- (e) That the owner/applicant shall, prior to the registration of the conveyance of lands referred to in condition 2(d) above, submit, a revised draft Reference Plan of Survey, in metric units and integrated with the Ontario Co- ordinate System (3⁰ MTM, Zone 10, NAD 83 CSRS), with coordinate values shown on the face of the plan and delineating thereon, by separate PARTS, the 0.26 m strip of land to the full extent of the site (27 Grosvenor Street) abutting the east limit of St. Vincent Lane, to be conveyed to the City for public highway widening purposes and the remainder of the site and any appurtenant rights-of-way, for review and approval, prior to depositing it in the Land Registry Office, to be prepared and registered at the expense of the owner/applicant.
- (f) That the owner/applicant shall, prior to the registration of the conveyance of lands referred to in condition 2(d) above, submit a Qualified Person Preliminary Statement Letter (Attachment - Template), that is dated and signed by the applicant's Qualified Person, as defined in O. Reg. 153/04, as amended, describing the lands to be conveyed to the City, and identifying what environmental documentation will be provided to the City's Peer Reviewer to support this conveyance; all environmental documentation consistent with O. Reg. 153/04 requirements shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04, as amended, insurance requirements or such greater amount specified by the Chief Engineer & Executive Director, Engineering & Construction Services;

Decision of Toronto Local Appeal Body Panel Member: T. YAO
TLAB Case File Number: 18 258367 S53 27 TLAB

- (g) That the owner/applicant shall, prior to the registration of the conveyance of lands referred to in condition 2(d) above, submit all Environmental Site Assessment reports prepared in accordance with the Record of Site Condition Regulation (Ontario Regulation 153/04, as amended) describing the current conditions of the land to be conveyed to the City and the proposed Remedial Action Plan based on the site condition standards approach, to the to the satisfaction of the City's peer reviewer.
- (h) That the owner/applicant shall, prior to the registration of the conveyance of lands referred to in condition 2(d) above, submit payment of all costs associated with the City retaining a third-party peer reviewer including all administrative costs to the City (7%), and submit an initial deposit of \$8,000.00 towards the cost of the Peer Review in the form of a certified cheque, to the Chief Engineer & Executive Director, Engineering & Construction Services. Submit further deposits when requested to cover all costs of retaining a third-party peer reviewer (unused funds will be refunded to the applicant by the City);
- (i) The owner/applicant shall, prior to the registration of the conveyance of lands referred to in condition 2(d) above, submit a statement from the Qualified Person based on the submitted environmental documents, to the satisfaction of the City Peer reviewer, has been submitted to the satisfaction of Chief Engineer & Executive Director, Engineering & Construction Services for Peer Review and concurrence, which states:
- i. In the opinion of the Qualified Person:
 - It is either likely or unlikely that there is off-site contamination resulting from past land uses on the development site that has migrated onto adjacent City lands that would exceed the applicable Site Condition Standards; and
 - To the extent that the opinion required by Condition (2)(i)(i) is that past migration is likely, it is either possible or unlikely that such off-site contamination on adjacent City lands poses an adverse effect to the environment or human health;
 - ii. Land to be conveyed to the City meets either:
 - The applicable Ministry Generic Site Condition Standards (Tables 1, 2, 3, 6, 7, 8 and 9; subject to applicable

Decision of Toronto Local Appeal Body Panel Member: T. YAO
TLAB Case File Number: 18 258367 S53 27 TLAB

exemptions as stated in O. Reg. 153/04) for the most environmentally sensitive adjacent land use; or

- The Property Specific Standards as approved by the Ministry for a Risk Assessment/Risk Management Plan which was conducted in accordance with the conditions set out herein;
- (j) The owner/applicant shall, prior to the registration of the conveyance of lands referred to in condition 2(d) above, submit together with the documentation referred to in condition 2(i) above, a Reliance Letter that is dated and signed by the applicant's Qualified Person, as defined in O. Reg. 153/04, as amended, confirming that both the City and the City's peer reviewer can rely on the environmental documentation submitted, consistent with O. Reg. 153/04 requirements, and the Qualified Person's opinion as to the conditions of the site; all environmental documentation consistent with O. Reg. 153/04 requirements and opinions shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04, as amended, insurance requirements or such greater amount specified by the Chief Engineer & Executive Director of Engineering & Construction Services.";
- (3) The owner/applicant shall submit an application to Toronto Water, Operations Contract Services (contact: George Kamalendran, 416-392-7819) for the installation of the proposed water service to 27 Grosvenor Street within the public right-of-way abutting 27 Grosvenor Street, at no cost to the City, to the satisfaction of the Chief Engineer & Executive Director of Engineering & Construction Services. For clarity, the owner/applicant is responsible for the portion of the proposed water service that will be located on private property in addition to any modifications required within the building, including installation of a water meter, to accept water from the proposed service.
- (4) The owner/applicant shall provide confirmation that the existing water connection between 25 and 27 Grosvenor Street has been disconnected and that separate water service referred to in Condition 3 above has been installed for 27 Grosvenor Street.
- (5) Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.

Decision of Toronto Local Appeal Body Panel Member: T. YAO
TLAB Case File Number: 18 258367 S53 27 TLAB

- (6) Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of the Manager of Land and Property Surveys, Engineering Services, Engineering and Construction Services.
- (7) **One electronic copy of the registered reference plan of survey** satisfying the requirements of the Manager of Land and Property Surveys, Engineering Services, Engineering and Construction Services.
- (8) Within **ONE YEAR** of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the *Planning Act* as it pertains to the conveyed land and/or consent transaction.

Further, the TLAB approves the following easements/rights of way:

Parts 1 and 6 will be an easement for support in favour of Parts 7 and 12.

Parts 1, 2, 3, 4, 6, 8, 10 and 11 will be an easement/right-of-way for pedestrian and vehicular access, and loading in favour of Part 7.

Parts 1 and 6 will be an easement/right-of-way for parking in favour of Part 7.

Parts 1, 2 and 3 will be an easement for maintenance, repair or replacement of buildings and structures on Part 7 and other such uses as determined by the owner of Part 7 from time to time.

Parts 4, 8, 10 and 11 will be an easement/right-of-way for pedestrian and vehicular access, maintenance, repair or replacements of building or structures on Part 12 and other such uses as determined by the owner of Part 12 from time to time.

For clarity, all existing easements for vehicular and pedestrian access, garbage collection and installing, maintaining, repairing and replacing an electrical transformer will be retained as described in Instrument CA255713.

Finally, in accordance with Sections 31.3 and 2.10 of the Rules, the Owner has made a request for a reduction in the time period that a Party may request a review of a TLAB Final Decision and order. Specifically, the reduction request is from 30 days to 5 days, in order to provide for a just and expeditious Final Decision and order, in light of the settlement between the Parties and the public interest objectives to provide affordable housing that underlie the application. The City has advised it supports the Owner's request. In recognition of the settlement, in this circumstance, TLAB will grant such relief and reduce the period for the filing of a request for review from 30 days to 5 days.

X

Ted Yao

Ted Yao

Panel Chair, Toronto Local Appeal Body

Signed by: Ted Yao