

DECISION AND ORDER

Decision Issue Date Thursday, May 23, 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): PETER GAFFNEY

Applicant: ELDON THEODORE

Property Address/Description: 106 NORTHCOTE AVE

Committee of Adjustment Case File: 16 269613 STE 18 CO, 16 269617 STE 18 MV, 16 269618 STE 18 MV

TLAB Case File Number: 17 259319 S53 18 TLAB, 17 259324 S45 18 TLAB, 17 259327 S45 18 TLAB

Hearing date: Wednesday, April 18, 2018

DECISION DELIVERED BY DINO LOMBARDI

INTRODUCTION AND BACKGROUND

This matter was heard as above noted and a decision was issued by the Toronto Local Appeal Body (TLAB) on April 18, 2018 in respect of 106 Northcote Avenue (subject property).

Subsequently, the TLAB received correspondence from the owner, Mr. Peter Gaffney, on April 30, 2019, to the effect that one of the conditions imposed on the consent granted by the Panel Member is problematic, from a timing perspective.

The relevant consent condition reads as follows:

“Within ONE YEAR of the date of 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. 19796, 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.”

In his correspondence, Mr. Gaffney advised the TLAB that he was experiencing difficulty satisfying the conditions imposed through the consent approval, most particularly with Condition #9 relating to the land conveyance and the consent transaction. He noted that the one year anniversary of the deadline from the date of the issuance of the TLAB decision was fast approaching and he found it problematic trying to deal with the myriad departments and staff at the City of Toronto (City) in order to satisfy the requisite conditions within the established one-year time period.

He expressed frustration in dealing with the City and completing the conveying of the required lands and noted that the process is “a learning curve” for a novice such as himself. He did, however, suggest that he was very close to complying with all the conditions.

As a result, he requested that the deadline be extended by three (3) months, to September 3, 2019.

MATTERS IN ISSUE

A condition imposed on the consent approval is not directly related to the process of confirming and perfecting lot division and title passage but is more properly germane to secure its satisfaction, as a condition of variance approvals and the permit issuing process. The request, in effect, is to amend Condition #9 by extending the deadline to allow the owner to comply with the other conditions of consent approval and to ultimately convey the required land to the City.

JURISDICTION

The TLAB Rules of Practice and Procedure (Rules), notably Rules 2 and 30, permit the issuance of minor and technical correcting orders in a timely fashion, where appropriate.

EVIDENCE

On receipt of the request from Mr. Gaffney for an extension to the deadline as required in Condition #9, I directed TLAB staff to contact him and request the submission of the following:

- An affidavit or letter from his solicitor with the following matters outlined:
 - A formal request for an extension of the deadline;
 - A status update of the other outstanding conditions of approval;
 - A brief explanation as to what, to date, the owner has done to facilitate the completion of those conditions; and
 - The extension date being requested.

On May 14, 2019, Mr. Abraham Jonas, the owner's solicitor, responded by email to the TLAB's request and provided the requested information. He confirmed that he was indeed Mr. Gaffney's solicitor in this matter and he formally requested, on the owner's behalf, the extension of the deadline to September 3, 2019 in order to meet all of conditions outlined in the TLAB's May 23, 2018 decision.

He also confirmed that the following matters had been completed and/or submitted to the City:

- surveyor's certificate for the conveyance;
- the required arborist's report;
- the municipal address; and
- the R-plan.

He further confirmed that all City taxes and utility charges were current, and that there were no outstanding work orders registered against the subject property. He did advise that the conveyance to the City of the 0.98 metre wide strip of land was still outstanding, which he attributed to the fact that the owner was awaiting a partial discharge of the mortgage. A prerequisite of conveyance is that the lands be free and clear of all encumbrances.

ANALYSIS, FINDINGS, REASONS

I am satisfied that the owner is working diligently to comply with all of the consent conditions and I am convinced that there is nothing onerous in agreeing to extend the deadline to allow the owner leeway in addressing these matters.

Under the applicable Rules (30.1), the TLAB has the authority to make technical revisions to its decisions and orders. The authority to impose conditions exists with the TLAB as delegated under the *Planning Act* and the *City of Toronto Act* and includes the power to vary those conditions but before the applicable statutory one-year period.

As a result, I advised the TLAB's staff to notify the owner and the City that the TLAB, by an amending decision, has extended the period for the fulfillment of conditions as set out in the original Decision and Order by some three (3) months.

In my consideration, nothing is served by the condition creating an interference with the substance or process of the conveyance of the required lands.

DECISION AND ORDER

The Decision is revised by amending the original Decision Issue Date to read '**May 23, 2019**'. The limitation period is extended accordingly by the amending order and the actual conveyance of the subject lands must occur within the set two-year period.

Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI
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All other terms of the Decision remain unchanged.

If there are difficulties arising from this decision, the TLAB may be spoken to.

X 

Dino Lombardi
Panel Chair, Toronto Local Appeal Body