

DECISION AND ORDER

Decision Issue Date Thursday, June 27, 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): PAUL ACCADIA

Applicant: VAN ELSLANDER AND ASSOCIATES ARCHITECTS

Property Address/Description: 77 THIRTY FIFTH ST

Committee of Adjustment Case File: 18 249037 WET 06 CO, 18 249038 WET 06 MV, 18 249039 WET 06 MV

TLAB Case File Number: 19 119639 S53 03 TLAB, 19 119640 S45 03 TLAB, 19 119641 S45 03 TLAB

Motion Hearing date: Tuesday, June 25, 2019

DECISION DELIVERED BY T. YAO

APPEARANCES

Scott Morrison	Owner	Michael Cook
Paul Accadia	Appellant	Stephanie Chris
Long Branch Neighbourhood Assoc.	Party	Judy Gibson, Christine Mercado

The salient fact is that this hearing is set for July 9 and 10, 2019, about two weeks away. Ms. Mercado, on behalf of Long Branch Neighbourhood Association, brings a motion to adjourn this hearing. Its grounds are that its expert witness Dr. Puric-Mladenovic is unavailable for the July dates.

The lead-up to this July hearing date is not uneventful. The Committee of Adjustment decision was February 27, and in less than a month (March 20, 2019) the TLAB had issued its Notice of Hearing date for July 9, then 81 days in the future. On April 12, 2019, the appellant Mr. Accadia brought a motion for adjournment of the July dates on the basis that his witness Ms. Mercado was unavailable. On April 12, the TLAB polled parties in the event Mr. Accadia's motion succeeded. The parties agreed

on two dates in August 2019. (I am assuming that arrangements were made among only Mr. Park, the Morrisons' lawyer, Ms. Mercado and Mr. Accadia, since the number of participants is so large.) On May 13, 2019, Mr. Leung denied Mr. Accadia's adjournment request. LBNA relied on those August dates, which would have been convenient for Dr. Puric-Mladenovic but are now unavailable.

Prior to the issuance of Mr. Leung's decision, LBNA had filed Dr Puric-Mladenovic's Expert Witness Statement. She is an appropriate expert witness just like the other arborists. One day after receipt of Mr. Leung's decision, LBNA checked Dr Puric-Mladenovic's availability and found she was unavailable for July. Thus, this motion.

On May 31, 2019, Mr. Accadia filed a request for the TLAB to review Mr. Leung's decision. Although there is no written decision as of today (June 25, 2019), Ms. Mercado states that she has been told by staff that the review will be denied. She accepts this. On June 14, materials for this second motion for adjournment were filed. On June 20, I advised the three main players that I would be converting Ms. Mercado's motion into a telephone conference call and this brings us to the conference call.

At the telephone conference call, we canvassed the witness list. The Morrisons will call Jordan Kemp, planner, and Laura Watson, arborist. Mr. Accadia will call Ian Bruce, arborist, and Max Dida, City arborist, under summons. LBNA will call David Godley, Sandy MacDonald, Christine Mercado, and possibly other residents. It is apparent that the hearing will not finish on July 10, 2019 in any event.

So, I am adding two days to this hearing, **Friday October 11, 2019 and Wednesday October 16, 2019**. The commencement date will still be July 9, 2019. Unfortunately, LBNA's arborist, Dr. Puric-Mladenovic, whose July unavailability is the proximate cause of this motion, is likely not to be able to attend in October because she returns to her teaching post and teaches on Wednesdays. She also does research on Fridays. Ms. Gibson is not able to contact her to get further details as to her precise schedule on those days.

I directed the parties to discuss this issue between themselves before July 9 to give the presiding Member some options for a clear path forward. Mr. Cook, who attended the telephone call on behalf of Mr. Park, has advised that he does not have access to Mr. Park's schedule for October. I requested all parties to be cooperative, as it is in their mutual best interest to complete this hearing in a timely fashion. But I leave the scheduling of Dr. Puric-Mladenovic's and Mr. Park's possible unavailability in the hands of the presiding Member, who has complete authority to conduct the hearing and deal with its schedule as he or she sees fit.

I would request staff to send out a fresh notice of hearing, as some of the participants may not be aware of all the procedural history.

DECISION AND ORDER

This request for adjournment is denied and the hearing set for Tuesday, July 9, 2019 and Wednesday, July 10, 2019 can proceed as originally scheduled. Two days are added: October 11 and 16, 2019

X 

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