

INTERIM DECISION AND ORDER

Decision Issue Date Thursday, October 31, 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): City of Toronto

Applicant: Franco Romano

Property Address/Description: 29 Hadrian Dr

Committee of Adjustment Case File Number: 19 142184 WET 01 MV (A0226/19EYK)

TLAB Case File Number: 19 178637 S45 01 TLAB

Hearing date: Thursday, October 31, 2019

DECISION DELIVERED BY S. Gopikrishna

REGISTERED PARTIES AND PARTICIPANTS

Applicant	Franco Romano
Appellant	City of Toronto
Appellant's Legal Rep.	Derin Abimbola
Party	2566977 Ontario Inc
Party's Legal Rep.	Christina Kapelos

INTRODUCTION AND BACKGROUND

2566977 Ontario Inc. is the owner of 29 Hadrian Dr., located in Ward 1 of the City of Toronto. The owner applied to the Committee of Adjustment (COA) to construct a new triplex dwelling. The COA heard the application on June 6, 2019, and approved the application. The City Solicitor appealed the COA's decision to the Toronto Local Appeal Body (TLAB) on June 26, 2019, which scheduled a Hearing for October 31, 2019.

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 19 178637 S45 01 TLAB**

On October 30, 2019, the TLAB received a Motion from the Applicants, requesting that:

1. An Order abridging the time for the delivery of this Notice of Motion;
2. An Order adjourning the Hearing of this Appeal, currently scheduled to commence on October 31, 2019;

The reason given was that the Parties were interested in continuing with Settlement discussions, and that the City of Toronto had consented to the request for adjournment. The Parties were advised by the Staff that the TLAB Rules required that Motions be submitted at least two weeks before the Hearing date. When the Parties requested that the request be considered by the Panel Member hearing the case, the Motion was referred to me around midday on October 30, 2019. I was busy with the Hearing of another Appeal, and reviewed the material briefly. I concurred with the Staff about the need to file Motions for Adjournment well in advance of the Hearing date. I asked that an email to be sent to the Parties informing them that it was important for them to appear at the Hearing scheduled for October 31, 2019, and explain the nature, and reasons for the request to adjourn the Hearing.

On the Hearing held on the morning of October 31, 2019, the City was represented by Ms. Aderinsola Abimbola, a lawyer, and Ms. Allison Smith, a planner, while the Applicants were represented by Ms. Christina Kapelos, a lawyer, and Mr. Franco Romano, a planner. Ms. Kapelos stated that both Parties were involved in pursuing settlement discussions, and were requesting more time to be able to complete their discussions, and see if a Settlement could be arrived at. She stated that the Parties had misunderstood the Rule regarding adjournment requests, resulting in the late request.

I encouraged the Parties to pursue Settlement discussions, and asked the Parties how many days would be needed to complete the Hearing in case the Settlement discussions were not successful. The Parties agreed that two full days were necessary to complete the Hearing, in case the Settlement discussions were not successful. I also informed the Parties that the earliest available dates for scheduling the Hearing would be in February 2020.

I granted the adjournment request, and informed the Parties that the TLAB Staff would be in touch with the Parties to identify two Hearing dates, after which a new Hearing Notice could be issued. .

ANALYSIS, FINDINGS, REASONS

The Request to adjourn the Hearing is granted because TLAB encourages negotiations between the Parties, and efforts to settle a given matter.

I believe that it is important to address the timing of Motions to establish what may be deemed to be a reasonable time frame to address them appropriately. The relevant Rules are reproduced below

Date by which Motions will be Heard

17.1 No Motion, except a Motion brought under Rule 28, shall be heard later than 15 Days before the Hearing, unless the TLAB orders otherwise.

Consent adjournments Excepted Unless TLAB Directs Otherwise

17.2 Where a Party has obtained from the TLAB an adjourn-to date and all Parties consent to an adjournment request and all Participants have been notified of the request no motion is necessary and the TLAB may issue a revised Notice of Hearing.

Rule 28 refers to Motion for Costs, and is not relevant to this discussion. The 15 day time frame to Hear a Motion is stated explicitly in Rule 17.1. For Rule 17.2 to apply, it is important for the Parties to contact the TLAB well in advance of the scheduled Hearing date, so that the adjourn-to-dates can be established, and a new Hearing Notice be issued such that all Parties and Participants have access to the updated information about the adjournment of the Hearing to a new set of dates.

Parties should not assume that mere mutual consent amongst themselves to adjourn a Hearing, is binding on part of the TLAB, given the process described above, culminating in the issuance of a new Notice of Hearing. The wish of the Parties, while important to the determination of a matter, cannot transform into an order for the TLAB, nor can it automatically become an Order of the TLAB. I reiterate that timelines have to be adhered to strictly by the Parties, to allow the TLAB adequate time to make decisions, and inform all Parties and Participants of the same, in the interests of procedural fairness.

INTERIM DECISION AND ORDER

1. The Hearing respecting the Appeal scheduled for October 31, 2019, has been adjourned at the request of the Parties.
2. TLAB Staff will canvass the Parties to establish two (2) hearing dates in February or March 2020, to resume the Hearing, and complete the same. An updated Hearing Notice may be issued after the dates are identified.

So orders the Toronto Local Appeal Body

X 

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body