

DECISION AND ORDER

Decision Issue Date Tuesday, November 26, 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): MICHELE GONSALVES

Applicant: ARC DESIGN GROUP

Property Address/Description: 16 ANSON AVE

Committee of Adjustment Case File: 19 155522 ESC 20 MV (A0137/19SC)

TLAB Case File Number: 19 219581 S45 20 TLAB

Hearing date: Wednesday, January 08, 2020

DECISION DELIVERED BY T. YAO

APPEARANCES

NAME	ROLE	REPRESENTATIVE
Michele Gonsalves	Appellant	
Shila and Shake Nur	Parties/Owners	Andy Margaritis Islam
Colleen T. Rumball	Participant seeking party status	
Janet May	Participant seeking party status	
Mark Gonsalves	Participant	
Maria Tsirtsimpis	Participant	
Anthony Vallant	Participant	
Dorothy Belins	Participant	
Juliana Harsanji	Participant	
Josephine Fernandes	Participant	

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Lawrence Fernandes	Participant
Patrick Rumball	Participant
Rocco Rana	Participant
Pasquale Panzarino	Participant
Susan Bunt	Participant
Ramanan Ramachandran	Participant

DECISION

This is a decision replying to Mr. Margaritis' email. He requests clarification of the status of Colleen Rumball and Janet May. The hearing is scheduled for January 8, 2020 and Notice of Intention to be either a party or participant was due October 21, 2019. Ms. May and Ms. Rumball elected to be participants in a timely way.

On November 17, 2019, Ms. May wrote:

From: Janet May [her address is omitted]
Sent: November 17, 2019 8:04 PM
To: Toronto Local Appeal Body
Subject: Application to change status from participant to party TLAB Case File 19 219581 S45 20 TLAB

Hi,

I would like to change my status for the above referenced file from participant to party. Can you please confirm that I can do this because the party/participant statements are due on Tuesday.

Thanks, Janet May
416 538-1406

Ms. Rumball wrote a similar email. On November 20, 2019, Mr. Margaritis, lawyer for the owners of 16 Anson Ave, emailed:

Dear TLAB

Please note the following, which we ask you kindly forward to the presiding member for directions:

1. In accordance with the TLAB Notice of Hearing, on October 19 Ms. May elected to be a Participant. On November 17, nearly one month after the deadline to do so, Ms. May filed a TLAB Form 4 now electing to be a Party. This is highly inappropriate and not in accordance with the TLAB Rules. We ask that Ms. May's Participant status be maintained, or Ms. May be directed to file a Motion to obtain Party status in accordance with the TLAB Rules;

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2. Notwithstanding that Ms. May is not a Party to this Hearing, she has nonetheless filed her “Party Statement” late, neither in accordance with the TLAB’s Notice of Hearing or the TLAB Rules. We kindly ask that Ms. May’s “Party Statement” be removed from the TLAB record until such time as her status is confirmed by way of Motion and decision of the TLAB, at which motion Ms. May can also ask that her late filing be accepted by the TLAB;
3. In accordance with the TLAB Notice of Hearing, on October 21 Ms. Rumball elected to be a Participant. On November 17, nearly one month after the deadline to do so, Ms. Rumball filed a TLAB Form 4 now electing to be a Party. This is highly inappropriate and not in accordance with the TLAB Rules. We ask that Ms. Rumball’s Participant status be maintained, or Ms. Rumball be directed to file a Motion to obtain Party status in accordance with the TLAB Rules;
4. On November 19th Ms. Rumball filed a series of materials which appear to have been filed by neighbours who may be Participants, like her, to this Hearing. Notwithstanding Ms. Rumball’s election to be a Participant to this Hearing she has also filed a Party Statement, which is inappropriate given her election to be a Participant. We kindly ask that Ms. Rumball’s “Party Statement” be removed from the record until such time as her Party status is confirmed by way of Motion and decision of the TLAB.
5. We ask that the TLAB correct it’s “TLAB People List” to confirm which individuals are properly Party’s (sic.) and Participants by way of the election required to have been made, in accordance with the TLAB Rules, by no later than October 21st. Currently, there are two sets of “TLAB People List” one dated November 5th (from the TLAB website) which my client relied on in and in fact included in its document disclosure. The second, dated November 19th (from the TLAB website) that appears to list a number of new Parties and different Participants, from those elections made no later than October 21st.

Thank you,

Andy Margaritis

ANALYSIS, FINDINGS, REASONS

Parties can call and cross-examine witnesses and participants cannot. A participant cannot bring a motion, except to become a party¹.

I interpret Mr. Margaritis’s email as asking whether Ms. May’s and Ms. Rumball’s applications for change of status are inoperative or not. I find that their emails are operative for two reasons.

The right to present a full case is basic to the TLAB process

Mr. Margaritis is alleging a technical defect. Although their emails do not use the words “Notice of Motion”, Ms. May and Ms. Rumball now wish to call witnesses, cross-

¹ 13.8 A Participant to a Proceeding may not:

- a) call witnesses and cross-examine witnesses;
- b) bring Motions, except a Motion to seek Party status;

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examine the opposing planner Julius De Ruyter and make final argument. Rule 13.8 seems to be the method contemplated in the case of a late switch to ‘party’ status. But since all Rules can be waived, it is not the only method. I fail to see what would be accomplished by asking Ms. May and Ms. Rumball to resubmit the same request, only using Form 7 (Notice of Motion) and Form 10 (Affidavit). Substantial compliance with any form is sufficient, according to s 28 of the *Statutory Powers Procedure Act*²

Mr. Margaritis is not prejudiced

Mr. Margaritis has not indicated any prejudice. However, he may wish to file additional materials and it would be fair to permit him to file supplementary material if that is his wish. He may have additional time, until December 13, 2019, to do so.

In conclusion, I find that Ms. May and Ms. Rumball are now parties.

X



Ted Yao
Panel Chair, Toronto Local Appeal Body

² Substantial compliance

[28.](#) Substantial compliance with requirements respecting the content of forms, notices or documents under this Act or any rule made under this or any other Act is sufficient. 1999, c. 12, Sched. B, s. 16 (9).