

DECISION AND ORDER

Decision Issue Date Tuesday, January 07, 2020

PROCEEDING COMMENCED UNDER section 53, subsection 53(19), section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13

Appellant(s): SUKUMARAN SUNIL KUMAR

Applicant: ARBEN SHPATI

Property Address/Description: 777 WILSON HEIGHTS BLVD

Committee of Adjustment Case File Number: 18 173462 NNY 10 MV

TLAB Case File Number: **18 260947 S45 10 TLAB**

DECISION DELIVERED BY TED YAO

APPEARANCES

Name	Role	Representative
Sukumaran Kumar	Appellant	Mikki Levi
City of Toronto	Party	Marc Hardiejowski
Bruno Vivona	Participant	

DECISION AND ORDER

On July 9, 2019, I issued an order that concluded:

There is a time limit of six months, that is, January 15, 2020, at which time I would ask Mr. Wenus to report to the TLAB whether the conditions have been satisfied or not. If I do not hear from Mr. Wenus, or if he is unsuccessful, I will issue an Order to refuse the variances.

On December 12, 2019 I received the following email:

From: Mikki Levy <mikki@johnwenus.com>
Sent: December 12, 2019 9:59 AM

Decision of Toronto Local Appeal Body Panel Member: T. YAO
TLAB Case File Number: 18 260947 S45 10 TLAB

To: Toronto Local Appeal Body
Cc: Marc Hardiejowski; john@johnwenus.com
Subject: Request for extension - TLAB Case # 18 260947 S45 10 TLAB

We are the lawyers representing Sukumaran Kuma, the Appellant in this Matter. This extension request is in regard to the Interim Decision given by Ted Yao on Wednesday July 9, 2019, where Mr. Yao granted the parties a 6 month timeline (ending Jan 15, 2019) to enter into an encroachment agreement (an unexecuted copy prepared by myself attached hereto), the successful execution of which would result in the TLAB authorizing variances in table 1 and 2 shown in a copy of the subject interim decision.

I confirm that Mr. Kumar met one of the conditions for encroachment by removing the addition identified as "F". As you can see in the encroachment agreement, we made best efforts to come to an agreement with Mr. Vivona. However, he hired a lawyer who demanded that we pay Mr. Vivona \$30,000.00 to sign the encroachment agreement when he knew that he was not entitled to that money at law. So, my client has made of claim with his title insurance company to fix the encroaching walls and the case is under their review. The insurance company is asking for more time to conduct their own investigation.

We therefore ask for a further deadline of April 15, 2019.

Below is my email with City's counsel requesting an extension. The email provides some insight on the history of events between Mr. Kumar and Mr. Vivona and his lawyer following July 17, 2019.

Please advise.

Thanks

Since Mr. Wenus reported in a timely fashion, the order to refuse does not have to be made. I asked that a telephone conference be convened with the title insurance representative be invited. Apparently, this is not possible, and it is obvious the matter will have to be resolved through that process, and not at the TLAB. Accordingly, I am asking Mr. Wenus to report back to me January 15, 2021 and either I or the TLAB member assigned to the file in 2021 will decide what to do. For my part it appears that Mr. Wenus' client has acted in good faith up to this point and I do not see why the variances should not be granted if the encroachment issue can be resolved.



Ted Yao
Panel Chair, Toronto Local Appeal Body