

# DECISION AND ORDER

**Decision Issue Date** Monday, March 23, 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, as amended (the "Act")

Appellant(s): FRANTON HOMES INC

Applicant: RN DESIGN LTD

Property Address/Description: 52 HOLMESDALE RD

Committee of Adjustment Case File: 19 180033 STE 09 CO, 19 180035 STE 09 MV, 19 180036 STE 09 MV

**TLAB Case File Number: 19 253734 S53 09 TLAB, 19 253740 S45 09 TLAB, 19 253742 S45 09 TLAB**

**Hearing date:** Wednesday, March 25, 2020

**DECISION DELIVERED BY S. GOPIKRISHNA**

## APPEARANCES

Name	Role	Representative
RN Design Ltd.	Applicant	
Franton Homes Inc.	Owner/Appellant	Amber Stewart
Durval Ribeiro	Participant	

## INTRODUCTION AND BACKGROUND

Mohammad Alam is the owner of 52 Holmesdale Road, located in Ward No 9-Davenport, in the City of Toronto (Toronto). He applied to the Committee of Adjustment (COA) to obtain consent to sever the property into two undersized residential lots, and construct and minor variances to construct a new three-storey semi-detached dwelling with rear second storey deck, front third storey balcony, and front integral garage on each of the new lots. On November 12, 2019, the COA heard the applications, and

refused them in their entirety. On November 26, 2019, Mr. Alam appealed the decision of the COA to the Toronto Local Appeal Body (TLAB); the TLAB set Hearing dates of March 25, 2020, and March 27, 2020, to hear the Appeal. Ms. Amber Stewart, a lawyer, and Mr. Franco Romano, a planner, were scheduled to represent Mr. Alam.

Mr. Durval Ribiero, the neighbour living at 50 Holmesdale Road, elected to be a Party, but then re-elected to be a Participant.

On February 11, 2020, Mr. Anthony Soscia, an articling student in Ms. Stewart's office, brought forward a Motion on behalf of the Appellant to the TLAB, requesting that the Hearing respecting 52 Holmesdale Road, be adjourned, due to the non-availability of counsel, and the planner, for the two day Hearing. According to Hearing Notices submitted with the Motion, Ms. Stewart, and Mr. Romano are scheduled to appear at 65 Fortieth Street (19 114883 S53 03 TLAB), while Mr. Romano is scheduled to provide evidence in the matter respecting 80 Thirty Ninth Street (18 152342 S53 06 TLAB), on March 25, 2020, and March 27, 2020, respectively.

Mr. Soscia also stated that Ms. Stewart's office had attempted to contact Mr. Ribiero, to discuss the proposed adjournment; the Motion materials emphasized that the Appellants were the only Party involved in the Appeal.

## **MATTERS IN ISSUE**

Based on the lack of availability of the lawyer and the planning witness, Mr. Soscia requests that:

- The TLAB adjourn this hearing to a date that works for Ms. Stewart and Mr. Romano
- That the Motion be heard in Writing.

## **JURISDICTION**

The Appellants rely on Rules 23.2, 23.3, 23.4 of the TLAB's Rules of Practice and Procedure. They invoke Practice Direction 2 to request that the Motion be heard in Writing.

## **ANALYSIS, FINDINGS, REASONS**

In view of the Appellants' reliance on Practice Direction 2 in their Motion, I am prepared to hear the Motion in writing,

This Motion involves a single Party, namely the Appellants, with a single Participant. Under the Rules, Participants cannot assert prejudice. The lack of availability of the Appellants' lawyer, and/or the Planner, constitute sufficient ground for the Motion to be allowed, resulting in the case being adjourned to a date on which the Appellants' lawyers are available.

No appearances are necessary on March 25, 2020, and March 27, 2020, either in person, or in any other form.

The TLAB staff will be in touch with the Party and Participant to reschedule the Hearing.

## **DECISION AND ORDER**

1. The Motion requesting an adjournment of the Hearing respecting 52 Holmesdale Road is allowed. .
2. The currently scheduled Hearing dates of dates of March 25, 2020, and March 27, 2020, are set aside. No appearances, in person, or by way of teleconference, are necessary on these dates.

So orders the Toronto Local Appeal Body

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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body