

INTERIM DECISION AND ORDER

Decision Issue Date Monday, August 10, 2020

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): KAMAL MATTAR

Applicant: KAMAL MATTAR

Property Address/Description: 32 TRILLER AVE

Committee of Adjustment Case File: 19 193041 STE 04 MV

TLAB Case File Number: 19 254000 S45 04 TLAB

Hearing date: Monday, August 10, 2020

DECISION DELIVERED BY S. KARMALI

APPEARANCES

Name	Role	Representative
Kamal Mattar	Applicant/Appellant/Primary Owner	
City of Toronto	Party	Marc Hardiejowski
Ryan Santiago	Candidate Expert Witness	

INTRODUCTION

Today's scheduled half-day hearing did not go as planned. There was a more significant connectivity issue experienced by Mr. Hardiejowski and Mr. Santiago about some forty-five minutes into the hearing. I heard no evidence and the Parties did not begin their opening statements.

At the outset, I asked Mr. Hardiejowski and Mr. Mattar whether there were any other persons we should expect this morning. I heard none.¹

¹ Mr. Steffen Hugo, counsel of record for Mr. Mattar at least since November 26, 2019, was not present today. I have received no information about his absence.

Decision of Toronto Local Appeal Body Panel Member: S. KARMALI
TLAB Case File Number: 19 254000 S45 04 TLAB

Before the matter was adjourned, I heard Mr. Mattar estimate that he would need approximately fifteen minutes to present his case. I heard Mr. Santiago estimate that he would need up to two hours to give his opinion evidence should I find him to be a qualified expert.

Mr. Hardiejowski stated that he submitted a consolidated presentation to the TLAB on Friday August 7, 2020. He further stated that the presentation itself is not “fresh evidence” and should, therefore, not be considered late.

Mr. Mattar reacted to Mr. Hardiejowski’s presentation submission and believed that he himself could, then, submit and rely on thirty-five photographs as part of his prospective testimony. Mr. Mattar mentioned he had submitted his photographs very recently. However, neither Mr. Hardiejowski nor the TLAB received such photographs. Mr. Mattar admitted his photographs were not successfully sent.

Mr. Hardiejowski asserted that the City would be “strongly prejudiced” if Mr. Mattar’s late photographs are accepted. I agreed with Mr. Hardiejowski, in part. I had referred to the TLAB hearing notice issued on January 10, 2020 to remind Mr. Mattar that compliance with disclosure rules were known to him in advance of today, and that these rules are to be taken very seriously. He seemed to have acknowledged this point of procedural fairness.

As I said at the outset of the hearing, this case is for Mr. Mattar to demonstrate, on a balance of probabilities, that his appeal has sufficient merit to withstand the policy considerations and legal tests of the *Planning Act*.

I decided that Mr. Mattar could testify about his photographs for up to half of the time of his oral evidence.

Mr. Mattar confirmed that the evidence on which he intends to rely include the photographs (forthcoming) and a letter he had written to accompany his notice of appeal.

Mr. Mattar accepted that Mr. Santiago, if qualified, would be able to fully respond to the photographic of his presentation.

Mr. Mattar requested an early resumption of hearing date. I heard no concerns regarding his request.

DECISION AND ORDER

Mr. Mattar is to send his thirty-five photographs to Mr. Hardiejowski and the TLAB no later than Tuesday August 11, 2020 by 10:00 am EST.

The matter will resume on August 24, 2020 at 9:30 am for a full day electronic hearing. A notice of hearing to reflect this date should be issued by TLAB staff.

X



Sean Karmali
Panel Chair, Toronto Local Appeal Body