

INTERIM DECISION AND ORDER

Decision Issue Date Friday, August 28, 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): ABIOLA NOSIRU, CITY OF TORONTO

Applicant: MICHAEL FLYNN

Property Address/Description: 1745 ALBION RD

Committee of Adjustment Case File: 18 222102 WET 01 MV

TLAB Case File Number: 18 255818 S45 01 TLAB

DECISION DELIVERED BY S. GOPIKRISHNA

INTRODUCTION AND BACKGROUND

The City of Toronto and Abiola Nosiru, the owner of the property at 1780 Albion Road, separately appealed a Decision made by the Committee of Adjustment, which allowed for the construction of a hotel, above the existing banquet hall at the southwest corner of the property at 1745 Albion Road, in Municipal Ward I in the City of Toronto. The matter, was heard on 17 and 18 October, 2019, and 5, 14 and 21 November, 2019, but has not been completed . On December 20,2019, a teleconference was held where it was agreed that four more days would be needed to complete the Hearing of the Appeal. The TLAB subsequently scheduled Hearings on May 1, 2020 and June 10, 2020.

However, no Hearings were held on these days because the TLAB cancelled Hearings due to COVID . In August 2020, when the TLAB contacted the Parties to begin rescheduling missed Hearings, it emerged that Party Nosiru had settled with the Applicant, and was therefore withdrawing year Appeal. In his communication to the TLAB about the withdrawal of Party Nosiru from the matter, Mr. Di Vona, Counsel for Party Nosiru, asked that if his presence was required when the Hearing resumed, to inform that his client had withdrawn their Appeal.

On August 13, 2020, Ms. Stewart, Counsel for the Applicant, advised that she had a conversation with Mr. Mahoney, Counsel for the City, and suggested that two more days of Hearing time would be necessary to complete the Hearing.

The TLAB Staff subsequently canvassed the Parties and advised me that the Parties were available on September 18, 2020 and September 28, 2020, though it was important to finish the day's proceedings by 4 PM on the latter day. By way of information, I am available only on September 28, 2020, after 10 AM.

MATTERS IN ISSUE

- Is the presence of Party Abiola necessary when the Appeal respecting 1745 Albion will resume Hearing?
- Have Hearing dates been identified to proceed with this Appeal?
- How many days are needed to complete hearing the Appeal?

JURISDICTION

The TLAB relies on the Rules of Practice and Procedure (the "Rules") to determine Administrative matters.

ANALYSIS, FINDINGS, REASONS

Based on the information available to me, and given my schedule, I believe that we can meet from **10 AM to 4 PM on 28 September 2020**.

Since the TLAB is aware that Party Abiola has withdrawn as an Appellant from the Appeal respecting 1745 Albion Road, it is not necessary for Party Abiola to attend the Hearing on 28 September, 2020.

I would like to have a discussion with the Parties at the beginning of the Hearing on 28 September, 2020, to establish much time would be required to complete the Hearing. I appreciate Ms. Stewart's preparation for the Hearing, by having a discussion with Mr. Mahoney about the time required to complete the Hearing, and the consequent estimation of the timeline for completion, as indicated in her email dated August 21, 2020. I also acknowledge that the withdrawal of Party Nosiru has a significant impact on how many days would be needed to complete the Hearing.

Notwithstanding the above, I would like to get a better understanding of the timeline needed to complete the Hearing, at the beginning of the next Hearing day.

The three Parties involved in the proceeding had a initial discussion about how many days of Hearing would be needed to complete the proceedings, and concluded that it would take five(5) Hearing days, to obtain evidence from six (6) Expert Witnesses. However, after the completion of five days of Hearing, it emerges that we still have to complete the cross-examination, and re-examination of the City's Planning Witness, Jeffrey Cantos, the re-examination of the Applicant's Witness, Mr. Romano, and Oral Argument.

Parties may also note that I will issue specific instructions for Oral Argument, in advance of the final day of Hearing, such that Parties get an appropriate chance to address all aspects of this case to their satisfaction, while making efficient use of our collective resources.

Given these reasons, I would like to revisit the timeline, and collectively come to a conclusion resulting in the establishment of an accurate timeline for completing the proceeding.

Lastly, I would like to discuss the medium for the Hearing scheduled for September 28, 2020.

While we are in agreement that the Hearing can proceed by way of videoconference, I believe that meeting in person, rather than a videoconference, would better facilitate cross-examination of a Witness.

However, I am sensitive to health and safety concerns, and herewith acknowledge that a Hearing in person can proceed **only** (my emphasis) if the TLAB has been authorized to hold Hearings-in-person, and has implemented adequate safety protocols, and measures to respond to any health concerns.

Given that the TLAB Staff advise me that Hearings-in-person will resume soon, I will follow up with the Staff to identify what medium would work best to proceed with the Hearing on September 28, 2020. The Parties will be informed about the medium well in advance of the Hearing on September 28, 2020.

I herewith summarize my conclusions on the Hearing on September 28, 2020

- On 28 September, 2020 the Appeal respecting 1745 Albion Road. The Hearing on 28 September, 2020, will commence at 10 AM and end at 4 PM. The date is peremptory
- The question of how many more days are required to complete the Hearing can be discussed at the beginning of the Hearing on 28 September, 2020.
- The TLAB will inform the Parties at a later date, but well in advance of September 28, 2020 whether the Hearing will proceed by way of a Hearing-in-Person, or a videoconference.

INTERIM DECISION AND ORDER

- 1) The Hearing of the Appeal respecting 1745 Albion Road will commence on September 28, 2020, at 10 AM, and end at 4 PM. This date is peremptory, and additional Hearing days will be obtained where appropriate.
- 2) The withdrawal of Party Nosiru from the Appeal respecting 1745 Albion Road is acknowledged. No appearances, in person or by way of videoconference, are required of Party Nosiru on 28 September, 2020.

So orders the Toronto Local Appeal Body.

X

A handwritten signature in black ink, appearing to read 'S. Gopikrishna', is written over a light gray rectangular background.

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body