

DECISION AND ORDER

Decision Issue Date Wednesday, December 23, 2020

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): VENITA INDEWEY, CITY OF TORONTO

Applicant: VICTOR HIPOLITO

Property Address/Description: 90 ASH CRES

Committee of Adjustment Case File: 17 184062 WET 06 CO (B0063/17EYK), 17 184076 WET 06 MV (A0585/17EYK), 17 184077 WET 06 MV (A0586/17EYK)

TLAB Case File Number: 19 162059 S53 03 TLAB, 19 162061 S45 03 TLAB, 19 162062 S45 03 TLAB

Hearing date: Wednesday, October 02, 2019

DECISION DELIVERED BY D. Lombardi

REGISTERED PARTIES AND PARTICIPANTS

Applicant	Victor Hipolito
Appellant	City of Toronto
Appellant's Legal Rep.	Nathan Muscat
Appellant's Legal Rep.	Derin Abimbola
Appellant	Venita Indewey
Appellant's Legal Rep.	Ron Jamieson
Party/ Owner	Elizabeth Porritt
Party's Legal Rep.	Russell Cheeseman
Party	Linda Gilbert
Party	Jessica Borges
Party	LBNA (Judy Gibson)
Participant	Steven Vella
Participant	Christine Mercado
Participant	Gerry Quackenbush
Participant	Elizabeth Read
Participant	Alexander Donald
Participant	David Godley
Expert Witness	Svetlana Verbitsky
Expert Witness	Bruce Bostock
Expert Witness	T.J. Cieciora
Expert Witness	Victor Hipolito

INTRODUCTION AND BACKGROUND

This is a matter scheduled for a virtual Hearing in respect of 90 Ash Crescent (subject property).

At some point during the morning portion of Hearing Day 3 (Friday, December 18, 2020) of the virtual hearing event, the presiding Toronto Local Appeal Body (TLAB) Panel Member Yao's computer capabilities were lost due to a power failure of some significance. The TLAB staff member monitoring the event assumed control of electronic portion of the Hearing and advised the attendees of the issue and temporarily halted the Hearing while attempting to reconnect with the Member.

Subsequently, staff was advised by the Member of the severity of the power interruption although he also anticipated being able to rejoin the Hearing virtually sometime within the next hour or two. TLAB staff, therefore, instructed the attendees to continue their virtual attendance until such time as the issue could be resolved and the presiding Member could rejoin the proceedings.

After an extended period of time, it became evident to TLAB staff that the Member's situation was expected to be protracted one and extend well into the afternoon. At that point, staff undertook established Tribunal protocol and contacted the TLAB Chair to determine my availability to assume the responsibility of chairing the Hearing in Member Yao's absence.

At approximately 1:30 pm, I joined the Hearing virtually, introduced myself as the TLAB Chair, and explained to the attendees the extent of the Member Yao's predicament. I advised that although the TLAB has a compliment of ten (10) members, on occasion a Hearing may require adjournment for reasons beyond the presiding Member's control as in this case.

On the basis of the explanation, above, the attendees agreed that in the circumstances it would be appropriate to adjourn the Hearing and to allow Member Yao and the Parties and Participants to determine how best to resume the Hearing event at a later date. Adjournment normally requires submissions in the public forum; given the tacit consent of those in attendance in support and my own limited knowledge of the file agreement was reached in this regard.

Therefore, an adjournment is deemed the most appropriate and fair approach to this event.

MATTERS IN ISSUE

There are no matters in issue as the adjournment arises from inexorable circumstances affecting the presiding Member's ability to continue with the virtual Hearing.

JURISDICTION

Rule 2.2 of the TLAB's Rules of Practice and Procedure provides for relief from matters that arise in unavoidable circumstances. The unavailability of the Member who was scheduled to complete the Hearing day and who had familiarized himself with the matter is one such circumstance.

ANALYSIS, FINDINGS, REASONS

Considering the circumstances that arose during the morning portion of the virtual Hearing and the prospect of the Member's unavailability for the remainder of the day, it is appropriate to adjourn the matter to a later date.

On behalf of the TLAB, I again thank the Parties and Participants present for their patience and co-operation and recognize the inconvenience experienced in the attendance and the early conclusion of the Hearing day.

The TLAB regrets the inconvenience to the Parties and Participants due to this unforeseeable event.

DECISION AND ORDER

The Hearing date is adjourned to be rescheduled, on consent, to a day agreed to by the presiding Member on consultation.

X 

D. Lombardi
Panel Chair, Toronto Local Appeal Body