



## INTRODUCTION AND BACKGROUND

This matter arises by way of a Motion from Mr. Bruce Van-Lane. seeking an Order from the Toronto Local Appeal Body (TLAB) to the following effect:

To extend timelines for opposing Parties to submit Document Disclosures and Witness Statements for a period of 60 days from when the missing information not provided in the November 16, 2020 Applicant Disclosure is made available. This information includes: Zoning Review or Applicant's list of Variances; floor plans.

This Motion is being heard as a written Hearing. An email response to the Motion from Ms. Amber Stewart, representative of the Applicant, was copied to the TLAB, indicating that her client consents to deferring the Witness Statement deadlines for a period of time, which she did not specify.

The full Hearing on this matter is set for April 1, 2021.

## MATTERS IN ISSUE

The central issue of the Motion is that the Applicant Disclosure filed on November 16, 2020 is said to be deficient and that therefore the other Parties are not able to adequately prepare and file their Disclosure and Witness Statements. A delay is therefore requested for some of the submission timelines set out in the *Notice of Hearing* in this matter, issued on October 27, 2020; namely, the deadlines for Document Disclosure, Witness Statements, Expert Witness Statements and, necessarily, the response and reply timelines for these.

The *Notice of Hearing* sets the following submission dates:

- **Applicant Disclosure** as per Rule 11 (Form 3) **DUE** no later than November 16, 2020
- **Notice of Intention** to be a Party as per Rule 12 (Form 4) **DUE** no later than November 26, 2020 or
- **Notice of Intention** to be a Participant as per Rule 13 (Form 4) **DUE** no later than November 26, 2020
- **Document Disclosure** as per Rule 16 **DUE** no later than December 29, 2020
- **Witness Statement** as per Rule 16.4 (Form 12) **DUE** no later than December 29, 2020
- **Response to Witness Statement** as per Rule 16.5 (Form 19) **DUE** no later than January 11, 2021
- **Reply to Response to Witness Statement** as per Rule 16.5 (Form 20) **DUE** no later than January 20, 2021
- **Participant Statement** as per Rule 16.5 (Form 13) **DUE** no later than December 29, 2020

- **Expert Witness Statement** as per Rule 16.6 (Form 14) **DUE** no later than December 29, 2020
- **Response to Expert Witness Statement** as per Rule 16.9 (Form 21) **DUE** no later than January 11, 2021
- **Reply to Response to Expert Witness Statement** as per Rule 16.10 (Form 22) **DUE** no later than January 20, 2021
- **Notice of Motion** as per Rule 17 (Form 7) **DUE** no later than March 17, 2021

At issue for the TLAB is the request to allow for unspecified dates for these submissions, depending on a certain period after an unknown date when the desired information is received, namely “for a period of 60 days from when the missing information not provided in the Nov. 16, 2020 Applicant Disclosure is made available”.

## **JURISDICTION**

The TLAB’s Rules of Practice and Procedure (Rules) 16.1 to 16.13 govern Disclosure and the timelines for filing of documents, including Disclosures, Witness Statements, Responses and Replies.

## **EVIDENCE**

Mr. Van-Lane identified information that is missing from the Disclosure filed by the Applicant’s representative on November 16, 2020. In particular, he seeks a Zoning Review or a revised list of Variances to reflect the revised proposal, and floor plans. He contends that the missing information is necessary for opposing Parties to identify documents to be cited at the Hearing. Mr. Van-Lane indicates that he requires the floor plans for a shadow impact study. (By this, I take the intention to be the provision of exterior elevations rather than interior floor plans).

Ms. Stewart consented to deferring Witness Statement deadlines for a period of time, but in her email did not specify an appropriate amount of time.

## **ANALYSIS, FINDINGS, REASONS**

There are fewer than 66 days remaining before the scheduled Hearing date of April 1, 2021, which means that the TLAB’s normal timelines for response and reply to witness statements cannot be accommodated (up to 85 days are generally allowed for the full process of disclosure, statements, response and replies). The remedy available to the Parties is to establish shortened timeframes for submission of Disclosures, witness statements, expert witness statements, response and reply to witness statements. The Motion requests a delay of submissions to an unspecified date, requesting 60 days from the time the requested information is made available by the Applicant. The delay of submissions is not contested, but it is not practicable under the TLAB’s procedures to leave the precise deadlines for submissions unspecified. I have revised the timelines

for submission of Disclosures and Witness Statements below in consideration of the limited time remaining before the Hearing, set for April 1, 2021.

Note that the matter before the TLAB will be heard as a Hearing “de novo” pursuant to section 45(18) of the Planning Act, meaning that the entire application that was before the COA is being considered anew. The burden is on the Applicant to prove its case. The Applicant is required to satisfy the TLAB that its application satisfies the four statutory tests mandated by s 45(1) of the Planning Act.

The dates for submissions, as follow below, are conducive to retaining April 1, 2021 as the Hearing date for this matter.

## **DECISION AND ORDER**

The relief requested in the Notice of Motion dated is granted in part.

TLAB staff are directed to issue the following revised submission dates to all Parties:

- **Revised Applicant Disclosure due** no later than **February 1, 2021** – this disclosure to include revised list of variances, zoning notice and updated site plan and elevations;
- **Document Disclosure due** no later than **March 1, 2021**;
- **Witness Statement due** no later than **March 1, 2021**;
- **Response to Witness Statement due** no later than **March 15, 2021**;
- **Reply to Response to Witness Statement due** no later than **March 22, 2021**;
- **Expert Witness Statement due** no later than **March 1, 2021**;
- **Response to Expert Witness Statement due** no later than **March 15, 2021**;
- **Reply to Response to Expert Witness Statement due** no later than **March 22, 2021**;
- **Notice of Motion due** no later than **March 17, 2021**;

If difficulties arise regarding this Decision and Order, the TLAB may be spoken to.



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Ana Bassios  
Panel Chair, Toronto Local Appeal Body