

DECISION AND ORDER

Decision Issue Date Wednesday, March 10, 2021

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): TEUTA GUCI

Applicant(s): SAM SPAGNUOLO

Property Address/Description: 111 Gough Ave

Committee of Adjustment File

Number(s): 18 107807 STE 29 MV (A0082/18TEY)

TLAB Case File Number(s): 19 147891 S45 14 TLAB

Written Motion Date: March 4, 2021

DECISION DELIVERED BY S. TALUKDER

PARTIES

NAME	ROLE	REPRESENTATIVE
TED HANLAN	MOVING PARTY	
TEUTA GUCI	RESPONDING PARTY	AMBER STEWART

1. Ted Hanlan requests the following relief by way of a Motion in writing:

[1] An order to adjourn the proceedings until a future date pursuant to TLAB Rule 2.10; at which time and pror [*sic*] to,

[2] The Applicant shall file TLAB Form 4 - Applicant Disclosure pursuant to TLAB Rules 11.1, 11.2; or,

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[3] Failing such filing, the Applicant shall declare, by filing TLAB Form 4, that a hearing will proceed based solely on the CoA application and decision dated April 17, 2019;

[4] At which time, the Applicant shall motion a pre-hearing conference to establish new hearing dates;

[5] Failing such filings, that the hearing dates be vacated, and the appeal abandoned.

[6] Such further and other relief as counsel may request and the TLAB may permit.¹

2. Mr. Hanlan has filed the requisite affidavit along with his Notice of Motion. The Applicant/Appellant, Ms. Teuta Guci, filed a Notice of Response to Motion with her affidavit in support of her response. Mr. Hanlan further filed a Reply to her Response with his second affidavit.
3. Mr. Hanlan filed this Motion to address Ms. Guci's noncompliance with my directions regarding the deadline for filing Applicant's Disclosure that were set during the pre-hearing conference on November 25, 2020. With the Parties' consent, the date for Applicant's disclosure was set for February 1, 2021 and the filing date for Document Disclosure, Expert Witness Statement, Witness Statement and Participant Statement was set for March 12, 2021. Further, dates for the Hearing were scheduled for April 6, 2021 and April 14, 2021.
4. I have read the Motion materials of both Mr. Hanlan and Ms. Guci and find that both Parties have provided irrelevant information in addressing this Motion. Mr. Hanlan correctly alleges that Ms. Guci has not complied with my clear direction to the Parties and has not followed the TLAB Rules of Practice and Procedure (Rules). Ms. Guci referred to her financial and other strains resulting from this matter. She noted that she was not able to file her amended plans and materials within the time frame contemplated at the pre-hearing conference. However, this does not explain why she did not request from TLAB a further extension to the deadline to file disclosure. In her Motion materials, Ms. Guci has assured that she will provide the necessary Applicant's Disclosure by March 12, 2021. She further provided proposed amended deadlines as follows:

March 12: Applicant's Disclosure

March 26: Applicant's Expert Witness Statements and Document Disclosure

April 1: Responding Expert and Party Witness Statements and Document Disclosure

April 5: Applicant Reply Expert Witness Statements (if any)²

¹ The relief requested is set out in Mr. Hanlan's Notice of Motion dated February 17, 2021.

² Ms. Guci's Notice of Response to Motion dated February 24, 2021.

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5. Ms. Guci further proposed that if necessary, the April 6th date be scheduled for another pre-hearing conference and the second Hearing date of April 14th be allotted for the Hearing of the matter.
6. I find that Ms. Guci did not comply with my clear directions regarding deadlines to file disclosure and witness statements has outlined at the prehearing conference. The TLAB Rules allow Parties to file a Motion to extend the deadlines for filing; however, Ms. Guci did not do so. Her counsel, Ms. Stewart, could have notified the Parties of the delay prior to the deadline for Applicant's Disclosure, which may have addressed Mr. Hanlan's concern, but she did not do so. However, I find that this noncompliance of the Applicant does not mean an abandonment of the appeal.
7. I will grant the Applicant another chance to file the Applicant's Disclosure by March 12, 2021. The Applicant has assured that she will be able to do so by this deadline – I will consider this assurance as an undertaking. However, the other Parties will require time to review and respond to the disclosure.
8. Therefore, I direct that the submission due dates be revised with the following deadlines, which I find are sufficient for such review and response:

Applicant's Disclosure	March 12, 2021
Document Disclosure	April 12, 2021
Witness Statement	April 12, 2021
Expert Witness Statement	April 12, 2021
Participant Statement	April 12, 2021
Response to Witness Statement	April 27, 2021
Response to Expert Witness Statement	April 27, 2021
Reply to Response to Expert Witness Statement	May 4, 2021
Reply to Response to Witness Statement	May 4, 2021

9. The hearing dates of April 6th and April 14th are vacated to accommodate for the new deadlines. The TLAB will schedule two new days of hearing after May 4, 2021. I note that the prejudice resulting in the delay of this Hearing to the Applicant is caused by the Applicant herself when she did not comply with the directions.

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10. The Hearing dates of April 6, 2021 and April 14, 2021 are vacated and the TLAB will schedule two new dates for the Hearing to be held after May 4, 2021.

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11. The new deadlines for the filing of the requisite documents are set out in paragraph 8 of this decision.

X 

Shaheynoor Talukder
Panel Chair, Toronto Local Appeal Body