

## DECISION AND ORDER

**Decision Issue Date**      Friday, April 16, 2021

PROCEEDINGS COMMENCED UNDER section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant(s):                      MANINDER RANDHAWA

Applicant(s):                      BOUSFIELDS INC

Property Address/Description: 118 FORTIETH ST

Committee of Adjustment File

Number(s):                          20 120047 WET 03 MV

**TLAB Case File Number(s): 20 179094 S45 03 TLAB**

**Hearing date: Tuesday April 13<sup>th</sup>, 2021**

**Deadline Date for Closing Submissions/Undertakings:**

**DECISION DELIVERED BY D. Lombardi**

## **REGISTERED PARTIES AND PARTICIPANTS**

Applicant	BOUSFIELDS INC
Appellant	MANINDER RANDHAWA
Appellant's Legal Rep.	AMBER STEWART
Party	CITY OF TORONTO
Party's Legal Rep.	DERIN ABIMBOLA
Party	JUDY GIBSON
Participant	CHRISTINE MERCADO
Participant	ANDY CHOLES

## **INTRODUCTION**

This was a matter that was scheduled for a 'virtual' Hearing in respect of 118 Fortieth Street (subject property). On the return date for the Hearing, April 13, 2021, the Member scheduled to take the Matter was late due to a misunderstanding with Toronto Local Appeal Body (TLAB) staff with respect to the assignment of this file.

As a result of this circumstance, the presiding Member was unprepared and, therefore, unable to proceed to hear the appeal on that date.

## **BACKGROUND**

When the Member was finally able to attend the sitting, virtually, at approximately 10:00 am by way of the TLAB's WebEx platform, it became apparent to all in attendance that a rescheduling of the matter would be necessary.

In attendance were Ms. Amber Stewart, Amber Stewart Law, counsel representing the Owner/Appellant, Maninder Randhawa, and Mr. Alex Savanyu, Bousfields Inc., the Applicant and an expert planning witness retained by the Owner in the subject appeal. Also in attendance were Ms. Derin Abimbola, counsel for the City of Toronto (City, and the Long Branch Neighbourhood Association (LBNA) represented Ms. Judy Gibson, both of which elected Party status in the matter.

Ms. Christine Mercado and Mr. Andy Choles, also of the LBNA, attended and elected Participant status.

As the presiding Member, I queried the attendees as to any objections to adjourning the matter to a future rescheduled date to allow me time to review the filed materials and familiarize myself with the Application. Speaking first, Ms. Stewart suggested that perhaps the Member could stand down the matter for a short period of

time to allow the Parties an opportunity to explore the possibility of settlement discussions within this virtual meeting setting.

She submitted that the Parties could use the recess for exploratory discussions and that the Member could then return to the Hearing once those discussions had concluded. Furthermore, she posited that there appeared to be some optimism amongst the Parties for the prospect of a resolution of the outstanding issues in this appeal and that if a settlement is reached, then a rescheduled, one-day settlement Hearing could be anticipated by the TLAB in the matter.

Conversely, she asserted that if after further discussions a settlement is not possible, then the Tribunal would be in a better position of understanding whether it would be prudent to schedule additional, consecutive Hearing dates to complete the disposition of the subject appeal.

The City and the LBNA concurred with Ms. Stewart's suggestion to explore settlement discussions but Ms. Abimbola suggested that the recess should be extended to 12:00 pm to allow Parties additional time to confer privately with their witnesses. This timeframe would allow all Parties to reconvene virtually for a group discussion before the Member's re-attendance at noon. Ms. Abimbola asserted that an additional hour would allow extra discussion time if necessary, and that by that time the Parties would be better positioned to share with the Tribunal the outcome of the discussions undertaken.

On the consent of all the Parties and Participants, I recessed the Hearing until 12:00 pm at which time I would return. However, I advised that I would continue to monitor the situation and I would remain on 'stand-by' in the event of an earlier reconvening of the sitting if circumstances warranted.

## **MATTERS IN ISSUE**

There are no matters in issues as the Hearing was recessed on consent to facilitate settlement discussions amongst the Parties.

## **JURISDICTION**

The TLAB's Rules of Practice and Procedure (Rules) encourage the settlement of issues before the final determination of an appeal. Specifically, Rule 19.1 states that *"The TLAB is committed to encouraging Parties to settle some or all of the issues by informal discussion, Exchange and Mediation."*

## **ANALYSIS, FINDINGS, REASONS**

The TLAB encourages settlements and on more than one occasion has made efforts to facilitate dispute resolution by expediting Hearings, offering mediation services, and affording great weight to the Parties who have made sincere and diligent efforts to resolve their difficulties.

On the Member's return to the Hearing, Ms. Stewart thanked the Tribunal for accommodating the Parties' request to utilize the TLAB's virtual platform for discussions. She advised that the Parties had had very productive discussions towards arriving at a resolution of the outstanding issues in this matter and suggested that the Parties were prepared to continue their dialogue outside of the Hearing environment. She suggested that on this basis the TLAB canvas the Parties for a Hearing date sometime in late May 2021 for a one-day Hearing and asserted that in the interim, the Parties would notify the Tribunal in the event noted that a settlement is reached.

Representatives of both the City and LBNA concurred that there was some optimistic expectation for a reasonable resolution and agreed with Ms. Stewart's suggested approach and timeframe; however, Ms. Abimbola noted that in the event of a settlement the Zoning Examiner's office would require a two-week period in order to issue a new Zoning Notice reflecting the terms any settlement agreement.

Additionally, Ms. Gibson requested that the LBNA be provided with an appropriate amount of time to review any revised set of site plan drawings resulting from a settlement prior to the TLAB confirming a rescheduled Hearing date in May.

## **ORDER**

The Hearing of this matter on April 13, 2021 is adjourned.

TLAB staff will canvas the Parties for a one-day Hearing date within the time parameters discussed at the Hearing and schedule a virtual Hearing date no later than the end of May 2021.

Once a rescheduled Hearing date has been determined, TLAB staff will issue a new Notice of Hearing at the appropriate time.

In the interim, if the Parties arrive at a settlement of the outstanding issues in this appeal the Parties will serve the terms of a proposed settlement, including any revised drawings and list of variances, on all Parties and Participants and file same with the TLAB at the earliest possible date pursuant to Rule 19.2 of the TLAB's Rules.

Pursuant to Rule 19.3 of the TLAB's Rules, the TLAB will then conduct an expedited Settlement Hearing on the terms of the proposed settlement.

In the event that a settlement is not reached, the Parties are directed to advise the TLAB at the earliest possible date and the Tribunal then will determine if an

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additional Hearing day is necessary in consultation with the Parties and Participants and schedule the requisite additional date(s).

The Member is not seized on this matter.

The TLAB may be spoken to if difficulties arise.

2021-04-16

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Signed by: dlombar