

INTERIM DECISION AND ORDER

Decision Issue Date Monday, May 31, 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): MARGARET ELEANOR SMITH

Applicant: EILEEN COSTELLO

Property Address/Description: 100 WILLCOCKS STREET

Committee of Adjustment Case File: 18 269666 STE 11 MV

TLAB Case File Number: 19 222040 S45 11 TLAB

DECISION DELIVERED BY JUSTIN LEUNG

INTRODUCTION AND BACKGROUND

At the conclusion of the Hearing on March 2, 2020, an Interim Decision and Order had been issued, dated March 16, 2020, which approved the Variance request, which was part of a settlement which had been reached between the Appellant and the other Parties to this matter. Based on testimony provided at the Hearing, I proceeded to issue an Interim Decision and Order which directed the Appellant to initially meet the following condition:

“a) the variances identified in Attachment 1 are approved subject to an additional plans examination by the City to determine the precise measurements to be incorporated. this Decision and Order is interim, pending the Applicant reporting to the TLAB on the outcome of such plans examination with concurrence by the Appellant at which time the TLAB will consider the issuance of a Final Order.”¹

It is noted that since the issuance of said Interim Decision and Order, that approximately one (1) year has elapsed with the condition indicated earlier not yet being satisfied. The Applicant was contacted, via TLAB staff, on two separate occasions in December 2020 and April, 2021 to request an update in relation to addressing the condition as prescribed in the Interim Decision and Order. The Applicant, Ms. Costello (legal counsel for the Appellant), responded that they were attempting to address this

¹ City of Toronto. *Interim Decision and Order: 100 Willcocks Street*. March 2020, pp. 5

condition. However, due to the current COVID-19 pandemic, they stated that it was taking a prolonged amount of time to complete this task.

I communicated back to the Applicant's lawyer that just over one (1) year has passed since the Interim Order and Decision has been issued without any further progress being made on this issue. Although it is understood that the province of Ontario is currently under emergency protocols due to the COVID-19 pandemic, it is noted the municipal government departments and agencies continue to operate.

On cursory review of the Toronto City Planning (URL: <https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/staff-directory-divisions-and-customer-service/city-planning/city-planning-customer-service-standards/>) and Toronto Building (URL: <https://www.toronto.ca/services-payments/building-construction/apply-for-a-building-permit/toronto-building-contact-us/>) websites, it is noted that both do not have any special advisories in effect relating to potential disruption to their operations. As these two departments are generally the two primary entities which address Planning & Development related issues, I have mentioned them here to demonstrate that municipal government has strived to maintain a continuity of operations even during the pandemic.

The City of Toronto also has 'service delivery standards' which stipulate when certain work, which is submitted to the City, should be completed by. For City Planning, on the 'Customer Service Standards' website, which was mentioned previously, the general timeframe by which assigned work is to be completed is not to exceed one (1) year timeframe. It is noted there is an exemption for complex Official Plan and Rezoning Applications which can take 9 to 18 months to complete. However, that standard applies only to more complex Applications. It is noted the Appeal matter herein is for a Variance Application, which is not generally interpreted to be a complex Application type.

With regard to Building, an appropriate measure for their 'service delivery standards' could be found in assessing the processing of building permits, which is the principal Application which they would handle in accordance with the *Ontario Building Code*. Here, the standards for different building permit types (in accordance with type of structure being constructed) stipulate that the processing of these permit types by City staff is not to exceed 30 days, as found on Toronto Building 'Service Complaint Steps' website (URL: <https://www.toronto.ca/services-payments/building-construction/complain-about-construction-issues/service-complaint-steps/>). Again, this further underscores that the general practice of municipal departments is to complete work tasks within a defined timeframe which typically does not exceed a year.

MATTERS IN ISSUE

The principal issue to consider here is if the imposition of a firm deadline to meet the condition as stipulated in the previously issued Interim Decision and Order would be orderly and appropriate here. As had been commented upon in the previous 'Introduction and Background' section, the TLAB has acted to provide a flexible and

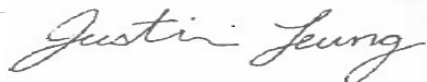
conciliatory approach to the Applicant and has been accommodating to them in this regard. This has been done to provide an environment in which the settlement proposal which had been reached with all the Parties to the matter could be realized with the issuance of a Final Order. While this was the impetus with the previously issued Interim Decision and Order, the Tribunal must also balance this with ensuring the overall public interest is upheld. Interim Decision and Orders are issued with an expectation, as has been demonstrated in other TLAB Appeal matters, that a Final Order will then be issued within a defined and condensed timeframe. The protraction of the period between the Interim Decision and Order and Final Order's issuance would not be in keeping with the public interest as COA matters, which generally deal with Consent and Variance matters, are interpreted as 'minor' Planning Applications which are expected to be addressed within a shorter period of time. As such, I herewith provide the Applicant until August 31, 2021 to address the items as stipulated in the previous Interim Decision and Order. This provides approximately three (3) additional months to address the conditions as noted in said Interim Decision and Order.

Any submissions made after the above-noted deadline will not be taken into consideration as part of issuance of a Final Order.

INTERIM DECISION

- 1) The Applicant is given until the end of day on August 31, 2021 to complete the requirements as prescribed in the March 16, 2020 Interim Decision and Order. If by this deadline these requirements have not been satisfied, the Tribunal will proceed to issue a Final Order which would act to refuse the Variances requested, due to non-compliance with the previously mentioned Interim Decision and Order.

X



Justin Leung
Panel Chair, Toronto Local Appeal Body