

DECISION AND ORDER

Decision Issue Date Thursday, November 18, 2021

PROCEEDING COMMENCED UNDER section 45(12), subsection 45(1) and subsection 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): Anne Yan

Applicant: Richard Wengle Architect Inc

Property Address/Description: 205 Heath st

Committee of Adjustment Case File Number: 20 189507 STE 12 MV (A0783/20TEY)

TLAB Case File Number: 21 130097 S45 12 TLAB

Written Motion Hearing Date: Monday, November 08, 2021

DECISION DELIVERED BY: T. Yao

REGISTERED PARTIES AND PARTICIPANTS

Applicant	Richard Wengle Architect Inc
Appellant	Anne Yan
Appellant's Legal Rep	David Bronskill
Party/ Owner	Yan Liu
Participant	Seth Mersky
Participant	Lee Weston
Participant	Wendy Sokoloff
Participant	Daniel Wengle
Party	Noreen Taylor
Party	Audrey Loeb
Party	Sharonah Masson

INTRODUCTION

Anne Yan and Yan Liu appealed a decision of the Committee of Adjustment denying them various variances. As a result, the TLAB set a hearing date in July, 2021. This has been superseded at Ms. Yan's request and the present hearing date is now December 7, 2021. There is also a scheduled mediation for November 22, 2021.

There are two pending motions:

- Motion 1 is brought by a neighbour, Audrey Loeb, to change the date of the November 22 mediation. The reason is because of a conflict in her schedule.
- Motion 2 is brought by the Yans' lawyers, seeking to strike the witness statement of Ms. Loeb's planner (Terry Mills) and asks me as well to order that he not speak at the hearing¹. The lawyers allege Mr. Mills' report was late and further that it is mostly a critique of the Yans' planner's (Ms. McFarlane) report, instead of being a free-standing report.

Neither party has filed full responses to each other's motions.

Disposition of Motion 1

The owners/appellants (the Yans) do not allege any prejudice if the mediation is cancelled and it is Ms. Loeb's travel plans that cause her not to be able to attend on November 22, 2021. In my view, the hearing should go forth as scheduled and if the parties wish to discuss settlement without a TLAB Member acting as mediator, they are always at liberty to do so. I am cancelling the mediation and in view of the short time to the hearing, I do not reschedule it.

Disposition of Motion 2

This is the third scheduled hearing date. The July TLAB Order stated:

11. The new filing requirements are as follows:

Applicant Disclosure	September 1, 2021
Document Disclosure, Witness Statement, Expert Witness Statement , Participant Statement	October 11, 2021 (my bold)

¹ An Order striking and excluding the Form 19 Reply to Response to Motion filed on behalf of Audrey Loeb on October 26, 2021; [and] An Order excluding Mr. Terry Mills from providing oral testimony at the Hearing that is currently scheduled to commence on December 7, 2021.

Decision of Toronto Local Appeal Body Panel Member: T. Yao
TLAB Case File Number: 21 130097 S45 12 TLAB

Response to Witness Statement
Response to Expert Witness
Statement,

October 26, 2021

Reply to Response to Witness
Statement, Reply to Response to
Expert Witness Statement

November 5, 2021

2. The TLAB shall issue a new Notice of Hearing incorporating the above deadlines.

The Yans' planner, Jane McFarlane, provided her Expert Witness Statement two days late, according to this schedule. Mr. Mills (Ms. Loeb's planner) supplied his witness statement on October 26, which was 15 days late. Lateness applies to both parties and should not attract the remedy sought. Furthermore Ms. McFarlane filed a second document, responding to Mr. Mills' late-filed statement, which constitutes a fresh step. The Yans are not being "ambushed" as neither party has yet commenced to give oral evidence. I decline to order the relief the Yans seek.

DECISION AND ORDER

The mediation set for November 22, 2021 is cancelled and not rescheduled. The hearing date of December 7, 2021 is unaltered. Both Motions 1 and 2 are dismissed.



X

Ted Yao
Panel Chair, Toronto Local Appeal Body