

INTERIM DECISION AND ORDER

Decision Issue Date Tuesday, October 05, 2021

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): REZA SEDIGHFAR

Applicant(s): CULTIVATE GROUP

Property Address/Description: 75 THIRTY EIGHTH ST

Committee of Adjustment File

Number(s): 19 259142 WET 03 CO (B0073/19EYK), 19 259147 WET 03 MV(A0647/19EYK), 19 259148 WET 03 MV (A0648/19EYK)

TLAB Case File Number(s): 20 194385 S53 03 TLAB, 20 194386 S45 03 TLAB, 20 194388 S45 03 TLAB

Hearing date: August 10, 2021

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY S. GOPIKRISHNA

REGISTERED PARTIES AND PARTICIPANTS

Applicant	CULTIVATE GROUP
Appellant	REZA SEDIGHFAR
Appellant's Legal Rep.	IAN FLETT
Party	City of Toronto
Party's Legal Rep.	DERIN ABIMBOLA
Party	GAUTAM MUKHERJEE
Party	LONG BRANCH NEIGHBOURHOOD

Participant	ALEXANDER DONALD
Participant	ESTER GOMEZ
Participant	RANDY MCWATTERS
Participant	RONALD JAMIESON
Participant	CHRISTINE MERCADO
Participant	JOHN MACDONALD
Expert Witness	DAVID GODLEY
Expert Witness	MICHAEL MANETT
Expert Witness	CLARISSA JEWELL

INTRODUCTION AND BACKGROUND

The purpose of this Interim Decision and Order is to address the suggestion from the Applicants, submitted by way of email on September 30, 2021, for extra time to provide Notice, resulting from the earlier Order issued on September 30, 2021. The email from the Applicants acknowledges the concerns expressed in the Interim Decision, and asserts that it is “impossible” to provide Notice on October 4, 2021, because the documents have to be sent by mail to the addresses living in the neighbourhood. After suggesting alternate deadlines for the exchange of Statements, Responses and Replies and the TLAB’s reaching out to Parties to set alternate dates for Hearing, the Applicants also suggest in their email that the Proceeding should be allocated more time than the two days proposed in my Interim Order.

The same day, the Long Branch Neighbourhood Association (LBNA), one of the Parties in opposition to the Appeal, responded to the suggestions in the Applicants’ email, opposing the former’s suggestions, by stating that the Applicant “seems to be asking for an excessive amount of time to give notice.” They also pointed out that the Applicants had not provided any reasons for their request for extra days of Hearing, and requested that additional days not be granted.

ANALYSIS, FINDINGS, REASONS

I will begin by acknowledging that my original Interim Order and Decision stated that the TLAB could be contacted to discuss issues with deadlines, if appropriate. This clause was added with an abundance of caution; there could not have any surprises by way of deadlines because they were specifically canvassed at the Hearing held on August 10, 2021.

Given that the Applicants themselves allude to “Notice” in their email dated September 15, 2021 and were aware that they had to be ready to give Notice, it is surprising to hear that that it is “impossible” to adhere to the timelines in my Interim Decision. Given the paucity of information in the email, it is impossible for me to understand why the task of giving Notice is as “impossible” as the Applicant claims

As a result, I am not convinced that there is a specific, identifiable issue that would preclude the Applicant from following through with Notice.

It must be remembered that the TLAB is committed to processing of Appeals in an efficient manner; it is important that the Parties look beyond their individual convenience to concentrate on the loftier goal of contributing towards a just, fair and efficient process. Towards this end, **I ask that the Applicants commence the Notice period as soon as possible, but no later than October 11, 2021. The two week period for Notice will then end on October 25, 2021. Community members who wish to elect to Party or Participant status need to complete the application by October 25, 2021, after which the TLAB will contact the Parties to schedule a Hearing.**(my emphasis)

The other deadlines for Exchange of Statements do not have to be extended since they provide for adequate preparation time by the Parties and will not be extended. These deadlines are peremptory for the purposes of completing this Proceeding.

I note the Applicant’s request for extra Hearing days, but agree with the LBNA that there is no reasoning provided about why extra Hearing days would be needed beyond the two days that have already been allocated. However, it is best to cross the bridge when we get there; I am prepared to have a discussion about the need for extra days to complete the Proceeding after the Hearing begins. Consequently, no decision is made at this point in time about extra days of Hearing.

I conclude by pointing out that an Interim Decision and Order is not to be taken lightly, and ask the Parties to adhere to the prescribed deadlines for the remainder of this Proceeding.

INTERIM DECISION AND ORDER

1. The Applicant is directed to provide Notice in the appropriate Neighbourhood, with an updated list of variances, accompanied by Plans and Elevations, for a two week period starting no later than October 11, 2021.
2. Neighbours who were previously not involved with this matter, but want to engage with this process on a go-forward basis, can complete the requisite documentation to elect for Party or Participant status, and submit the same to the TLAB by the end of day on October 25, 2021.
3. The TLAB will reach out to the updated list of Parties after October 25, 2021, to schedule a two day Hearing.
4. Updated Witness Statements from Parties, and Participants, where appropriate, may be submitted to the TLAB by the end of day on November 15, 2021.

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5. Response Statements can be submitted by the end of day on November 22, 2021 while Reply Statements can be submitted to the TLAB by the end of day on November 29, 2021.

All dates listed in this Interim Decision and Order are peremptory.

So orders the Toronto Local Appeal Body

X 

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body