

INTERIM DECISION AND ORDER

Decision Issue Date Monday, July 26, 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): MOHAMMAD MAHMUDUL ISLAM, FATEH ALAMGIR

Applicant(s): ARC DESIGN GROUP

Property Address/Description: 89-91 MCCOWAN RD

Committee of Adjustment File

Number(s): 20 150768 ESC 20 CO, 20 179059 ESC 20 CO, 20 150776 ESC 20 MV, 20 150783 ESC 20 MV, 20 150787 ESC 20 MV

TLAB Case File Number(s): 20 225354 S53 20 TLAB, 20 225355 S45 20 TLAB, 20 225356 S45 20 TLAB, 20 225357 S45 20 TLAB, 20 225358 S53 20 TLAB

Hearing date: July 8, 2021

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY S. GOPIRISHNA

REGISTERED PARTIES AND PARTICIPANTS

Applicant	ARC DESIGN GROUP
Owner/Appellant	MOHAMMAD MAHMUDUL ISLAM
Appellant	FATEH ALAMGIR
Appellant's Legal Rep.	AMBER STEWART
Party	CITY OF TORONTO

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
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Party's Legal Rep.	MARC HARDIEJOWSKI (CITY OF TORONTO)
Party	TANYA BAKSH
Party	GLENDA COWIESON
Participant	GEORGE GREGORY
Participant	NEIL CHOW
Participant	DAVID FOX
Participant	ALAN BURT
Participant	ANTHONY LOMBARDI

INTRODUCTION AND BACKGROUND

The first day of the Proceeding respecting 89-91 McCowan concluded on July 8, 2021, where the Applicants/Appellants presented their case. The purpose of this Interim Decision is to ensure that there is clarity on the status of Parties and Participants in opposition to the Appeal when the Hearing resumes.

Four individuals have registered to speak, all in opposition to the Appeal- Mr. Alan Burt, Mr. Anthony Lombardi, Ms. Glenda Cowieson, and Ms. Tanya Baksh. While Ms. Cowieson elected to be a Party in her individual capacity, both Ms. Baksh and Mr. Alan Burt, elected to be Parties, and spokespersons for the Cliffcrest Scarborough Village SW Residents Association (henceforth referred to as “residents association”), which I understand to be a community residents’ association. In addition, Mr. Lombardi, who registered as a Participant, also stated that he would speak on behalf of the aforementioned residents’ association by virtue of being an “Active Member”. At the Hearing held on July 8, 2021, I drew the attention of the Party and Participants to the numerous spokesperson who had registered to speak on behalf of the residents association, and asked them to have a discussion amongst themselves to identify who would speak on behalf of the Association when the Hearing resumed. I also drew the attention of the community members in opposition to what I saw as significant differences between individuals engaging in litigation in their personal capacity, versus engaging an organization, such as the residents’ association in litigation. I encouraged them to make an informed decision about electing for Party or Participant status on behalf of the Residents’ Association, and inform the TLAB of the same. I also reminded the Parties of the importance of completing requisite documentation to inform the TLAB about the election of status by the residents’ association - Participant or Party, as well as submitting a Witness Statement.

MATTERS IN ISSUE

The question before the TLAB is to ensure that there is clarity on who is the designated spokesperson for the Cliffcrest Scarborough Village SW Residents Association.

JURISDICTION

The TLAB relies on its Rules of Practice and Procedure (the “Rules”) to make decisions about administrative issues.

ANALYSIS, FINDINGS, REASONS

It may also be pertinent to remind the Parties that they have the ability to cross-examine the Witness for the Applicant, as well as participate in Oral Argument. In Oral Argument, which takes place after everybody has given their evidence, Parties will be given 10-15 mins to **summarize** (my emphasis) their case at the end of the Hearing, and how their position has been impacted by the evidence provided at the Hearing. It is important to note that the Parties **cannot** (my emphasis) introduce new evidence at this stage of the Hearing. It may also be helpful to note that Participants can provide evidence and be cross-examined by Counsel for the Applicant, but cannot participate in cross-examination, or summarize their case at the end of the Hearing. As stated in the TLAB’s Rules, Participants cannot summarize their case by way of Oral Argument.

Given the complexity of this case, and the nature of the opposition to the Appeal, I find that the residents’ association can be represented by a single spokesperson- there is no demonstrated need for multiple spokespersons. The community members who have registered as Parties or Participants can have a discussion amongst themselves to designate the spokesperson in question, complete the requisite documentation, and submit the same to the TLAB by September 1, 2021. I note that the designation of a spokesperson does not impact the ability of the other members, who have registered with the TLAB, from speaking in opposition to the Appeal in their individual capacity as Parties or Participants.

The designated spokesperson for the residents’ association may submit a Witness Statement, where appropriate, along with the documentation to elect as a Party or a Participant.

However, it is important that the Parties and Participants ensure that they not repeat the same issues when giving evidence- repetition of a given issue by multiple Parties or Participants does not result in greater weight being accorded to the issue in question, by way of decision making.

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The TLAB staff will contact the Parties and Participants to schedule a second day of Hearing to complete the Proceeding respecting 89-91 McCowan Road.

INTERIM DECISION AND ORDER

- The Cliffcrest Scarborough Village SW Residents Association has to elect for Participant or Party status, and has to designate a spokesperson to speak at the Hearing respecting 89-91 McCowan when it resumes.
- The Cliffcrest Scarborough Village SW Residents Association also needs to complete, and submit appropriate documentation to reflect their designating a spokesperson, and may submit a Witness Statement explaining their opposition to the proposal. The deadline for these submissions is September 1, 2021.

So orders the Toronto Local Appeal Body.

X 

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body