

INTERIM DECISION AND ORDER

Decision Issue Date Tuesday, February 22, 2022

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): LARRY K W LAW

Applicant(s): TOM SPRAGGE

Property Address/Description: 96 MUNRO BLVD

Committee of Adjustment File Numbers: 21 140069 NY 15(MV) (A0258/21NY)

TLAB Case File Number(s): 21 203500 S45 15 TLAB

Hearing date: January 7, 2022

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY TLAB Panel Member S. Gopikrishna

REGISTERED PARTIES AND PARTICIPANTS

Appellant	LARRY K W LAW
Appellant's Legal Rep.	HENRY CHIU
Appellant's Legal Rep.	MATTHEW HELFAND
Applicant	TOM SPRAGGE
Party	TRACEY WONG
Party's Legal Rep.	ANDY MARGARITIS

INTRODUCTION AND BACKGROUND

Tracey Wong is the owner of 96 Munro Blvd., located in Municipal Ward No 15 (Don Valley West) of the City of Toronto. She applied to the Committee of Adjustment (COA) to obtain approval of a variance to construct a rear addition, and a rear yard deck. The COA heard the matter on August 5, 2021, and approved the variance.

Mr. Larry Law, the neighbour who owns the property next door (98 Munro Blvd.) appealed the COA's decision to the Toronto Local Appeal Body (TLAB) on August 23, 2021. The TLAB scheduled a Hearing on January 7, 2022.

At the Hearing held on January 7, 2022, the Applicant, Ms. Wong, was represented by Mr. Julius De Ruyter, a planner, and a lawyer, Mr. Andy Margaritis. Mr. Mathew Hefland, a lawyer, represented the Appellant, Mr. Larry Law.

The purpose of this Interim Decision is to briefly discuss the circumstances under which the issue of "Sun and Shadow Studies" was referenced, ensure that Sun and Shadow Studies, which follow the City of Toronto's guidelines are submitted in a timely fashion, followed by a list of questions that arose out of the lack of clarity in the Shadow Studies by the Applicants, prior to the Hearing. It is expected that at the upcoming Hearing to be held on March 14, 2022, the Applicants will be able to clarify the answers to questions asked of them by way of this Interim Decision, and refer to the updated Study for evidentiary purposes.

One of the key objections raised by the Appellant is the possible impact of the shadows of the enlarged house on their property. The Applicants originally submitted a Sun and Shadow study to explain the impact of the proposed extension, to which the Appellant responded by drawing attention to inaccurate information about the bearings of his property utilized in the preparation the Sun and Shadow Study. The Applicants responded to this concern by submitting an updated Study, and a Reply Expert Witness Statement, to the TLAB on December 24, 2021, conceding the error. The updated Sun and Shadow Study was discussed by way of evidence on January 7, 2022- my comments and questions below pertain to this Study.

At the aforementioned Hearing, I drew the attention of the Applicants to the fact that the updated Sun and Shadow Studies did not have any scale, or illustrate the shadows of the colours, as per the City of Toronto's guidelines, which are reproduced below, in italicized letters- the guidelines may be found at:

<https://www.toronto.ca/city-government/planning-development/application-forms-fees/building-toronto-together-a-development-guide/application-support-material-terms-of-reference/>

A typical model will include all streets, blocks, parks and open spaces as well as buildings to a distance adequate to show the shadow impacts during requested times.

Modeling will have two parts, the first showing the existing situation and the second showing the proposed development in its context. The proposed development context should include other approved but not built buildings within the model area. These should be indicated graphically as different from the proposal and the built context.

Shadow diagrams should be plotted in colour to a standard metric scale and include a bar scale on each sheet labelled in 1,2,5,10,20, 100 and 200m increments. A reference base plan should also be plotted at a metric standard scale.

“As of right” or other site specific applicable shadow conditions should be indicated clearly by a contrasting colour single-line overlay with explanatory notation provided in a printed legend (i.e., red for “as of right” on the subject property, yellow for approved but not yet built adjacent development).

I informed the Applicants that I needed the drawings to be updated as per the City of Toronto’s guidelines, and submitted to the TLAB, before the next Hearing. I also wanted information about how the drawings were prepared, and the assumptions that went into coming out with these conclusions.

MATTERS IN ISSUE

The issue here is to obtain Sun and Shadow Studies, consistent with the City of Toronto’s guidelines, and understand the assumptions that went into the making of these drawings, from the Applicants, and Appellants.

ANALYSIS, FINDINGS, REASONS

The Sun and shadow sStudy needs to be resubmitted, as per the City of Toronto’s guidelines, which have been reproduced in the “Introduction and Background” Section. Notwithstanding the expertise of the Engineering firm in producing such drawings, which was alluded to at the Hearing, I took the precaution of reproducing these guidelines, in the “Introduction and Background” Section.

Mr. De Ruyter, the Expert Witness, representing the Applicants, is directed to provide information corresponding to the following questions:

- What is the name of the software through which the Sun and shadow Study is generated?
- What is the methodology through which the software generates the shadow drawings are generated? What data (e.g. height of buildings, building lengths, geographic coordinates) is utilized to generate these drawings?
- How does the software used calculate the size of the shadows? e.g. does the software query a master database of information which has information about the shape and dimensions of the shadow to be generated based on the inputs.

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- What impact would cloud cover have on the generation of the shadow studies? How does the software factor cloud cover into the preparation of the drawings? How does the software take into account the shadows created by other features, such as hedges, or trees, on property lines?
- How does the software factor local topography into shadow calculations i.e. what if the ground on which the shadow were cast were an inclined plane, instead of a flat surface?
- How accurate are the results generated by the Study? Would the accuracy of the shadows generated be impacted by the height of the building in question i.e. do the results for tall buildings be more accurate than short buildings, and vice versa?
- How does the Engineering firm verify the accuracy of the results of the Sun and Shadow Study?

The Applicants may submit the updated “Sun and Shadow” study, as well as an outline of the answers to the questions listed above, **by March 10, 2022 (Thursday prior to the Hearing)**. The submissions can be expanded upon by Mr. De Ruyter when completing his evidence on March 14, 2022 .

If the Appellants have reached conclusions different from the Applicants with respect to Shadow Studies, they are herewith directed to submit their own Study, completed in accordance with the City of Toronto’s guidelines, by **March 12, 2022**. Any Sun and Shadow Study that have already been submitted to the TLAB, may be updated to reflect the City of Toronto’s guidelines, and resubmitted to the TLAB, by **March 12, 2022**. The updated Sun and Shadow Study should be accompanied with an outline of the answers to the same questions that are asked of the Applicants- to reiterate, these questions may be found in the “Analysis, Findings and Reasons” Section above, and are reproduced in the Interim Decision and Order below.

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1. The Hearing respecting 96 Munro, will resume at 9:30 AM on Monday, March 14, 2022, by way of a videoconference.
2. The Applicants are directed to submit updated Sun and Shadow Studies, in accordance with the City of Toronto’s guidelines for Sun and Shadow Studies, along with a short outline of the answers to the following questions by **Thursday, March 10, 2022**.
 - What is the name of the software through which the Sun and shadow Study is generated?
 - What is the methodology through which the software generates the shadow drawings are generated? What data (e.g. height of buildings, building lengths, geographic coordinates) is utilized to generate these drawings?
 - How does the software used calculate the size of the shadows? e.g. does the software query a master database of information which has

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information about the shape and dimensions of the shadow to be generated based on the inputs.

- What impact would cloud cover have on the generation of the shadow studies? How does the software factor cloud cover into the preparation of the drawings? How does the software take into account the shadows created by other features, such as hedges, or trees, on property lines?
 - How does the software factor local topography into shadow calculations i.e. what if the ground on which the shadow were cast were an inclined plane, instead of a flat surface?
 - How accurate are the results generated by the Study? Would the accuracy of the shadows generated be impacted by the height of the building in question i.e. do the results for tall buildings be more accurate than short buildings, and vice versa?
 - How does the Engineering firm verify the accuracy of the results of the Sun and Shadow Study?
3. The Appellants are directed to submit new Sun and Shadow Studies (or update any Studies submitted before), prepared in accordance with the City of Toronto's guidelines, by **Thursday, March 10, 2022**, if their conclusions are different from the Applicants. The Appellants are also directed to submit a short outline of the answers to the questions listed in (2) above, and expand on the same by way of evidence at the Hearing.

So orders the Toronto Local Appeal Body



X

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body