

INTERIM DECISION AND ORDER

Decision Issue Date **February 19, 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): ASHLEY WILEY

Applicant: MICACCHI ARCHITECTURE INC

Property Address/Description: 80 INDIAN GRV

Committee of Adjustment Case File Number: 20 165985 STE 04 MV (A0602/20TEY)

TLAB Case File Number: 21 227863 S45 04 TLAB

Hearing date: **Saturday, March 03, 2018**

DECISION DELIVERED BY TLAB Panel Member S. Makuch

REGISTERED PARTIES AND PARTICIPANT

APPLICANT	MICACCHI ARCHITECTURE INC
OWNER/PARTY (TLAB)	GENEVIEVE CLAIRE PLANK
PARTY'S LEGAL REP.	MATTHEW DI VONA
APPELLANT	ASHLEY WILEY
APPELLANT'S LEGAL REP	ANDY MARGARITIS
APPELLANT'S LEGAL REP	AARON PLATT
EXPERT WITNESS	PAUL DEMCZAKTH

INTRODUCTION

A motion was filed for the adjournment of the hearing before TLAB of an appeal respecting variances related to the construction of a fourplex. The basis for the adjournment may be summarized as follows. The adjournment was sought by the appellant because the appellant, a neighbouring property owner, after filing the variance appeal, had brought a court application which asserted ownership and or use of part of the property for which the variances were sought. In the motion it was argued that if the court granted the relief sought then the variances would no longer enable the construction of the fourplex and thus the matter should be adjourned until after the court rendered its decision.

BACKGROUND

The owner did not file a response to the motion but rather corresponded with TLAB staff that the motion was improper because it was filed improperly to the wrong address and was filed too late before the date upon which the hearing was to be heard, March 3, 2022. Staff then contacted me regarding what should be done if anything regarding setting a date for the motion.

MATTERS IN ISSUE

The matters in issue are whether the motion should be heard and what dates should apply to the submission of material.

JURISDICTION

Under TLAB Rules of Practice and Procedure (Rules: 2.2, 2.3, 12.10, 12.12), TLAB has jurisdiction to determine the conduct of hearings respecting adjournments.

EVIDENCE

The appellants have submitted proper material for a motion and should have an opportunity to argue the motion. The owners have submitted information and argument to staff that the adjournment should not be granted and therefore the hearing should not be adjourned.

ANALYSIS, FINDINGS, REASONS

I find that the parties should have an opportunity to have the issues of the adjournment heard and argued before a member of TLAB and find myself seized of this matter. I will therefore hear the motion at the commencement of the hearing on the merits on March 3, 2022. To ensure that all possible relevant information is before me I will accept the appellants filing for the purpose of argument and require the owners to file responding evidence on or before February 24, 2022. Any reply submission must be filed by the applicant on or before March 1, 2022.

I note that no argument has been raised regarding the jurisdiction of TLAB to make a finding regarding ownership and whether it is appropriate to seek a decision of TLAB regarding this issue.

DECISION AND ORDER

The motion filed by the appellants seeking an adjournment in this matter will be heard at the commencement of the hearing of the matter on March 3, 2022. The owners must file their responding material on or before February 24, 2022, and the appellants must file any reply submissions on or before March 1, 2022.

X 

S. Makuch
Panel Chair, Toronto Local Appeal