

INTERIM DECISION AND ORDER

Decision Issue Date Monday, March 14, 2022

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

Appellant(s): MAHDY GANDOVANI SHEIDAEI

Applicant: ALI SHAKERI

Property Address/Description: 14 Brookfield Rd.

Committee of Adjustment Case File: 18 266685 NNY 15 MV (A0841/18NY)

TLAB Case File Number: 19 119013 S45 15 TLAB

Date of Hearing: February 25, 2022

DECISION DELIVERED BY S.GOPIKRISHNA

APPEARANCES

NAME	ROLE	REPRESENTATIVE
ALI SHAKERI	Applicant	
MAHDY GONDOVANI SHEIDAEI	Appellant	AMBER STEWART
D. HUGH REDELMEIER	Participant	
SUSAN LIPCHAK	Participant	
DANIEL MIDA	Party (TLAB)	WILLIAM ROBERTS
JAMIE SAMOGRAD	Party (TLAB)	
CITY OF TORONTO	Party (TLAB)	MICHAEL MAHONEY
TERRY MILLS	Expert Witness	
ALICE KENG	Expert Witness	

JONATHAN BENCZKOWSKI

Expert Witness

INTRODUCTION AND BACKGROUND

The purpose of this Interim Decision is to provide instructions for Reply, and Oral Argument, for the Proceeding, respecting 14 Brookfield Rd.

After the completion of the re-examination of Mr. Mills, Witness for Party Mida, by Mr. Roberts, Party Samograd, and Participants Lipchak, Redelmeier, and Austin gave evidence at the proceeding, after which they were cross examined by Ms. Stewart, Counsel for the Applicant/Appellant. I asked Mr. Roberts to obtain clarification from MPAC (Municipal Property Assessment Corporation) about any advice they had regarding the use of Property Tax information, for making decisions on issues with no ostensible nexus to property tax matters, including questions pertaining to planning. The matters that need to be completed include Reply Evidence to be provided by Mr. Benczkowski, Witness for the Appellant, followed by Oral Argument.

As per the discussions at the end of the Hearing held on February 25, 2022, various dates in early April, 2022, for completing the Hearing were canvassed. It was also agreed that one hour would be given to each of the Parties for Oral Argument; the Parties agreed to my request to send copies of any authorities they would rely on during Oral Argument “a week before the Hearing date.” I also instructed the Applicant to the final version of the Plans and Elevations, reflecting any updates made during the course of the Proceeding, after the completion of the latter, to avoid confusion.

ANALYSIS, FINDINGS, REASONS

In the absence of any communication regarding the identification of a date to complete the Proceeding from the Parties, as agreed at the Hearing completed on February 25, 2022, I instructed the TLAB staff to send out an email to the Parties on March 2, 2022, informing everybody that the next Hearing would be scheduled on April 7, 2022.

At the Hearing held on February 25, 2022, I informed Mr. Samograd that he could participate in Oral Argument, because he had elected to be a Party; in response to my question about how much time would be needed, he initially said that he would require “an hour”. When I sought a clarification about why he would need an hour, Mr. Samograd said that he was not familiar with “such matters”, and said that he would get more information. While I respect Mr. Samograd’s perspective for being granted a full hour to summarize his opposition to the Proposal, I believe that it would take considerably less time because his Examination-in-chief, and Cross Examination lasted less than an hour.

I believe that it would be appropriate to allocate an hour for any further evidence to be obtained from Mr. Benczkowski, solely in response to any issues brought up by the Opposition, but not addressed by the Applicant in the Examination-in-chief of their Witness.

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 19 119013 S45 15 TLAB**

With respect to Oral Argument, I reiterate that the Parties should send any authorities that they wish to rely on, by way of an email to the TLAB by the end of day on March 31, 2022, with copies to the other Parties.

I hope that the Applicants, the City and Party Mida can complete their Oral Argument over a three hour period, recognizing that they have been provided an hour each. Party Samograd may summarize his case, followed by Reply from Ms. Stewart, the latter of which will be restricted to fifteen minutes.

While the Participants are welcome to attend the Hearing to be held on April 7, 2022, no evidence or submissions can be made by them.

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1. The Proceeding respecting 14 Brookfield will be completed on April 7, 2022, by way of a videoconference. This videoconference will commence at 9:30 AM, and be held by way of Webex. The Parties are instructed to email any authorities they wish to rely on to the TLAB, by March 31, 2022.
2. The Applicant's Witness may provide Reply Evidence on hitherto unaddressed issues arising out of the Opposition's evidence, for no more than an hour.
3. The Applicant, the City of Toronto, and Party Mida will be given up to an hour for Oral Argument, after which Party Samograd will be granted an opportunity to summarize their case. The Applicant will then be given fifteen minutes for Reply.

So orders the Toronto Local Appeal Body

X



S. Gopikrishna
Panel Chair, Toronto Local Appeal Body