

INTERIM DECISION AND ORDER

Decision Issue Date Monday, June 13, 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): 1152030 ONTARIO INC

Applicant(s): NELSON ESPINOLA

Property Address/Description: 10 STAYNER AVE

Committee of Adjustment File Number(s): 21 201080 NNY 08 MV (A0581/21NY)

TLAB Case File Number(s): 21 231436 S45 08 TLAB

Hearing date: March 28, 2022

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY TLAB Panel Member S. Gopikrishna

REGISTERED PARTIES AND PARTICIPANT

Applicant	NELSON ESPINOLA
Appellant	1152030 ONTARIO INC
Appellant's Legal Rep.	AMBER STEWART
Participant	MATTHEW SMITH
Participant	CLAUDIO SERA
Party (TLAB)	CITY OF TORONTO
Party's Legal Rep.	COLIN DOUGHERTY
Expert Witness	JASON XIE

INTRODUCTION AND BACKGROUND

The Introduction to this Interim Decision, and its Background are both explained in an earlier Interim Decision dated May 26, 2022, and consequently does not have to be repeated here. It would be sufficient to note that the lack of any response from the Applicants in response to emails sent out by the TLAB asking for the Party's availability to identify a Hearing date, resulted in serious concerns about the capacity of the Applicants in moving forward with, and completing this Appeal.. Notwithstanding the lack of a response from the Applicants, a Hearing was scheduled on June 2, 2022.

The Hearing held by way of a videoconference on June 2, 2022, was attended by Ms. Amber Stewart, the Applicant's lawyer, and Mr. Colin Dougherty, and Ms. Aderinsola Abimbola, both of whom are lawyers with the City of Toronto.

At the Hearing, I stated how disappointed I was with the lack of follow up by the Applicants, and how their specific lack of a response to emails from the TLAB to schedule a follow-up Hearing, resulted in my becoming concerned about the intentions of the Applicants, and their capacity to move forward, and complete the Proceeding. I informed the Parties that under the circumstances, it would "not be a bad idea" for the TLAB to issue an Interim Decision, asking the Parties to proceed forward to a Contested Hearing on the basis of the Plans that had originally been submitted to the COA, and subsequently to the TLAB. I pointed out that this approach would mean that the City would have not to submit a Witness Statement, since it had been filed by the stated deadline.

Ms. Stewart apologized for the lack of a response, and gave me a brief update on what steps were being taken by her client to proceed forward with a new design, including obtaining a new Zoning Review. She reiterated that neither she, nor Mr. Benczkowski, the Applicant's planner, were prepared to represent the Applicant, if he wanted to pursue the original design that had been refused by the Committee of Adjustment (COA), and was now before the TLAB. Ms. Stewart suggested that the Interim Order in question, also include a clause with a deadline for the Applicant to bring forward a Motion, for updating the Plans and Elevations, in case they could not reach a Settlement with the City on the basis of the Revised Plans.

Mr. Dougherty agreed with the idea of the TLAB's establishing a deadline for submitting updated Plans and Elevations, should a Settlement not be reached by the Parties. Mr. Dougherty added that he would not be available in September 2022, and stated that a reasonable deadline for bringing forward the aforementioned Motion to admit updated Plans would be the "middle of August 2022". Ms. Stewart and Mr. Dougherty discussed various options and the timelines for an updated Zoning Notice, submission of updated Plans to the City, and other matters, before identifying August 12, 2022, as the date for bringing forward a Motion to admit updated Plans and Elevations, in case a Settlement could not be reached.

The Parties concurred with my observation that the earliest date on which the Hearing could be resumed was October 2022, given the established timelines, and everybody's availability, including myself and the Parties.

I thanked the Parties for attending the Hearing, and adjourned the same.

MATTERS IN ISSUE

The main question before me is how to complete the Hearing efficiently, taking into account the possibility of the Applicant's submitting updated Plans.

JURISDICTION

The TLAB relies on its Rules of Practice and Procedure (the "Rules") to make decisions on administrative issues, including the scheduling of Hearings.

ANALYSIS, FINDINGS, REASONS

At the Hearing completed on June 2, 2022, the Parties agreed to the inclusion of the following deadline, and methodology to proceed forward with this Proceeding:

- A deadline of August 12, 2022, for the Applicant to bring forward a Motion for the admission of updated Plans and Elevations, in case a Settlement cannot be reached with the City
- Should a Settlement not be reached with the City, and no Motion be received by the TLAB by August 12, 2022, the Proceeding respecting 10 Stayner Avenue, will rely on the Plans, and Elevations, prepared by Escala Design Inc., dated October 2019, and submitted by the Applicant to the Committee of Adjustment on August 19, 2021.

It is expected next Hearing to complete this Proceeding will take place in October 2022.

The Parties can bring forward a Motion to address any other issue that was not canvassed at the Hearing completed on June 2, 2022, and is not discussed in this Interim Decision. Once the date for the next Hearing is identified, the timelines for this Motion need to adhere to the TLAB's Rules of Practice and Procedure.

If a Settlement is reached by the Parties, the Applicant is asked to communicate the same to the TLAB at their earliest convenience.

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- 1) The Applicant is given time till August 12, 2022, to bring forward a Motion for the admission of updated Plans and Elevations for the proposal respecting 10 Stayner Avenue, if a Settlement cannot be reached with the City.
- 2) In the absence of a Settlement between the Parties, and the absence of a Motion from the Applicant for the introduction of updated Plans and Elevations by August 12, 2022, the Proceeding respecting 10 Stayner Avenue, will rely on the Plans and Elevations, Plans, prepared by Escala Design Inc., dated October 2019, and submitted by the Applicant to the Committee of Adjustment on August 19, 2021.
- 3) The TLAB will contact the Parties to identify dates in October 2022, for the resumption of the Proceeding

So orders the Toronto Local Appeal Body

X



S. Gopikrishna
Panel Chair, Toronto Local Appeal Body