

# INTERIM DECISION AND ORDER

**Decision Issue Date**      Tuesday, June 21, 2022

PROCEEDINGS COMMENCED UNDER section 45(12), subsection 45(1), 45(2)(a)(i)(ii) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant(s): RYAN THOMAS SLIGHT

Applicant: REPLACEMENT DESIGN INC.

Property Address/Description: 9 SPRUCE STREET

Committee of Adjustment Case File Number: 20 233743 STE 13 MV (A0004/21TEY)

TLAB Case File Number: **21 212024 S45 13 TLAB**

**Hearing date:**      Monday, May 30, 2022

**DECISION DELIVERED BY TLAB Panel Member S. Gopikrishna**

## REGISTERED PARTIES AND PARTICIPANT

|                   |                               |
|-------------------|-------------------------------|
| Appellant         | Ryan Thomas Slight            |
| Applicant         | Replacement Design Inc.       |
| Expert Witness    | Erik Calhoun                  |
| Owner / Party     | Eric Murphy                   |
| Party's Legal Rep | Paul Dineen Chapnick & Assoc. |
| Participant       | Richard Pryor                 |

## INTRODUCTION AND BACKGROUND

Eric Murphy is the owner of 9 Spruce Street (the "Site"), located in Ward 13 (Toronto Centre) of the City of Toronto. He applied to the Committee of Adjustment (COA) for the approval of variances to construct a two-storey laneway suite at the rear of the existing two-storey detached dwelling at the Site. The COA heard the application on September

1, 2021, and approved it in its entirety, subject to conditions. On September 13, 2021, Mr. Ryan Slight, the neighbour who lives at 11 Spruce Street, appealed the decision made by the COA to the TLAB, which then scheduled a Hearing on May 30, 2022.

At the Hearing held on May 30, 2022, the Applicant was represented by Mr. Erik Calhoun, an Architect, and Mr. Paul Dineen, a lawyer. The Hearing was also attended by the Applicant, Mr. Murphy, and his son-in-law, Mr. Richard Pryor, who said that he had elected to be a "Participant" in the Hearing. However, the Appellant, Mr. Ryan Slight, was not in attendance at the Hearing. Mr. Prior said that he had discussions with Mr. Slight "over the weekend", and that it was his understanding that Mr. Slight "would not be in attendance" at the Hearing. Mr. Prior added that as a result of the discussions with Mr. Slight, the latter was "happy where things were", and was satisfied with the ongoing discussions, but that there were no formal Minutes of Settlement that had been executed between the Parties

I explained to the Applicants that the case could proceed either by way of a Settlement, where the Parties had executed Minutes of Settlement, and presented the corresponding proposal to the TLAB. Alternately, the Appellant could withdraw the Appeal, in which case, the COA decision made on September 1, 2021, would become final. Lastly, the matter could proceed by way of a Contested Proceeding, and that this would require the Appellant to submit an Expert Witness Statement

I informed the Applicants that I would send out an Interim Decision and Order to inform the Appellant of how he could proceed to complete the Appeal before me respecting 9 Spruce Street.

On May 31, 2022, the TLAB staff forwarded the following email from Mr. Slight, dated May 30, 2022.

*Hi There,  
I am unable to attend the meeting today regarding the laneway house appeal for 9 Spruce Street. An emergency came up.  
Regards,  
Ryan Slight  
11 Spruce*

## **MATTERS IN ISSUE**

The main question before me is to how to complete the Proceeding in an efficient manner, without prejudicing the interests of either Party.

## **ANALYSIS, FINDINGS, REASONS**

The Hearing before the TLAB is *de novo*, which means that the onus of proof is on the Applicant. However, it is important to note that the Appellant, discharge their responsibilities by being pro-active with submissions, and a vigorous prosecution of their Appeal, especially if they appealed the decision of the COA to the TLAB. In this case, the Appellant has not submitted any Witness Statement, other than the Notice of Appeal, accompanied by a few photographs. On the basis of the information provided by the Appellant, it is difficult for me to understand the nexus between the Appellant's disagreement with the proposal at 9 Spruce Street, and the four tests under Section 45.1 of the Planning Act, which is critical to any Decision made by the TLAB regarding the Appeal.

The Appellant needs to proceed in one of the following ways:

- 1) **Withdraw the Appeal**, by sending an email to the TLAB, with a copy to the Applicants. Upon receipt of the email by the TLAB, the Parties can expect to receive a Decision from the TLAB confirming the withdrawal of the Appeal, and confirmation of the decision made by the COA.
- 2) **Arrive at a Settlement with the Applicants**, in which case the Applicants can present the Settlement that was arrived at, before the TLAB. Should a Settlement be reached, and the minutes of Settlement be executed, the Applicants are asked to contact the TLAB, to inform them that a Settlement has been reached. The TLAB will endeavor to identify a date for a Hearing on a priority basis.
- 3) **Proceed to a Contested Proceeding by filing Appropriate Documentation:** Should no Settlement be reached, and the Appeal cannot be withdrawn, the Appellant is urged to submit a Witness Statement by July 25, 2022 demonstrating the nexus between their opposition, and the four tests under Section 45.1 of the Planning Act. The Applicants will be given time till August 10, 2022, to provide a Response to any information submitted by the Appellant. The TLAB will then reach out to the Parties to schedule a Hearing at which evidence can be obtained from the Parties. It is important to note that the Appellant's Witness Statement, and the Response from the Applicants, if any, have to be sent electronically to the TLAB, and served on the other Party.

The TLAB will contact the Parties to schedule a Hearing date should the Appellant proceed by way of Option (3) discussed above.

It may be noted that the Applicants can consult the TLAB's Rules of Process and Procedure ( the Rules) to inform themselves of their rights, and exercise them, where appropriate, if they don't hear from the Appellant by July 25, 2022. The Applicants are also asked to inform the TLAB if they hear from the Appellant, in an attempt to settle the matter.

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna**  
**TLAB Case File Number: 21 212024 S45 13 TLAB**

I take this opportunity to urge the Appellant to take steps to complete the Appeal they have launched by way of withdrawing their Appeal, arriving at a Settlement with the Applicants, or proceeding to a Contested Proceeding. The TLAB does not encourage the practice of an Appellant's taking no action to prosecute an Appeal after commencing one, because such an approach is unfair, when not prejudicial to the Applicant.

In case there is no further action taken by the Appellant by July 25, 2022, the Applicants can consult their lawyer, and rely on the TLAB's "Rules of Practice and Procedure" ( the "Rules") for the completion of the Appeal process. It is to be noted that this Interim Order does not impact, nor circumscribe their rights as a Party to complete the processing of the Appeal

I remind the Parties that while the TLAB has the ability to issue a Show Cause Notice, in the absence of progress, it is reluctant to exercise this option at this stage, because differences of opinion between neighbours are best resolved through mutual discussion and pro-active action.

## **INTERIM DECISION AND ORDER**

1. The Appellant is given time until July 25, 2022, to withdraw the Appeal, in case they have decided not to proceed with the same.
2. Should the Appellant decide to proceed with their Appeal, they are given time until July 25, 2022, to submit a Witness Statement, discussing the nexus between their opposition to the Application at 9 Spruce Street, and the four tests under Section 45.1 of the Planning Act. The Applicant has until August 10, 2022, to file a Response to any Witness Statements submitted by the Appellant, with respect to the Appeal respecting 9 Spruce Street.
3. Should the Parties arrive at a Settlement, the Applicants are asked to contact the TLAB to update them about the Settlement, and submit any documents, including updated Plans, Elevations and a Witness Statement in support of the Settlement. The TLAB will schedule a Hearing on a priority basis, where possible, to hear the Settlement.
4. The Applicants can rely on the "Rules" to identify options to complete the processing of this Appeal, in case there is no further action taken by the Appellant, through exercising the various options listed above.

So orders the Toronto Local Appeal Body



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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body