

# MOTION DECISION AND ORDER

**Decision Issue Date**      Tuesday, June 07, 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): Hami Ebrahimi

Applicant: Lorne Rose Architect Inc

Property Address/Description: 122 Rochester Ave

Committee of Adjustment Case File Number: 21 202295 NNY 15 MV (A0600/21NY)

TLAB Case File Number: 21 236603 S45 15 TLAB

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

**DECISION DELIVERED BY** TLAB Panel Member C. Kilby

## REGISTERED PARTIES AND PARTICIPANT

Applicant	Lorne Rose Architect Inc.
Primary Owner	Sara Yarmand
Appellant	Hami Ebrahimi
Appellant's Legal Rep.	Meaghan Barrett
Party	City of Toronto
Party's Legal Rep.	Sara Amini
Party's Legal Rep.	Jamie Dexter
Party	Lois Green
Party	Norris Woodruff

Party's Legal Rep.	Ron Kanter
Participant	Henry Borden
Participant	Kent Moore
Participant	Jane Moore
Participant	James Saloman
Participant	Laurie Beattie
Participant	Lutz Fullgraf
Expert Witness	Philip Van Wassenaer
Expert Witness	Denise McMullin
Expert Witness	Terrance Glover
Expert Witness	Martin Rendl

## **INTRODUCTION**

Participants James Saloman and Laurie Beattie move to change from Participant to Party status in this appeal (both motions will be collectively referred to as the **Motion**). There is no opposition from other Participants, Parties or the Appellant.

## **BACKGROUND**

The appeal relates to the Appellant's request for variances in order to construct a new two-storey dwelling at 122 Rochester Avenue (**Appeal**). The Committee of Adjustment denied the Appellant's request on October 21, 2021. After appealing that decision to the TLAB, the Appellant sought, and was granted, an adjournment of the hearing of the Appeal (**Hearing**). The adjournment was granted to allow for settlement discussions to continue among the Appellant and Parties.

Mr. Saloman and Ms. Beattie live adjacent to 122 Rochester Avenue and wish to be involved in any settlement discussions and potential resolutions of this Appeal.

## **JURISDICTION**

I have jurisdiction to consolidate, hear and rule on this Motion under the TLAB Rules of Practice and Procedure. I rely in particular on Rules 2, 12, 17, and 22.

## **EVIDENCE AND ANALYSIS**

Prior to the adjournment of the Hearing, Ms. Beattie submitted a Notice of Motion and an affidavit sworn May 1, 2022. Mr. Saloman also submitted a Notice of Motion and an affidavit sworn May 1, 2022. No other motion materials were received by the TLAB.

On the basis that the Hearing was then scheduled to proceed on May 10, 2022, Ms. Beattie and Mr. Saloman requested extensions to the filing, serving or hearing deadlines for the Motion in addition to the change from Participant to Party status. With the Hearing date adjournment, this extension request is no longer required. Extensions are required, however, for the election of Party status in this Appeal, and I exercise my authority under Rules 2.3 and 2.11 to grant this extension.

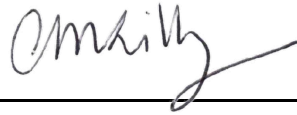
Ms. Beattie and Mr. Saloman are immediate neighbours to 122 Rochester Avenue. They are concerned that the proposal advanced by the Appellant will impact on their ability to enjoy their property. Initially, Ms. Beattie and Mr. Saloman elected Participant status for a variety of reasons, but have determined that in order for their issues as adjacent neighbours to be considered, including in any resolution discussions with the Appellant, they must become Parties. I find that for these reasons, they meet the criteria set out in Rule 12.4 for the TLAB to consider when Party status is requested.

In terms of possible prejudice, Ms. Beattie and Mr. Saloman point out that they have already filed their evidence for the appeal and therefore the Appellant has notice of their position on the issues. Moreover, in light of the adjournment of the Hearing date, they believe that the Appellant will not be unreasonably prejudiced by allowing this Motion. There is no evidence from the Appellant or any other Party to suggest that they will experience prejudice as a result of granting this Motion.

## **DECISION AND ORDER**

The Motion is granted. Mr. Saloman and Ms. Beattie's status in this Appeal will be changed on all applicable documentation to Party from Participant. The Participant Witness Statement filed by Mr. Saloman on behalf of himself and Ms. Beattie dated March 31, 2022 shall be treated as a Party Witness Statement for the purposes of the Hearing. TLAB Staff shall circulate that Participant Witness Statement to all Parties and Participants, and Parties shall have an opportunity to respond to that Witness Statement by no later than August 20, 2022. TLAB staff are directed to issue a new Notice of Hearing and People List which reflect this decision as well as the adjournment decision dated May 5, 2022.

If any difficulties arise in the implementation of this Decision and Order, the TLAB may be spoken to on notice to all Parties and Participants.

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C. Kilby  
Panel Chair, Toronto Local Appeal Body