

INTERIM DECISION AND ORDER

Decision Issue Date Monday, July 18, 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): DAVID STERN

Applicant: ROBERT STERN

Property Address/Description: 91 LAKE PROMENADE

Committee of Adjustment Case File Number: 21 226726 WET 03 MV (A0526/21EYK)

TLAB Case File Number: **21 246317 S45 03 TLAB**

Pre Hearing Conference date: Friday, July 15, 2022

DECISION DELIVERED BY C. Kilby

REGISTERED PARTIES AND PARTICIPANTS

| | |
|-----------------------|------------|
| Appellant | D. Stern |
| Appellant's Legal Rep | I. Flett |
| Applicant | R. Stern |
| Party | A. Hutka |
| Party's Legal Rep | A. Hora |
| Participant | A. Choles |
| Participant | C. Mercado |

INTRODUCTION

On July 15, 2022, the Toronto Local Appeal Body (**TLAB**) convened a prehearing conference in this matter using the City's WebEx platform. In attendance were Robert Stern, Applicant and son of the Appellant David Stern, Ian Flett, counsel for the

Appellant, Andrea Hutka and her counsel Alex Hora, and Participants Andrew Choles and Christine Mercado.

BACKGROUND

On May 30, 2022, the TLAB issued my Decision granting an adjournment of the original Hearing date. In light of scheduling conflicts among the Parties, the TLAB convened a prehearing conference to canvass potential dates for the Hearing and to consider any preliminary matters as required.

JURISDICTION

The TLAB's Rules of Practice and Procedure (**Rules**) provide for prehearing conferences under Rule 21, including the following:

21.6 A prehearing may include settlement discussions, Motions or other procedural issues, in order to: ...

- d) provide directions to the Parties;
- e) discuss the possible use of Mediation or other dispute resolution processes;
- f) estimate the length of the Hearing and encourage the Parties to agree upon the date for any further procedural steps;
- ... and
- h) deal with any other matter that may assist in a fair, cost-effective, and expeditious resolution of the issues.

21.7 The Member conducting a prehearing conference may make any orders necessary to give effect to those matters provided for in Rule 21.6.

Additionally, the TLAB's Rules state that:

2.2 These Rules shall be liberally interpreted to secure the just, most expeditious and cost-effective determination of every Proceeding on its merits.

2.3 The TLAB may exercise any of its powers under these Rules or applicable law, on its own initiative or at the request of any Person.

EVIDENCE AND ANALYSIS

Mr. Stern, Ms. Hutka, Mr. Choles and Ms. Mercado were all solemnly affirmed at the outset of the prehearing conference. Mr. Stern addressed the negative impacts that delays in this matter have had on his parents, and explained the underlying interests of the Appellants in proceeding with the Hearing as quickly as possible.

In light of Ms. Hutka's filing of an Expert Witness Statement, the deadlines for a Response and Reply to that evidence as set out in my May 30, 2022 Motion Decision apply. Following those filing deadlines, the earliest potential Hearing date available at the TLAB is July 29, 2022, which does not suit the Parties.

To ensure that the Appeal can be heard in its entirety in a relatively condensed time period, the TLAB canvassed two Hearing days in proximity to each other. Taking into account the TLAB's available dates and the schedules of counsel, experts, and the Parties and Participants, new Hearing dates of September 26 and October 3, 2022 were agreed upon.


I indicated to all present my expectation that any evidence to be relied upon at the Hearing should have been filed within the timelines set out in the original Notice of Hearing or will be filed by the deadlines set out in the May 30, 2022 Motion Decision. The setting of new Hearing dates does not extend these filing deadlines.

There were no other preliminary matters raised at the prehearing conference.

DECISION AND ORDER

The Hearing of this Appeal will take place on September 26, 2022 and October 3, 2022. TLAB staff will issue a new Notice of Hearing accordingly with filing deadlines as set out in the May 30, 2022 Motion Decision.

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.

X 

CHRISTINE KILBY

Panel Chair, Toronto Local Appeal Body