

# INTERIM DECISION AND ORDER

**Decision Issue Date** Monday, October 03, 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**

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

## REGISTERED PARTIES AND PARTICIPANTS

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**

After the completion of the last Hearing respecting 10 Stayner Ave. on June 2, 2022, an Interim Decision was released on June 13, 2022, with the following instructions:

- 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*

As of September 29, 2022, no documentation, including Motions, has been received from the Applicants. While this may be interpreted to mean that the Parties have not reached a Settlement, there is no definitive update from the Parties regarding the issue of Settlement discussions, assuming that such discussions have commenced, and continued after the last Hearing.

Given the lack of any updates, or action, I would like to meet the Parties in November 2022, depending on their availability, to understand their positions on the resolution of the Appeal respecting 10 Stayner, and how best the Proceeding can be completed. .

While I don't foresee any issue with following my earlier Interim Order and Decision, dated June 13, 2022, where it was ordered that the Proceeding would continue on the basis of the Plans and Elevations, submitted to the COA by the Applicants in 2021, it is mandatory for the Applicants to submit a Witness Statement, at least three weeks (3 weeks) in advance of the actual Hearing. This step needs to be completed by the Applicant because it is important to emphasize they have not even submitted a Witness Statement, after commencing the Appeal with the TLAB.

If it is the Applicant's preference to proceed with the Plans and Elevations, as submitted to the COA, it is important that they come prepared to the Hearing to be held in November 2022, with realistic timelines about when the Witness Statement may be submitted, in order for the Proceeding to continue forward with reasonable and realistic timelines.

Parties may also be advised that adjournments to continue Settlement discussions may not be granted, especially if there is no demonstrable proof of a convergence of perspectives as a result of prior Settlement discussions.

## **INTERIM DECISION AND ORDER**

- 1) The TLAB Staff are directed to contact individuals who are Parties to the Appeal respecting 10 Stayner, to identify dates to continue with the hearing of the Appeal in November 2022.
- 2) At the Hearing in November 2022, Parties are asked to provide updates on their positions, regarding Settlement discussions. If no Settlement has been reached, the Appeal will be heard, on the basis of the Plans and Elevations submitted to the Committee of Adjustment. The Applicants are asked to suggest realistic deadlines for the submission of their Witness Statement.
- 3) At the Hearing planned for November 2022, the Parties have to discuss their availability, such that the Proceeding can be completed in a realistic and reasonable time frame.

So orders the Toronto Local Appeal Body

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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body