

# INTERIM DECISION AND ORDER

**Decision Issue Date** Thursday, November 24, 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

I met with the Parties involved with the Appeal respecting 10 Stayner Avenue, on November 23, 2022, by way of a videoconference, conducted on a Webex platform.

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna  
TLAB Case File Number: 21 231436 S45 08 TLAB**

The Applicant, who is also the Appellant in this matter, was represented by Ms. Amber Stewart, a lawyer, while the City was represented by Mr. Colin Dougherty, a lawyer. I explained to the Parties that I was aware that a new Zoning Notice had been received, but did not want to hear any planning evidence, unless necessary.

By way of context, it is important to note that on November 18, 2022, I was made aware that the City had brought forward a Motion asking for the Appeal to be dismissed without a Hearing. The Appellants, who are the Respondents in this matter, sent their Response asking that the City's Motion be dismissed, and the Appeal proceed to a Hearing on its planning merits. On November 21, 2022, the TLAB forwarded the City's Reply to the Response, as well as an email from the Appellants stating that an updated Zoning Notice had been reviewed.

At the Hearing held on November 23, 2022, Mr. Dougherty presented the highlights of his Motion to dismiss the Appeal without a Hearing, while Ms. Stewart spoke in opposition to the Motion, and argued why the Matter must proceed to a Hearing on its planning merits. After Mr. Dougherty completed his Reply, and the Parties answered questions asked of them, I advised the Parties that I would give them time until the end of day on December 9, 2022, to have a discussion amongst themselves, to see if any mutually agreeable decision could be arrived at regarding the new plans, for which a Zoning Notice had been received on November 21, 2022, as a result of which the Motion to dismiss, would be amended, or updated, as needed.

The reason for my granting the Parties time until December 9, 2022, is to give the City's representatives an opportunity to examine the new Notice, and have a discussion amongst themselves, as well as the Applicants, to see if the changes made to the Notice are significant enough to impact the Motion before the TLAB.

I directed Mr. Dougherty to write to the City by December 12, 2022, to provide an update, with specific reference to any possible changes to the aforementioned Motion. I made it clear to Mr. Dougherty that there was no advice, much less direction from the TLAB to consider making any changes to the Motion, and that any decision regarding changes or updates that he wished to make to the Motion needs to reflect the City's interests, advice from the City's planner, and the public interest.

It is important that the City update the TLAB by way of an email, ***even if there are no changes made to the Motion*** ( my emphasis), in order to enable me to make a meaningful decision, reflecting the latest developments.

Ms. Stewart stated that Mr. Benczkowski would be ready to submit his Witness Statement within a few days, and asked if he could proceed to submit his Statement. I advised Ms. Stewart, that the Witness Statement did not have to be filed till my Decision regarding the Motion before me was issued, including directions on next steps, where necessary, and appropriate.

## INTERIM DECISION AND ORDER

- 1) The Parties are given time till December 9, 2022, to have discussions between themselves regarding the new Zoning Notice, and its implications.
- 2) The City is directed to update the TLAB by December 12, 2022, about any changes, or updates they want to make to the Motion before the TLAB, to dismiss the Appeal, without a Hearing on its merits. It is important to note that the City needs to communicate with the TLAB, even there are no suggested changes to the Motion.
- 3) No Witness Statements have to be filed with the TLAB, till a Decision addressing the Motion to dismiss the Appeal, without a Hearing, is released to the Parties.

So orders the Toronto Local Appeal Body

A handwritten signature in black ink, appearing to read 'S. Gopikrishna', is written over a light gray rectangular background.

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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body