

From: Lakewood Beach Community Council

Sent: Monday, January 30, 2023 10:33 AM

To: Kelsey, Lisa <Lisa.Kelsey@hamilton.ca>; DL - Council Only <dlcouncilonly@hamilton.ca>

Subject: OLT Appeal of Committee of Adjustment Denial - 310 Frances Avenue - Procedural Clarification on Delegated Authority

Importance: High

Morning Lisa, can you please add this to tomorrow's Planning Committee Agenda

Dear Chair Wilson and Planning Committee Members (c.c. Council)

We are writing to you to seek clarification during tomorrow's Planning Committee Meeting on what processes are in place in regards to whether or not Council approves settlement agreements prior to being presented to the Ontario Land Tribunal for decision?

Historical Background

- Committee of Adjustments denied the applicants request for 7 variances. The variance requests were deemed to not be minor in nature as per the 4 tests under the Planning Act. Staff Recommendation to CoA was to deny as well.
- Applicant appealed CoA decision to the Ontario Land Tribunal
- Tribunal set a 5 day hearing in June 2022 during the Case Management Conference to begin today at 1:00 p.m. and granted LBCC (us) Party Status.
- The Tribunal Order stated the City was to "work" with us during the tribunal proceedings.
- The City filed many Witness Statements from City Staff Planner as well as hired an outside expert, all of which opined the variances were not minor (didn't meet the 4 tests under the Planning Act) and that the applicant should submit a full Zoning By-law amendment application as per the Planning Act (inclusive of full public participation and City Council decision)
- LBCC was informed by the applicant's legal counsel this past Thursday, a settlement was negotiated and finalized last Wednesday via a request to the OLT to adjourn today's 5 day hearing and have a 1 day hearing on Friday, Feb 3rd in order to present the negotiated settlement.
- At no time was LBCC advised settlement talks were occurring nor did any of the actions indicate talks were occurring. The Community has had zero input on the dispute resolution proceedings.
- On Friday, LBCC asked for details and was advised that we will "likely" receive details tomorrow on what the "City" mutually agreed to and what will be presented on Friday for Tribunal to approve.

Besides being thrown for a loop and deeply dismayed on what has transpired (even though there is a possibility the community would also be agreeable to the terms of the settlement),

we feel the process should be reviewed by Committee and Council and some transparency provided to the public.

Specifically in this case,

1. Who has Delegated Authority to approve a settlement? (*we had always been under the impression City Council has to approve prior to being presented to the Ontario Land Tribunal*)
2. Who **should** have Authority?
3. *Should* LBCC, as a group who was granted Party Status by the Tribunal, been informed that settlement talks were occurring behind the scenes in order to have been given the opportunity to adequately prepare for the proceedings?

In regards to future situations, there are increased appeals by applicants for Non-Decisions. The likelihood of resident groups or individuals being granted Party Status by the Tribunal in those situations is likely to increase and is already occurring (ie. Winona Gardens redevelopment). Based on what has transpired in our case, why would anyone put the time, resources and effort in being involved when the rug is pulled so quickly at the 11th hour by the City and with no public or City Council awareness?

Respectfully,

Viv / Anna / Nancy
Lakewood Beach Community Council

P.S. For those that don't know, this development application for the 'Triple Towers' - the existing zoning approved by Council in 2010 has no height and no density caps. Hence, the community has been very invested in this Site Plan application submitted in December 2018 and the Minor Variance application submitted in late 2021.