

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** April 12, 2022

**CASE NO.:** OLT-21-001856

**PROCEEDING COMMENCED UNDER** subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Metropolitan Toronto Condominium Corporation No. 978  
Subject: Proposed Official Plan Amendment No. 541  
Municipality: City of Toronto  
Municipal File No.: 18 154389 ESC 36 OZ  
OLT Case No.: OLT-21-001856  
OLT File No.: OLT-21-001856  
OLT Case Number: MTCC 978 v. Toronto (City)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Metropolitan Toronto Condominium Corporation No. 978  
Subject: By-Law No. 931-2021  
Municipality: City of Toronto  
Municipal File No.: 18 154389 ESC 36 OZ  
OLT Case No.: OLT-21-001856  
OLT File No.: OLT-21-002203

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Metropolitan Toronto Condominium Corporation No. 978  
Subject: By-Law No. 932-2021  
Municipality: City of Toronto  
Municipal File No.: 18 154389 ESC 36 OZ  
OLT Case No.: OLT-21-001856  
OLT File No.: OLT-21-002204

**BEFORE:**

STEVEN COOKE ) Tuesday, the 12<sup>th</sup>  
VICE-CHAIR )  
) day of April, 2022

**THESE MATTERS** has not come before the Tribunal for a hearing event;

**AND THE TRIBUNAL** having received a Procedural Order;

**THE TRIBUNAL ORDERS** that the Procedural Order attached hereto as Schedule 1 is in full force and effect;

*“Euken Lui”*

EUKEN LUI  
REGISTRAR

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal.

## SCHEDULE 1



### Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5  
Tel: 416-212-6349 | 1-866-448-2248  
Web Site: olt.gov.on.ca

### PROCEDURAL ORDER

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the Parties' request or its own motion.

#### Organization of the Hearing

2. The video hearing will begin on August 10, 2022 at 10:00 A.M. at:  
<https://meet.goto.com/638422541>
3. The length of the hearing will be **3 days**. The Parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues, where possible. The procedural order deadlines are generally found in **Attachment 1**.
4. The Parties are listed in **Attachment 2** to this Order.
5. The Issues are set out in the Issues List to be attached as **Attachment 3** to this Order following the provision of an acceptable Issues List pursuant to Section 9 below. Once finalized, there will be no changes to this list unless the Tribunal permits, and a Party who asks for changes may have costs awarded against it.
6. The order of evidence is set out in **Attachment 4** to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the Parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.
7. Any person intending to participate in the hearing shall provide a mailing address, email address and a telephone number to the Tribunal. Any such person who retains a representative must advise the other Parties and the Tribunal of the representative's name, address, email address and the phone number.
8. If the hearing is to proceed electronically, any person who intends to participate in the hearing, including Parties, counsel and witnesses, is expected to review the Tribunal's Video Hearing Guide, available on the Tribunal's website (<https://olt.gov.on.ca/tribunals/lpat/>).

## Requirements Before the Hearing

9. The Appellant shall provide to the Tribunal and other Parties a list of Issues it intends to raise with reference to specific policies should inconsistency or non-conformity be alleged. This list must be delivered on or before **April 22, 2022**.
10. A Party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other Parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before **May 13, 2022**. For expert witnesses, a Party is to identify the area of expertise in which the witness is proposed to be qualified and must include a copy of the witness's *curriculum vitae* and Acknowledgment of Expert's Duty Form.
11. Expert witnesses in the same discipline(s) shall have at least one meeting before the hearing to try to resolve or reduce the issues for the hearing. The experts shall prepare a list of any agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the Parties and the Tribunal on or before **June 3, 2022**.
12. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in Section 15. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony. For greater certainty, each expert witness statement must comply with the minimum content requirements specified in Rule 7 of the Tribunal's *Rules of Practice and Procedure*. If the expert witness has prepared any report(s) that he/she intends to rely on at the hearing, and which did not form part of the submissions made to the City, such report(s) shall be provided to the other Parties at the same as the delivery of expert witness statements, as in Section 15.
13. A non-expert witness must provide to the Tribunal and the Parties a witness statement, as in Section 15, or the witness may not give oral evidence at the hearing. Participants are only permitted to provide written participant statements to the Tribunal which must be filed **at least 10 days** in advance of the hearing.
14. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the Party calling them must file a brief outline of the expert's evidence, as in Section 15.
15. On or before **June 10, 2022**, the Parties shall provide copies of their witness statements and expert witness statements (full disclosure including reports) to the other Parties and to the OLT case coordinator in accordance with Section 23 below.
16. On or before **June 24, 2022**, the Parties may provide to all other Parties a written response to any written evidence.
17. On or before **July 15, 2022**, the Parties shall provide copies of their visual evidence to all of the other Parties. The Tribunal and all Parties shall be notified if a model will be used, all Parties must have a reasonable opportunity to view it before the scheduled commencement of the hearing.

18. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. Such a motion shall be in accordance with the Tribunal's Rule 10, which requires that the moving Party provide copies of the motion to all other Parties **at least 15 days** before the Tribunal hears the motion or unless otherwise on a timeline agreed to by the parties.
19. A Party who provides a witness' written evidence to the other Parties must have the witness attend the hearing to give oral evidence, unless the Party notifies the Tribunal **at least 7 days** before the hearing that the written evidence is not part of their record.
20. On or before **July 22, 2022**, the Parties shall prepare and file a detailed Work Plan that identifies the following, at a minimum: the identified Parties participating in the Hearing Event, preliminary matters (if any to be addressed), the date a witness is intended to attend the Tribunal, the identified witness name/expertise, and the approximate time allotted for Examination in Chief, Cross Examination and any re-examination (if any) (the "**Work Plan**"). The Work Plan should be adhered to guide the Hearing Event to the best ability of all the Parties, and any and all witnesses shall be available on the identified date(s), unless otherwise directed by the Tribunal. The Tribunal may, at its discretion, change or alter the Work Plan throughout the Hearing Event.
21. The Parties shall prepare a Joint Document Book on or before **July 29, 2022**. One hard copy of the Joint Document Book shall be filed with the Tribunal as soon as possible in advance of the hearing. All Parties must be served by the appellant with the Joint Document Book in paper or an accessible electronic format in accordance with Section 23.
22. At the time of cross-examination, the Parties shall provide to all Parties and the Tribunal, in a password protected format, any documents that will be used by the Party in cross-examination of an opposing Party's witness, unless the presiding Member directs otherwise. The password protected documents shall only be accessible to the Tribunal and the other Parties if they are introduced as evidence at the hearing.
23. All filing of documents and materials shall be electronic to the Tribunal, the Parties and Participants (if any). The Tribunal shall be provided a hard copy of documents and materials in advance of the hearing event as soon as practicable. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the Rule 7. All documents to be filed with the Tribunal shall be organized, tabbed and digitally searchable and such materials will be filed in accordance with directions contained in the Tribunal's Video Hearing Guide, dated July 2, 2020, or as may be amended. Section 24 applies regardless if the hearing event is in-person or electronic.
24. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.
25. The Tribunal may conduct mediation on consent of all Parties, on consent of those Parties who wish to participate in mediation, or if the Tribunal sees fit.
26. The purpose of this Procedural Order and the meaning of the terms used in this Procedural Order are set out in **Attachment 5**.

**This Member is not seized.**

**So orders the Tribunal.**

BEFORE:

Name of Member:

Date:

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TRIBUNAL REGISTRAR

**ATTACHMENT 1**  
**SUMMARY OF DATES**

<b>DATE</b>	<b>EVENT</b>
<b>April 22, 2022</b>	Final Issues List to be provided by Appellant
<b>May 13, 2022</b>	Exchange of witness lists (names, disciplines and order to be called)
<b>May 27, 2022</b>	Last date to challenge identification of expert witness
<b>June 3, 2022</b>	Experts Meeting and Agreed Statement of Facts
<b>June 10, 2022</b>	Exchange of Witness Statements, summoned witness outlines, and Expert Reports
<b>June 24, 2022</b>	Exchange of Reply Witness Statements (if any)
<b>July 15, 2022</b>	Exchange of Visual Evidence (if any)
<b>July 22, 2022</b>	Final Work Plan filed with the Tribunal
<b>July 29, 2022</b>	Preparation of Joint Document Book
<b>August 10, 2022</b>	Hearing commences

## ATTACHMENT 2

### LIST OF PARTIES

#### PARTIES

1. **80 Dale Avenue Ltd. (Applicant)**

Ian Andres and Zachary Fleisher, Goodmans LLP  
iandres@goodmans.ca / zfleisher@goodmans.ca  
416.597.5160 / 416.597.4286

2. **City of Toronto**

Alexander Suriano, City of Toronto Legal Services  
alexander.suriano@toronto.ca  
416.392.4827

3. **Metropolitan Toronto Condominium Corporation No. 978 (Appellant)**

Michael J. Paiva  
michael@unifiedllp.com  
416.800.1733



**ATTACHMENT 3**

**ISSUES LIST**

**Metropolitan Toronto Condominium Corporation No. 978 Issues**

[To be finalized by April 22, 2022]

**ATTACHMENT 4**  
**ORDER OF EVIDENCE**

1. 80 Dale Avenue Ltd.
2. City of Toronto
3. Metropolitan Toronto Condominium Corporation No. 978
4. 80 Dale Avenue Ltd. in reply (if any)

## ATTACHMENT 5

### Meaning of Terms Used in the Procedural Order

A **party** is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. An unincorporated group cannot be a party and it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer and may have an agent speak for them. The agent must have written authorization from the party.

**NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the case management conference (CMC), must ask the Tribunal to permit this.

A **participant** is an individual or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Section 17 of the Ontario Land Tribunal Act states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal. A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.

A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.

**Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material.

**Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss; and a list of reports or materials that the witness will rely on at the hearing.

An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons supporting their opinions and conclusions and (5) a list of reports or materials that the witness will rely on at the hearing. An expert witness statement must be accompanied by an acknowledgement of expert's duty.

A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a statement of the participant's position on the appeal; a list of the issues which the participant wishes to address and the submissions of the participant on those issues; and a list of reports or materials, if any, which the participant wishes to refer to in their statement.

### **Additional Information**

A **summons** may compel the appearance of a person before the Tribunal who has not agreed to appear as a witness. A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons through a request. (See Rule 13 on the summons procedure.) The request should indicate how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the information provided in the request that the evidence is relevant, necessary or admissible, the party requesting the summons may provide a further request with more detail or bring a motion in accordance with the Rules.

**The order of examination of witnesses** is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- direct examination by any party of similar interest, in the manner determined by the Tribunal;
- cross-examination by parties of opposite interest;
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Tribunal.