

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: February 18, 2022

CASE NO(S): OLT-22-002052
(Formerly) PL210068

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

Appellant:	Ewart Angus Homes Inc.
Appellant:	Yan Kit Truong
Subject:	By-law No. BL 1169-2020
Municipality:	City of Toronto
OLT Case No.:	OLT-22-002052
Legacy Case No.:	PL210068
OLT Lead Case No.:	OLT-22-002052
Legacy Lead Case No.:	PL210068
OLT Case Name:	Ewart Angus Homes Inc. v. Toronto (City)

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

Appellant:	Ewart Angus Homes Inc.
Appellant:	Yan Kit Truong
Subject:	By-law No. BL 1170-2020
Municipality:	City of Toronto
OLT Case No.:	OLT-22-002055
Legacy Case No.:	PL210069
OLT Lead Case No.:	OLT-22-002052
Legacy Lead Case No.:	PL210068

Heard: February 14, 2022 by video hearing ("VH")

APPEARANCES:**Parties**

City of Toronto (“City”)

Rockport Homes Ltd. (“Applicant”)

Ewart Angus Homes Inc. (“Ewart”)

Yan Kit Truong (“Truong”)

Counsel

A. Suriano

D. Bronskill

C. MacDougall / M. Schuman

A. Heisey

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR AND
P. TOMILIN ON FEBRUARY 14, 2022 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The Applicant had originally applied for an amendment to the City’s Zoning By-law seeking approval for a 16 storey residential building for the lands known municipally as 276-290 Merton Street (“Subject Lands”).

[2] Through the development approval process, the application was revised to 13 storeys in height and City Council approved the revised development proposal and enacted two site specific Zoning By-law Amendments (“ZBAs/ZBA”): No. 1169-2020 amending Zoning By-law No. 569-2013, and No. 1170-2020 amending Zoning By-law No. 438-86.

[3] There were two third party appeals: one from Ewart, and one from Truong being on either side of the Subject Lands.

[4] The Tribunal at its Case Management Conference (“CMC”) set down an 8 day hearing, but also heard that the parties were interested in Tribunal-led mediation.

[5] In the lead up to the hearing on the merits, the Tribunal was advised that the Tribunal-led mediation had been successful and a settlement reached.

[6] In support of the settlement the Tribunal was provided with a land use planning affidavit by Michael Bissett (Exhibit 1) that contained revised drawings and plans to implement the settlement and a draft ZBA (only dealing with Zoning By-law No. 569-2013).

[7] Additionally, the Tribunal was provided with Minutes of Settlement between Ewart and the Applicant (Exhibit 2) and Minutes of Settlement between Truong and the Applicant (Exhibit 3).

[8] At the Tribunal hearing, the Tribunal heard the *viva voce* evidence of Mr. Bissett with regard to his affidavit in Exhibit 1, heard the submissions of counsel, and gave an oral decision allowing the appeals in part and approving the ZBA found in Exhibit 1 Tab H, for the reasons set out below.

DECISION

[9] The Subject Lands are generally located in the Mount Pleasant West Neighbourhood which is a mixed use neighbourhood with mid- to high-rise apartment buildings. The Applicant proposes a form of intensification through the construction of a 13 storey residential building with about 60 units on an underdeveloped site.

[10] The Subject Lands are located about 715 metres from the Davisville Subway Station.

[11] City Council, on the recommendation of the Director, Community Planning, Toronto and East York District, approved the development proposal and enacted two site specific ZBAs for the Subject Lands: the first was ZBA No. 1169-2020 to amend the

City's ("new") comprehensive Zoning By-law No. 569-2013, and the second was ZBA No. 1170-2020 to amend the City's (older) comprehensive Zoning By-law No. 438-68.

[12] There were two third party appeals: one from Ewart and one from Truong.

[13] After the Tribunal's CMC, the parties engaged in Tribunal-led mediation that resulted in revisions to the development proposal to resolve the appeals.

[14] On the west side, the focus of the revisions related to balcony locations and reductions in size, and on the east side, increased setbacks at the southeast corner of the proposed building.

[15] Exhibit 1 Tab G contains the revised plans and drawings to implement the settlement and Exhibit 1 Tab H contains the draft ZBA to amend Zoning By-law No. 569-2013 (only) on a site specific basis for the Subject Lands.

[16] The Tribunal heard the *viva voce* evidence of Mr. Bissett in support of his affidavit and he confirmed his land use planning opinion and recommended the settlement proposal to the Tribunal as having appropriate regard for the matters of Provincial Interest under s. 2 of the *Planning Act*, as being consistent with the Provincial Policy Statement, as conforming to A Place to Grow: the Growth Plan for the Greater Golden Horseshoe, as conforming to the City's Official Plan, having appropriate regard for the City's Mid-Rise and Tall Building Guidelines, representing good land use planning and being in the public interest.

[17] The Tribunal then heard submissions from counsel: all in support of the settlement and recommending approval by the Tribunal.

[18] The Tribunal was also advised that only one ZBA is now required (and that is to Zoning By-law No. 569-2013), and counsel for the Applicant requested that the Tribunal repeal the City's ZBA with regard to Zoning By-law No. 438-86: No 1170-2020.

[19] Counsel for the City confirmed this was an appropriate course of action for the Tribunal to take.

[20] The Tribunal having read the affidavit of Mr. Bissett in Exhibit 1, having heard his *viva voce* evidence, having heard the submissions of counsel, and having considered the decision of City Council and the materials before it, allowed the appeals in part and approved the settlement as found in Exhibit 1 at Tabs G and H as the Tribunal was satisfied that the settlement proposal was a form of appropriate residential intensification in a settlement area on an underdeveloped site, in close proximity to the Davisville Subway Station, that would utilize existing municipal infrastructure, and add to the range and mix of housing.

[21] Accordingly, the Tribunal allowed the appeals in part, approved the draft ZBA as found in Exhibit 1 Tab H on the basis that the site plan application shall be in substantive conformity with the plans and drawings found in Exhibit 1 Tab G.

[22] Additionally, in an abundance of caution and upon the recommendation of counsel and with confirmation from City counsel, the Tribunal repeals City By-law No. 1170-2020.

[23] The Tribunal wishes to congratulate the parties for their willingness to engage in Tribunal-led mediation that has resulted in this one day settlement hearing and has avoided a lengthy, and costly hearing on the merits.

[24] This is the Order of the Tribunal.

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

“P. Tomilin”

P. TOMILIN
MEMBER

Ontario Land Tribunal

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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 (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.