

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: October 26, 2020

CASE NO(S): PL200082

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Manga Hotels (Richmond) Inc.
Subject:	Application to amend Zoning By-law No. 438-86 - Refusal or neglect of City of Toronto to make a decision
Existing Zoning:	Reinvestment Area (RA)
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit two (2) multi-storey hotel buildings with a shared lobby at grade.
Property Address/Description:	465-471 Richmond St. W. & 38 Camden St.
Municipality:	City of Toronto
Municipality File No.:	19 182800 STE 10 OZ
LPAT Case No.:	PL200082
LPAT File No.:	PL200082
LPAT Case Name:	Manga Hotels (Richmond) Inc. v. Toronto (City)

Heard: October 5, 2020 by Video Hearing

APPEARANCES:

Parties

Manga Hotels (Richmond) Inc.
("Manga")

City of Toronto (the "City")

Counsel

P. Devine
J. Evola

A. Suriano
D. Elmadany

MEMORANDUM OF ORAL DECISION DELIVERED BY S. JACOBS AND D. CHIPMAN ON OCTOBER 5, 2020 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] Manga intends to redevelop its property located at 465-471 Richmond Street West and 38 Camden Street in Toronto (the “subject lands”) with two multi-storey hotel buildings that would share a lobby at grade. To facilitate its proposed development, Manga applied for an amendment to City Zoning By-law No. 438-86 (the “ZBA”). The City failed to make a decision on Manga’s application within the time period specified in the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and Manga appealed to the Tribunal pursuant to s. 34(11) of that statute.

[2] The Tribunal held this first Case Management Conference (“CMC”) as required by s. 33.1 of the *Local Planning Appeal Tribunal Act, 2017*, S.O. 2017, c. 23, Sched. 1, as amended. Counsel for Manga provided notice of the CMC in accordance with the Tribunal’s direction, and the Tribunal marked the Affidavit of Service as Exhibit 1. At the Tribunal’s request prior to the CMC, counsel prepared an agenda for the CMC, including discussion of a draft Procedural Order (“PO”) prepared by counsel for Manga.

[3] The Tribunal notes that there is a heritage designated building at 38 Camden Street, which Manga intends to demolish as part of its proposed development. Manga applied for a demolition permit pursuant to the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended, which was recently refused by the City. Mr. Devine indicated that Manga intends to appeal the City’s refusal to the Tribunal imminently and that he will be requesting that appeal to be heard together with the ZBA appeal currently before the Tribunal. The Tribunal appreciated this contextual information and recognized that the demolition matter is not yet before the Tribunal. Accordingly, the Tribunal proceeded to conduct the CMC for the ZBA appeal.

REQUESTS FOR PARTICIPANT STATUS

[4] The Tribunal received three requests for participant status on behalf of residents who live near the proposed development. The parties raised no concerns with these requests. On that basis, the Tribunal granted participant status to:

- Carla Alexander (represented by Charles Alexander);
- Toronto Standard Condominium Corporation 2313 (represented by Eris Ritcey); and,
- Metropolitan Toronto Condominium Corporation 1046 (represented by Kevin Makra and Ann Marie Strapp).

The participants shall ensure that they file their written statements by the deadline to be established in the PO.

MEDIATION

[5] The Tribunal canvassed the parties as to whether they have engaged in discussions to resolve any of the issues in the appeal, and whether they are interested in mediation. Counsel indicated that they are encouraged by the ongoing dialogue among their experts and that they would like those discussions to continue. The Tribunal reminded the parties that Tribunal-assisted mediation is available to them, and that should they reach a point where mediation will be of assistance, they may request a mediation assessment through the assigned Case Coordinator.

HEARING, PO, and ISSUES LIST

[6] Counsel for Manga requested that the Tribunal schedule a 10-day hearing in April 2021, preceded by a second CMC in January 2021, or at the Tribunal's earliest opportunity. The purpose of the second CMC, according to Mr. Devine, would be for the

Tribunal to approve the PO and consider Manga's request to hear the ZBA appeal together with the demolition permit appeal.

[7] Counsel for the City expressed concern about the generic state of the Issues List proposed by Manga and explained that its experts were still reviewing this matter in order to identify the City's issues. Mr. Suriano suggested that the Tribunal could schedule the hearing during the second CMC, when the Issues List is finalized, and the status of the demolition permit matter is known. Mr. Elmadany also raised the concern that, if the Tribunal were to hear the ZBA and demolition matter together, the hearing would require an additional one or two days.

[8] The Tribunal explained that it expects the parties, when not in agreement on a draft PO, to come prepared to work through the PO and Issues List during a first CMC. In order to schedule a hearing, as requested by Manga in this case, the Tribunal must have the opportunity to review the proposed issues raised by the appeal, as these issues provide critical insight into the appropriate length of hearing. The generic wording of the issues, dealing broadly with consistency with the *Provincial Policy Statement, 2020*, and conformity with the Growth Plan 2019 and the City Official Plan, did not provide the specificity required for the Tribunal to determine the precise questions to be adjudicated through the hearing.

[9] Counsel then engaged in a useful discussion of issues, as enumerated in the City's Request for Direction report regarding the ZBA appeal. From that discussion, it became clear that issues relating to built form, such as height, massing, step backs, as well as heritage, will be central to this appeal. Mr. Suriano helpfully indicated that the City could work with its experts to refine the City's issues within two weeks.

[10] The Tribunal canvassed the parties as to the number and areas of expertise of their intended witnesses for the hearing. Counsel for each party indicated that they expect to call four to five witnesses in the hearing to address issues relating to land use planning, architecture, urban design, heritage, and traffic.

[11] With respect to the format of the hearing, counsel agreed that it would be prudent to schedule this as a video hearing, given circumstances around COVID-19. They also agreed that the PO should allow for an opportunity to convert the hearing to an appearance, should circumstances later allow.

[12] Based on the detailed discussion during the CMC regarding the issues, the expected number of witnesses, and the video hearing format, the panel determined that it would be reasonable to schedule the hearing for 12 days. The Tribunal also agreed that a second CMC is required in these circumstances, to allow the parties to address Manga's demolition permit application, if it is to be appealed to the Tribunal, and to finalize the PO.

[13] The Tribunal directed the City to provide its issues to Manga within two weeks of this first CMC, so that the parties may jointly submit the revised PO prior to the second CMC. The Tribunal advised counsel that the hearing time is scheduled tentatively and is subject to change based on this panel's review of the PO, including Issues List, submitted by the parties. The Tribunal also directed counsel to ensure that the PO includes submission of a hearing plan at least thirty days prior to the scheduled hearing.

ORDER

[14] The Tribunal orders that the hearing is scheduled to commence at **10 a.m.** on **Tuesday, May 25, 2021** for 12 days.

[15] Parties and Participants are to participate with video and audio enabled. Join the event from a computer, tablet or smartphone **by using this link:**

<https://global.gotomeeting.com/join/484179261>. When prompted, **enter the code 484-179-261** to be connected to the hearing by video.

[16] Observers are to participate with audio only enabled. Join the event via telephone conference **by calling: +1 (647) 497-9391 or Toll Free 1 888-455-1389**. When prompted, **enter the code 484-179-261** to be connected to the call.

[17] Individuals are directed to connect to the event 15 minutes prior to the designated start time on the assigned date. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time.

[18] The Tribunal further orders that a second CMC is scheduled to commence at **10 a.m.** on **Wednesday, December 16, 2020.**

[19] Parties and Participants are to participate with video and audio enabled. Join the event from a computer, tablet or smartphone **by using this link:** <https://global.gotomeeting.com/join/193864845>. When prompted, **enter the code 193-864-845** to be connected to the hearing by video.

[20] Observers are to participate with audio only enabled. Join the event via telephone conference **by calling: +1 (647) 497-9373 or Toll Free 1 888-299-1889.** When prompted, **enter the code 193-864-845** to be connected to the call.

[21] Individuals are directed to connect to the event 15 minutes prior to the designated start time on the assigned date. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time.

[22] Questions prior to the above hearing events may be directed to the Tribunal's Case Coordinator having carriage of this case.

[23] The parties shall provide, on or before December 2, 2020, a written status update to the assigned Case Coordinator, which shall include:

- a. the draft PO to be approved by the Tribunal, highlighting any items that will require the Tribunal's assistance to finalize; and,

- b. the status of the demolition permit matter, including outlining any related request regarding consolidation or hearing together for the Tribunal to consider during the CMC.

[24] No further notice of the hearing or CMC is required.

[25] This panel will remain seized of the CMC, and may assist with case management, however, is not seized of the hearing.

“S. Jacobs”

S. JACOBS
MEMBER

“D. Chipman”

D. CHIPMAN
MEMBER

If there is an attachment referred to in this document,
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Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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