HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

Ahmad Kamal

Applicant

-and-

Peel Condominium Corporation No. 51 and Alba Property Management Inc.

Respondents

AND BETWEEN:

Ashfaq Ali

Applicant

-and-

Peel Condominium Corporation No. 51 and Alba Property Management Inc.

Respondents

AND BETWEEN:

Farooq Minhas

Applicant

-and-

Peel Condominium Corporation No. 51 and Alba Property Management Inc.

Respondents

INTERIM DECISION

Adjudicator:	Sheri D. Price
Date:	January 14, 2015
File Number:	2013-15958-I; 2013-15959-I; 2013-16113-I
Citation:	2015 HRTO 53
Indexed as:	**Kamal v. Peel Condominium Corporation No. 51**

APPEARANCES

Ahmad Kamal, Applicant	)	Self-represented
Ashfaq Ali, Applicant	)	Self-represented
Farooq Minhas, Applicant	)	Self-represented
Peel Condominium Corporation No. 51 and Alba Property Management Inc., Respondents	)	Carol Dirks, Counsel

INTRODUCTION

[1] These three Applications allege discrimination with respect to housing because of creed contrary to the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the "*Code*"). In particular, the applicants, who self-identify as Muslim, contend that the respondent condominium corporation and property management company discriminated against them because of their creed by holding a special owners' meeting on the evening of October 16, 2013, which the applicants allege was Eid-ul-Azha, an important religious holiday for Muslims.

[2] This Interim Decision addresses the applicants' December 8, 2014 Request for an Order during Proceedings ("RFOP"), seeking to have me recuse myself from hearing this case; as well as a dispute about the scope of the Application, and a related request by two of the applicants to amend their Applications.

RECUSAL REQUEST

[3] The first day of hearing in respect of these Applications was held on October 30, 2014. On that date, the parties participated in the Tribunal's mediation-adjudication process, pursuant to Rule 15A of the Tribunal's Rules of Procedure.

[4] Pursuant to the mediation/adjudication process, the Tribunal member assigned to adjudicate the case may, with the parties' express consent, step into the role of mediator to assist the parties in exploring whether the case can be settled on mutually agreeable terms. In the event that the case is not settled through mediation, the hearing proceeds before the Tribunal member originally assigned to hear the case, who bases his or her decision solely on the evidence and arguments presented during the hearing and not on anything said during mediation. I explained all of this to the parties at the outset of the October 30, 2014 hearing, before they agreed to or participated in mediation-adjudication. It is also reflected in the Tribunal's standard form Mediation/Adjudication Agreement, which the parties signed on October 30, 2014, before they participated in mediation-adjudication.

[5] The Applications in this case were not settled in mediation on October 30, 2014. Accordingly, I indicated to the parties that the hearing of the Applications would go ahead on the following day, October 31, 2014, as previously scheduled.

[6] When the hearing reconvened on October 31, 2014, one of the applicants, Mr. Kamal, whom I understand is a paralegal, indicated that the applicants felt that there was "some partiality" on my part, based on what had occurred during mediation on the previous day. Mr. Kamal indicated that the applicants were concerned primarily with the fact that, during the October 30, 2014 mediation, I conveyed to the applicants that the respondents were offering to settle the case by making a monetary donation to a particular mosque, among other things. Mr. Kamal took the position that the respondent's offer was inappropriate, since a breach of the applicants' *Code* rights would result in an award of monetary compensation to them personally, not to a third party. Mr. Kamal submitted that the fact that I had conveyed the respondents' offer suggested some partiality on my part and requested that someone else be assigned to hear the case. Mr. Kamal also submitted that I should recuse myself because I did not pay proper heed to his documentary "evidence" during mediation, in particular, certain passages he wished to read to me from the Holy Qur'an and the *Canadian Charter of Rights and Freedoms*.

[7] In response to Mr. Kamal's request, I began by pointing out that, pursuant to para. 4 of the Mediation/Adjudication that had been signed by the parties on October 30, 2014, the applicants had expressly agreed not to request that I remove myself from hearing this case based on anything that occurred during mediation. Paragraph 4 of the Mediation/Adjudication Agreement states:

> We understand that a Tribunal member will conduct the mediation. We agree that if the parties are unable to resolve the application through mediation, the Tribunal member who conducted the mediation will conduct the hearing and adjudicate the Application. **Neither party may request that the Tribunal member recuse himself or herself based upon anything that occurred during the mediation. (emphasis added)**

[8] The Tribunal has ruled on a number of occasions that the Mediation/Adjudication Agreement itself is a clear basis for denying a recusal request where the request arises from events occurring during the mediation: see *Ihasz v. Ontario (Revenue)*, 2013 HRTO 333 and *Taite v. Carleton Condominium Corporation No. 91*, 2011 HRTO 2334. Notwithstanding this, I advised the parties that I would hear Mr. Kamal's submissions in support of his recusal request after confirming the other applicants' positions (they had previously indicated that they were representing themselves and were not represented by Mr. Kamal); and clarifying a couple of things about the Tribunal's mediation-adjudication process.

[9] In particular, in response to Mr. Kamal's submission that I had not "entertained [his] evidence in total" during mediation, I clarified that, to that point, I had not heard any "evidence" at all in this case. I reiterated a point that I had made before and during mediation, namely, that the decision in the case would be based on evidence presented during the hearing stage of the process, in the presence of all parties, and not on anything that was told to me during mediation. I explained that the applicants would have an opportunity to present their evidence during the hearing portion of the proceeding, subject, of course, to any rulings I might make regarding the admissibility of evidence, based on relevance or otherwise.

[10] In addition, I clarified that the fact that I had presented the respondents' offer to the applicants during mediation was in no way a reflection on the remedy that the Tribunal would award if the applicants succeeded in establishing that the respondents had infringed their rights under the *Code*. On the contrary, I was clear with both parties during mediation – and the respondents' counsel confirmed this during the October 31, 2014 hearing – that where an applicant establishes that his or her rights under the *Code* have been infringed, the Tribunal normally awards some amount of monetary compensation to the applicant for the corresponding injury to his or her dignity, feelings and self-respect (s.45.2).

[11] Following my clarification of the above points, all of the applicants indicated that they no longer had any concerns about the fairness of the hearing and that they wished to proceed before me.

[12] In particular, Mr. Ali indicated that his concerns about "the evidence and the remedy" had been clarified and he was not requesting that I recuse myself from hearing the case. Likewise, Mr. Minhas stated that he had no concerns that he would not receive a fair hearing and he wished to proceed with me as the adjudicator. For his part, Mr. Kamal stated that there had been a "communication gap" between us and that he had never wanted me to recuse myself from hearing the case. He indicated that as long as he would have an opportunity to present his evidence, he wished to proceed with the hearing with me as the adjudicator.

[13] The hearing proceeded on this basis. At the outset of the hearing, there was a preliminary issue regarding the scope of the Applications and a related request to amend the Applications (addressed below). I heard the parties' submissions on this issue before adjourning to January dates, which were set in consultation with the parties.

[14] Notwithstanding the position taken by the applicants on October 31, 2014, and despite the fact that there had been no intervening events, on December 8, 2014, the applicants filed RFOPs seeking to have me recuse myself on the basis of perceived bias.

[15] To a large extent, the RFOPs attempt to revive issues raised by the applicants (or at least by Mr. Kamal) at the outset of the October 31, 2014 hearing. In particular, the applicants contend that I demonstrated bias by not telling the respondents that their offer to settle the case was "illegal" and by "supporting" the offer. The applicants also contend that I did not entertain certain "evidence" they wished to present during the October 30, 2014 mediation, including passages from the Qur'an and the *Canadian Charter of Rights and Freedoms*, on the basis that these were "irrelevant". The applicants indicate that their recusal request is also based on the following:

a. I did not refuse to allow the respondents to call a particular witness who was not included on their July 2014 witness list, Mr. Issa, but then "disallowed" the witness after the applicants objected to his testimony;

b. That I allegedly told the applicants that discrimination occurs only if someone loses his or her job due to creed;

c. That para. 7 of the Mediation/Adjudication Agreement is "self-contradictory" and potentially prejudicial to all parties, and when the applicants brought this to my attention, I "agreed in principle that this point needs clarification, change or amendment and was not sure about the acceptance of such evidence."

d. That I allegedly spent more time with the respondents than the applicants during mediation.

[16] The respondents oppose the applicants' recusal request and deny that there is any basis for recusal in the case at hand.

[17] As I explained to the parties on October 31, 2014, an adjudicator may not recuse him or herself simply because a request for recusal has been made: *Jogendra v. Human Rights Tribunal of Ontario*, 2011 HRTO 322 at para. 62. Rather, where there is a request for recusal based on an alleged perception of bias, the adjudicator must determine whether the perception is a reasonable one. Specifically, as the Supreme Court of Canada explained in *Committee for Justice and Liberty v. National Energy Board*, 1976 CanLII 2 (SCC), [1978] 1 S.C.R. 369 at p. 394:

> ... the apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information. In the words of the Court of Appeal, that test **is "what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude.** Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly." (emphasis added)

[18] Applying the relevant test to the facts of the case at hand, I find that the applicants' request that I recuse myself must be denied. In my view, an informed person, viewing the matter realistically and practically – and having thought the matter

through – would conclude that there was no reasonable apprehension of bias based on what occurred during mediation-adjudication on October 30 or 31, 2014. It is clear that the applicants take issue with the respondents' offer to settle the Applications. However, the mere fact that I conveyed the respondents' settlement position to the applicants during a consensual mediation process does not give rise to a reasonable apprehension that I will not decide the case fairly. As for the applicants' suggestion that I somehow supported the respondents' offer to settle the Applications, this is not accurate. I merely conveyed the respondents' offer to the applicants, as was appropriate for me to do in my role as mediator. This cannot be reasonably interpreted as me having "supported" the respondents' offer, particularly given the clarification of this issue at the October 31, 2014 hearing (see para.10 above).

[19] Moreover, I do not agree with the applicants that the respondents' offer was "illegal" or that I had any obligation to advise them that it was. Simply because a party offers to settle a case by doing something that the Tribunal itself would be unlikely to order does not make an offer "illegal". As I explained to the applicants when this issue came up in October, parties frequently settle cases at the Tribunal on the basis of terms that do not reflect what the Tribunal would or could do if it were to find that the *Code* had been infringed.

[20] I now turn to the applicants' submission that bias is demonstrated by the fact that I did not pay proper heed to their "evidence" during mediation. In my view, this submission reflects a fundamental misunderstanding about the nature of the mediation process. As I explained to the applicants in October 2014, the purpose of mediation was not to give the parties an opportunity to present their evidence, in an attempt to convince me of the "rightness" of their respective positions (as the applicants seemed to want to do), but rather to see if the parties could come to some mutually agreeable resolution of their dispute. The parties will have an opportunity to present their evidence when the hearing resumes, subject, of course, to any rulings I may make relating to the admissibility of evidence, based on relevance or otherwise. As I explained to the applicants on October 31, 2014, this also applies to any excerpts from the Qur'an or

other documents that the applicants may wish to put into evidence. Nor did I tell the applicants that any of their proposed evidence was "irrelevant". However, I did explain to the applicants that the Tribunal only has jurisdiction to deal with their claim that the respondents infringed their rights under the *Code*, not their allegation that the respondents infringed their rights under the *Canadian Charter of Rights and Freedoms*. As I explained to the parties in October 2014, this is because the Tribunal does not have free-standing jurisdiction to hear *Charter* challenges: *Barber v. South East Community Care Access Centre,* 2010 HRTO 581 at para. 7; *Wilson v. Toronto Catholic District School Board*, 2011 HRTO 1040 at para. 19; and *Kostiuk v. Toronto Community Housing Corporation*, 2012 HRTO 388 at para. 26. Also, the *Charter* does not apply to non-government actors such as the respondents. This of course does not prevent the applicants from arguing that the *Code* should be interpreted and applied in a congruent manner to the *Charter*, as previously explained.

[21] As for the applicants' position that I told them that discrimination only occurs if someone loses a job because of his or her creed, this is simply not accurate. As part of a broader discussion, I did speak to the applicants about the range of monetary awards the Tribunal has made in cases where individuals were found to have been terminated from employment for discriminatory reasons. However, I did not (and would not) advise any party that discrimination only occurs when someone loses a job based on creed or any other prohibited ground, as I am well aware that this is not accurate.

[22] As for the applicants' submission that I spent more time with the respondents than with them during the October 30, 2014 mediation, this is not consistent with my recollection of events. In any event, even if I had spent more time with the respondents than the applicants during mediation, this does not give rise to a reasonable apprehension that I will not decide this case fairly. The length of time a mediator spends with a given party during mediation can depend on a number of factors. An informed person, viewing the matter realistically and practically, and having thought the matter through, would not conclude that a Tribunal member would not decide a case

fairly during any subsequent hearing because he or she had spent more time with one party than another during the mediation aspect of Mediation/Adjudication.

[23] Turning to another of the applicants' points, para. 7 of the Tribunal's Mediation-Adjudication agreement states:

> If the Application proceeds to adjudication, the mediator/adjudicator will not consider statements made or documents provided during the mediation unless they also form part of the evidence in the hearing. The decision will be based entirely on the evidence, submissions and case law presented during the hearing.

[24] Although the applicants' concerns about para. 7 are not entirely clear, I did not agree "in principle" that para. 7 of the Mediation/Adjudication Agreement could prejudice the parties. In any event, I fail to see how the alleged fact that I "agreed in principle" with the applicants about para. 7 or indicated that I was not sure about an evidentiary matter could give rise to a reasonable apprehension of bias. To clarify, para. 7 of the Mediation/Adjudication Agreement simply means that, if the hearing proceeds, the parties cannot lead evidence about what they have heard from the other side during mediation, because such discussions are privileged; and that evidence must be introduced as in the normal course. Paragraph 7 does not prevent a party from putting into evidence documents or information that it has previously provided during mediation.

[25] Finally, I do not agree that ruling one way or the other on whether to hear from Mr. Issa, whom the respondents indicated in October 2014 they wish to call to testify, even though he was not included on their July 2014 witness list, could give rise to a reasonable apprehension of bias. The Tribunal has ruled on several occasions that making preliminary rulings (before or during the course of a hearing on the merits) does not create a reasonable apprehension of bias. See, for example, *Ihasz v. Ontario (Revenue)*, 2013 HRTO 333; *Group of Employees v. Presteve Foods*, 2012 HRTO 1365; *Rosenberg v. Ombudsman Ontario*, 2012 HRTO 676; *Mayta v. Canada Lands*, 2009 HRTO 1613; and *Noronha v. 1174364 Ontario*, 2009 HRTO 1292. In any event, as the respondents point out, I have not made any evidentiary rulings to this point in the

case. In particular, I have not yet heard submissions or ruled on the applicants' objection to Mr. Issa being called as a witness by the respondents. I have not, as the applicants state in their RFOPs, "disallowed" Mr. Issa's testimony based on any objection raised by the applicants at the October 2014 hearing.

[26] For all of the above reasons, the applicants' request that I recuse myself is denied.

SCOPE OF THE APPLICATION AND REQUEST TO AMEND

[27] There is no dispute that all three Applications that are before me allege that the holding of a special owners' meeting at the condominium on October 16, 2013 was discriminatory against the applicants because of their creed.

[28] However, at the October 31, 2014 hearing of the Applications, two of the applicants, Messrs. Kamal and Minhas, took the position that the following allegations are also part of the Applications before me, or, alternatively, that they ought to be permitted to amend their Applications to include them and to seek a remedy under the *Code* in respect of them:

> a. The allegation that the respondents discriminated against the applicants on August 28, 2010 by holding a meeting during Ramadan; and
>
> b. the allegation that the respondents discriminated against the applicants by requesting that the property next door to the condominium, the Shalimar International Housing Corporation, which property includes a mosque, close an opening in a fence between the condominium's property and the mosque's property, frequently used by condominium residents as a shortcut to the mosque.

[29] The applicant Mr. Ali does not take the position that the above-noted allegations are part of his Application, nor does he seek to amend his Application to include them. However, Mr. Ali has indicated that he may seek to introduce evidence about the August 28, 2010 meeting and/or the closure of the fence to prove that the respondents' actions in relation to the October 16, 2013 meeting were discriminatory based on creed.

[30] The respondents dispute that the two allegations noted above form part of the Applications that are before me. Moreover, they oppose Messrs. Kamal and Minhas' request to amend their Applications to include such allegations. Among other things, the respondents argue that the Tribunal lacks jurisdiction to deal with the above-noted allegations because the allegations are untimely within the meaning of s.34 of the *Code*.

[31] I gave the parties the opportunity to make submissions about the above-noted issues at the October 31, 2014 hearing.

[32] The first issue to be determined is whether the two allegations noted above are already part of the Applications before me.

[33] At the outset, I observe that the position taken by Mr. Kamal and Mr. Minhas regarding whether the two allegations in question fall within the scope of the Applications they filed with the Tribunal is not entirely clear. This is because, although the applicants initially took the position that these allegations were part of their Applications, as the hearing progressed, the applicants appeared to concede that the allegations were not in fact part of the Applications.

[34] In any event, to the extent that this issue is still in dispute, I find that the Applications filed by Mr. Kamal and Mr. Minhas do not include the allegations that the respondents infringed their rights under the *Code* by holding a meeting during Ramadan on August 28, 2010; or by asking the property neighbouring the respondent condominium to close an opening in a fence.

[35] In determining whether certain allegations are within the scope of an Application, the question is whether the allegations have been sufficiently identified in the applicant's pleadings, namely the Application and arguably the Reply. In this case, neither Mr. Kamal's nor Mr. Minhas' pleadings mention the issue about the fence, even though this allegedly occurred in 2012, well before the November 2013 Applications were filed. (The respondents, Mr. Minhas and Mr. Ali agreed that the opening in the fence was closed by no later than the end of Ramadan in the summer of 2012. Mr. Kamal initially

agreed that it was some time in 2012, but then indicated that he was not sure when it was closed.) Nor does Mr. Kamal or Mr. Minhas plead in either the Application or the Reply that the respondents discriminated against them in 2010 by holding an owners' meeting during the month of Ramadan. Mr. Kamal points out that the issue about the August 28, 2010 meeting was referred to in an October 8, 2013 letter from the applicants' lawyer to the respondents. However, the applicants' lawyer merely referred to the 2010 meeting by way of background to the complaint about the scheduling of the October 16, 2013 meeting on what the applicants allege was Eid-ul-Azha. In my view, this is not a basis upon which to conclude that one of the allegations that forms part of the Applications is whether the respondents discriminated against the applicants by holding a meeting in August 2010, particularly since the Application itself very clearly identifies the holding of a special owners' meeting on October 16, 2013, as the only alleged infringement of the *Code* upon which the Application is based.

[36] Accordingly, the allegations that the respondents discriminated against Mr. Kamal and Mr. Minhas by holding an owners meeting on August 28, 2010, and by requesting or requiring its neighbour to close an opening in its fence are not within the scope of the Applications before me, subject to my decision on the applicants' request to amend. I now turn to that issue.

[37] Pursuant to Rule 1.7(c) of the Tribunal's Rules of Procedure, in order to provide for the fair, just and expeditious resolution of any matter before it, the Tribunal has the discretion to allow any filing to be amended. In considering requests to amend, the Tribunal generally considers the nature of the proposed amendment, the reasons for the request to amend, the timing of the request to amend and the prejudice to the respondent: *Dube v. Canadian Career College*, 2008 HRTO 336; *Wozenilek v. 7-Eleven Canada Inc.*, 2009 HRTO 926; and *Dunford v. Holiday Ford Sales*, 2009 HRTO 1563.

[38] Dealing first with the fence allegation, I note that the nature of this allegation is separate and distinct from the one that is presently before me, which pertains to the scheduling of an owners' meeting on October 16, 2013. While the Tribunal will often

permit amendments that relate to and/or clarify allegations contained in the original Application, the Tribunal is generally reluctant to permit an applicant to amend an Application by adding allegations that are completely new and unrelated to those contained in the original filing, particularly where the applicant seeks to raise, by way of an amendment, allegations that he would be barred from bringing forward in a new application, on account of delay. I am referring to s. 34 of the *Code*, which prevents an Application from being filed more than one year after the date of the last incident in the series of incidents to which the Application relates (s. 34(1)), unless the applicant satisfies the Tribunal that the delay in filing the Application was incurred in good faith (by providing a reasonable explanation for the delay) and that there would be no substantial prejudice to anyone affected by the delay (s. 34(2)).

[39] Strictly speaking, the one-year time limit in s. 34(1) of the *Code* applies only to when a person may file an Application with the Tribunal, and not to requests to amend an Application. The Tribunal can, and does, permit amendments to Applications outside of the one-year period contemplated in s. 34(1) of the *Code* without requiring applicants to satisfy the test under s. 34(2) of the *Code*. However, in dealing with requests to amend, the Tribunal has taken into account the expectation reflected in s. 34 that human rights applicants will bring their allegations forward in an expeditious manner and not unduly delay in alerting respondents to the case against them: *Khokher v. Intercon Security Limited*, 2011 HRTO 1493; *Shakhnazarov v. George Brown College*, 2011 HRTO 1917; *Anderson v. Stieber Berlach LLP*, 2012 HRTO 1471; *Arthur v. Canadian Tire Corporation*, 2012 HRTO 1904 at para. 21-22; *Killeen v. Soncin Construction*, 2013 HRTO 350 at para. 66-69.

[40] In this case, Messrs. Kamal and Minhas did not raise the issue about the 2012 closure of the fence until May 2014 (in response to the respondents' request for a summary hearing) and did not formally ask to include this allegation in their Applications until the first day of hearing in October 2014. In either case, the issue regarding the fence was not raised for well over a year after this alleged incident of discrimination and not until very late in the Tribunal's process. In my view, the delay in raising the fence

allegation and the timing of the request to amend both militate against granting the amendment.

[41] Nor have the applicants provided a good reason for not seeking to amend their Applications until such a late stage in the proceeding. At the October 31, 2014 hearing, Mr. Kamal and Mr. Minhas indicated that they did not raise the fence issue (or the issue regarding the August 28, 2010 meeting) in a more timely way because they wanted to see if relations with the respondents would improve and/or because they wanted to live in harmony with the respondents. In my view, neither of these is an adequate explanation for not raising the issue when they filed human rights Applications against the respondents in November 2013 or until shortly before and/or at the 2014 hearing.

[42] Also, I agree with the respondents that allowing the proposed amendment at such a late juncture would be disruptive to the hearing, given the fact that the respondents have not had an opportunity to file a response to the allegation, provide documentary disclosure or identify what witnesses may be required to testify regarding this issue. In this way, allowing the proposed amendment would detract from the fair, just and expeditious resolution of the Applications.

[43] For the above reasons, Mr Kamal's and Mr Minhas' request to amend their Applications to include the allegation that the respondents discriminated against them in or around 2012 by requiring or requesting that its neighbour close an opening in a fence is denied.

[44] I am also not persuaded that Mr. Kamal and Mr. Minhas ought to be permitted to amend their Applications to include the allegation that the respondent discriminated against them by holding an owners' meeting on August 28, 2010, during Ramadan. Although this allegation, pertaining as it does to the scheduling of an owners' meeting on a religious holiday, is more closely related to the issue in the Application, the significant delay in seeking to raise this allegation before the Tribunal weighs heavily against granting the proposed amendment. In this regard, I note that that approximately four years had passed before Mr. Kamal and Mr. Minhas requested

at the October 2014 hearing to put the August 2010 incident forward as an incident of discrimination in respect of which they seek a remedy. Moreover, as noted above, the applicants have not provided a reasonable explanation for their failure to bring this allegation forward, if not in their November 2013 Applications, then at a much earlier stage of the Tribunal's process. In all of the circumstances, I am not persuaded that it would be appropriate to require the respondents to defend against an allegation that they discriminated against the applicants in 2010, which allegation the applicants did not seek to raise before the Tribunal until 2014. Nor, for the same reasons outlined at para. 42 above, would it be conducive to the fair, just and expeditious resolution of the Application.

[45] For the above reasons, the request by Mr. Kamal and Mr. Minhas to amend their Applications to include the allegation that the respondents infringed their rights under the *Code* by holding a meeting on August 28, 2010 and the allegation that the respondents discriminated against them by requiring or requesting the neighbouring property to close an opening in its fence is denied.

[46] That said, I wish to be clear that this decision is not a determination of the admissibility of any evidence which the applicants (or the respondents) may seek to lead in respect of the alleged infringement of the *Code* that is the subject of the Applications before me, namely, whether the holding of the special owners' meeting on October 16, 2013 was discriminatory against the applicants because of their creed. For example, the respondents indicated that they had no objection to evidence being led about the 2010 meeting as background to the issue in the Application. The Tribunal will determine any issues about the admissibility of evidence in the course of the hearing.

DIRECTIONS

[47] In sum, the applicants' recusal request is denied. Mr. Kamal's and Mr. Minhas' request to amend their Applications to include the allegation that the respondents infringed their rights under the *Code* by holding a meeting on August 28, 2010 and the

allegation that the respondents discriminated against them by requiring or requesting the neighbouring property to close an opening in its fence is denied.

[48] The hearing will continue on January 21, 22, and 26, 2015, as previously scheduled. The issue to be determined at the hearing will be whether the respondents discriminated against the applicants because of their creed by holding a special owners' meeting on October 16, 2013. The applicants should be prepared to go first in presenting their evidence.

[49] In the circumstances, it would appear to be unnecessary to address the respondent's January 13, 2015 letter requesting that the hearing be adjourned pending the release of my decision on the issues addressed herein.

Dated at Toronto, this 14th day of January, 2015.

"Signed by"

Sheri Price
Vice-chair