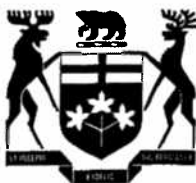


ISSUE DATE:

October 23, 2007

DECISION/ORDER NO:

2797



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL060575

PL060904

Robert and Deborah Tiberio have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, to allow for the operation of a pool installation company, a roof installation company, and a general contracting/landscaping business, with associated outdoor storage for a temporary basis on lands located at 196 and 198 Langstaff Road East, which are currently zoned as Rural Industrial – (H)R.IND, with respect to lands located at 196 Langstaff Road East, and Residential - R1, with respect to lands located at 198 Langstaff Road East

O.M.B. File No. PL060575

O.M.B. File No. Z060087

Cosini Properties Inc., M.A.N. Enterprises Ltd. and A.G.S. Consultants Ltd. have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, for a temporary use permission to allow the operation of an office, contractor yard and the outdoor storage of new vehicles on lands located at 201, 203 and 205 Langstaff Road East, which are currently zoned Residential (R1), as well as on lands located at 3 and 5 Essex Avenue, which are currently zoned Rural Industrial with a holding provision [(H)R.IND.]

O.M.B. Case No. PL060904

O.M.B. File No. Z060117

Cosini Properties Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, for a temporary use permission to allow the operation of an office, contractor yard and the outdoor storage of new vehicles on lands located at 195 Langstaff Road East, which are currently zoned Rural Industrial with a holding provision [(H)R.IND.]

O.M.B. Case No. PL060904

O.M.B. File No. Z060119

Cosini Properties Inc. and A.G.S. Consultants Ltd. have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, for a temporary use permission to allow the operation of an office, contractor yard and the outdoor storage of new vehicles on lands located at 139 Langstaff Road East, which are currently zoned Rural Industrial with a holding provision [(H)R.IND.]

O.M.B. Case No. PL060904

O.M.B. File No. Z060120

RECEIVED

OCT 25 2007

TOWN OF MARKHAM
CLERKS DEPT.

Cosini Properties Inc. and M.A.N. Enterprises Ltd. have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, for a temporary use permission to allow the operation of an existing landscaping and snow removal business, which includes permitting the existing 1-storey dwelling to be used for office purposes and the rear yard to be used for the open storage of building materials, equipment, scrap metal, skids, debris, vehicles and trailers on lands located at 21 Essex Avenue, which are currently zoned Rural Industrial with a holding provision [(H)R.IND.]

O.M.B. Case No. PL060904

O.M.B. File No. Z060123

B E F O R E:

C. HEFFERON
MEMBER

) Friday, the 19th day of
)
) October, 2007

THE BOARD ORDERS that further to Decision/Order No. 1970 issued on July 12, 2007, the Procedural Order, attached hereto as Attachment "1" shall be in force and effect for the purpose of governing the required procedures leading up to and including the hearing, which is scheduled to commence on Monday, February 4, 2008 at 10:30 A.M., to be held at the Angus Glen Community Centre, 3990 Major MacKenzie Drive East, Markham, Ontario. The Board has set aside ten (10) days for the hearing.



SECRETARY

PROCEDURAL ORDER

Robert and Deborah Tiberio have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, to allow for the operation of a pool installation company, a roof installation company, and a general contracting/landscaping business, with associated outdoor storage for a temporary basis on lands located at 196 and 198 Langstaff Road East, which are currently zoned as Rural Industrial – (H)R.IND, with respect to lands located at 196 Langstaff Road East, and Residential – R1, with respect to lands located at 198 Langstaff Road East

O.M.B. File No. PL060575

O.M.B. File No. Z060087

Cosini Properties Inc., M.A.N. Enterprises Ltd. and A.G.S. Consultants Ltd. have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, for a temporary use permission to allow the operation of an office, contractor yard and the outdoor storage of new vehicles on lands located at 201, 203 and 205 Langstaff Road East, which are currently zoned Residential (R1), as well as on lands located at 3 and 5 Essex Avenue, which are currently zoned Rural Industrial with a holding provision [(H)R.IND.])

O.M.B. File No. PL060904

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O.M.B. File No. PL060904

O.M.B. File No. Z060119

Cosini Properties Inc. and A.G.S. Consultants Ltd. have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, for a temporary use permission to allow the operation of an office, contractor yard and the outdoor storage of

new vehicles on lands located at 139 Langstaff Road East, which are currently zoned Rural Industrial with a holding provision [(H)R.IND.)]
O.M.B. File No. PL060904
O.M.B. File No. Z060120

Cosini Properties Inc. and M.A.N. Enterprises Ltd. have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Site-Specific Zoning By-law 2551, as amended, of the Town of Markham, for a temporary use permission to allow the operation of an existing landscaping and snow removal business, which includes permitting the existing 1-storey dwelling to be used for office purposes and the rear yard to be used for the open storage of building materials, equipment, scrap metal, skids, debris, vehicles and trailers on lands located at 21 Essex Avenue, which are currently zoned Rural Industrial with a holding provision [(H)R.IND.]
O.M.B. Case No. PL060904
O.M.B. File No. Z060123

OMB Case No.'s PL060575, PL060904 and OMB File No.'s Z060087, Z060117, Z060119, Z060120, and Z060123.

1. The Board may vary or add to these rules at any time, either on request or as it sees fit. It may alter this order by any oral ruling, or by another written Order.

Organization of the Hearing

2. The hearing will begin on Monday, the 4th day of February, 2008, at 10:30 a.m. at the Angus Glen Community Centre, 3990 Major Mackenzie Drive East in the Municipality of the Town of Markham.
3. The length of the hearing will be about 10 days.
4. The parties and participants identified at the prehearing conference (see the Attachment for the meaning of these terms) are: as set out in Attachment I to this Order.
- 5A. The issues are to be finalized and exchanged by the parties 90 calendar days prior to the hearing, (by November 5th, 2007). There will be no changes to this list unless the Board permits, and a party who asks for changes may have costs awarded against it.
- 5B. The Catholic Cemeteries Archdiocese of Toronto has been identified as a participant represented by Mr. M. Everand, Augusta National Inc.
- 5C. All participants identified prior to the commencement of the hearing are to be served with copies of all material filed or exchanged by the parties pursuant to this Procedural Order.

6. Any person intending to participate in the hearing should provide a telephone number to the Board and the parties as soon as possible. Any such person who will be retaining a representative should advise the other parties and the Board of the representative's name, address and phone number as soon as possible.

Requirements Before the Hearing

7. Expert witnesses in the same field shall have a meeting 30 calendar days (by January 4th, 2008) before the hearing to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing and provide this list to all of the parties, participants, the municipal Clerk, and the Board 25 calendar days (by January 9th, 2008) before the hearing.
8. A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties, the participants, and the Clerk a list of the witnesses and the proposed order in which they will be called. This list must be delivered at least 60 calendar days (by December 5, 2007) before the Hearing.
9. 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 [12]. 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 Board may refuse to hear the expert's testimony.
10. A participant (the Catholic Cemeteries Archdiocese of Toronto) must provide to the Board and the parties a participant statement at least 30 calendar days (by January 4th, 2008) before the hearing, or the participant may not give oral evidence at the hearing.
11. 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 [12].
12. On or before 45 calendar days (by December 21, 2007) before the hearing date the parties shall provide copies of their witness and expert witness statements to the Board, other parties, participants, and to the Clerk of the Town of Markham.
13. On or before 10 calendar days (by January 24th, 2008) the parties and participants shall provide copies of their visual evidence, if any, to all of the other parties. If a model will be used, all parties and participants must have a reasonable opportunity to view it before the meeting.
14. Parties shall provide to the Board, all other parties and participants, and file with the Clerk any written responses to any written evidence 15 calendar days (by January 18, 2008) prior to the hearing.

15. A person wishing to change written evidence, including witness statements, must make a written motion to the Board.
(see Rules 34 and 35 of the Board's Rules, which require that the moving party provide copies of the motion to all other parties 10 days before the Board hears the motion.)
16. 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 Board at least 7 days before the hearing that the written evidence is not part of their record.
17. Documents may be delivered by personal delivery, facsimile or registered or certified mail, or otherwise as the Board may direct. The delivery of documents by fax shall be governed by the Board's Rules [26 –31] on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
18. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 and 65 apply to such requests.

**This Member is [not] seized
So orders the Board.**

ATTACHMENT I

PARTIES

Town of Markham

Robert and Deborah Tiberio

B & L Mettel Limited

Transoceanic Fine Cars Ltd. & Dr. S.

Chuang

William S. Baird

Maria & Miro Kunstek

Cosini Properties Inc.

M.A.N. Enterprises Ltd.

A.G.S. Consultants Ltd.

Participants

Catholic Cemeteries Archdiocese of
Toronto

COUNSEL

Catherine Conrad, Town Solicitor

Donald C. Hindson Q.C.

Brendan Van Niejenhuis

Robert E. Jarvis Q.C.

Representatives

M. Everand, Augusta National Inc.

ATTACHMENT TO THIS PROCEDURAL ORDER

Meaning of terms used in this Procedural Order

Party is an individual or corporation permitted by the Board 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. If an **unincorporated group** wishes to become a party, 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 prehearing conference, must ask the Board to permit this.

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing this statements. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

Written and Visual Evidence: **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.

Witness Statements: 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 the witness' opinions on those issues; and a list of reports 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 for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 41 and 42 on the summons procedure) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

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 Board;
- 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 Board.

Ontario Municipal Board Rules on
DOCUMENTS, EXHIBITS, FILING, SERVICE

18. Form of Documents Unless otherwise directed by the Board, every document filed or introduced by a party or participant in a proceeding shall be prepared on letter size paper (8 1/2" x 11") (except for large documents such as plans or surveys), and shall have each page numbered consecutively throughout the entire text and graphic content, even if there are dividers or tabs.

19. Other Exhibits Large graphic or other such types of visual evidence should not be glued to foam or other boards. It must be on paper and be removed from the boards following the hearing event, and folded to 8 1/2" x 11". Three-dimensional models must be photographed and the photographs must be introduced with the model. A videotape to be used in evidence must be viewed by the other identified parties before the hearing.

20. Copies of Documents for Parties and Clerk Subject to the Board making a different order at a pre-hearing conference, a party who will use a document as evidence at a hearing event should provide copies at the beginning of the proceeding for all parties and participants. If it is an official plan, those parts of the plan to be used should be distributed to the parties and participants, but a copy of the entire plan must be made available to the Board Member(s) at the beginning of the proceeding. If the Board orders that copies of documents be kept by the clerk of the municipality, they do not need to be certified copies, unless a party objects that they are not authentic copies.

21. Pre-filing of Witness Statement and Reports

Experts: If a hearing is expected to last more than 10 days, the Board may require that parties calling expert or professional witnesses serve on the other parties and file with the clerk of the municipality, any experts' witness statements and reports prepared for the hearing at least 30 days in advance of the hearing, or as the Board directs. The Board may also make this order for hearings expected to last less than 10 days if a party requests this. The expert witness statement must contain:

- (a) the expert's name, address and qualifications;
- (b) the issues the expert will address, opinions on these issues and the reason for the opinions; and
- (c) a list of the reports, whether prepared by the expert or by someone else, that the expert will refer to at the hearing.

The expert's complete report may be filed instead of this statement, if it contains the required information.

An expert may not be permitted to testify if this statement or report is not filed. The reports in (c) above do not need to be filed with the Board, but should be supplied to the parties in advance if the parties request them. Participants in the hearing wishing to examine expert reports may do so at the Clerk's office.

Other Witnesses: The Board may also require that a witness who is not giving expert evidence, or a participant, provide to the Board and the parties a witness or participant statement. A witness or participant statement should contain a short written outline of the person's background, experience and interest in the matter; a list of the issues which they will discuss and an opinion on those issues; and a list of reports that they will rely on at the hearing. A participant statement should also briefly outline the evidence to be presented. The witness or participant may not be allowed to testify if this statement is not filed.

22. **Amendment of Documents** Documents filed with the Board cannot be amended unless the Board orders it, or the other parties consent. The Board may require that the person requesting an amendment do so by way of a motion under Rule 34 with notice to all parties.

23. **Copies of Board Documents** A person may examine any document filed with the Board, and copy it after paying the Board's fee, unless an Act or a court or Board order provides otherwise. *(This does not apply to documents that the Board has ordered to be confidential, sealed, and not part of the public record.)*

24. **Return of Exhibits** Exhibits (written or visual evidence) of all types introduced at a hearing will be kept for 60 days after the Board decision issues. The person introducing an exhibit may ask for its return after this time, and it may be given back if the Board agrees. If no such request is made, it becomes the property of the Board and may be archived.

25. **Final Approval of Plans of Subdivision** When a final plan is prepared for the Board's approval (rather than the approval authority's, if the Board orders that it be final approved by the authority), the owner shall insert on the original plan and copies the following wording:

This plan is approved by the Ontario Municipal Board under file
[Insert OMB case number] pursuant to the *Planning Act*, section _____.

Date _____ Secretary, Ontario Municipal Board

Comment on Faxes (Rules 26 to 31 below):

The Rules below respecting faxes apply to all documents filed or served, including notices of appeal, notices of motion, notices of hearing and documents exchanged following a procedural order.

Note, however, that the Board cannot extend an appeal period in an Act, so that documents must be served on or before the last day. These Rules merely require that documents be faxed by specific times. For example, staff will be present to receive a fax if it is faxed before 4:30 p.m. (See also Comments and Rules 10 to 12 respecting time.)

26. **Service by Fax** Where any document is required to be served (delivered) or filed, including one commencing a proceeding or a motion, or providing notice, it may be served by fax (unless an Act, or the Board, requires another method of service) and shall be sent to:

- (a) the party's representative, if any;
- (b) where the party is an individual and is not represented by a representative, to that party directly where that party has provided a fax number;
- (c) where that party is a corporation and is not represented by a representative, to the corporation directly to the attention of an individual with apparent authority to receive the document; or
- (d) where served on or filed with the Board, a local board or commission, or any department, ministry or agency of the federal, provincial or municipal government, an individual with apparent authority to receive the document.

27. **If Faxed After 4:30 p.m.** Any document served by fax after 4:30 p.m. is deemed to have been served on the next business day.
28. **Permission to Fax If More Than 12 Pages** If a document is more than 12 pages including the cover page, it must not be served by fax between 8:00 a.m. and 4:30 p.m. unless the person receiving the document has given permission in advance. If more than 30 pages, it cannot be served by fax at any time without advance permission.
29. **Contents of Cover Page** The fax cover page must include the Board's case and file number, the type of matter and the municipality in which the matter arose, as well as full identification of the sender and receiver.
30. **Proof of Service by Fax** A confirmation printout received by the sender is proof of the full transmission and receipt of the fax.
31. **No Hard Copy Needed** A hard copy of a faxed document must not be sent by another means of transmission unless requested, and may then be sent by ordinary mail.

June 3, 2004

Ontario Municipal Board Rules on PRE-HEARING CONFERENCES

Comments on Pre-hearings (Board Rules 73 to 82 below):

There can be at least three types of activities at a pre-hearing conference, as may be seen from the subjects which may be considered (see Rule 73 below). These are: a settlement conference (which is similar to a mediation), a discussion of procedure for the hearing, and a preliminary hearing (for motions, etc.). There may be no clear division between these procedures, and the Board may switch from one to another whenever it seems appropriate.

Before a pre-hearing conference, the Board may send the parties a sample Procedural Order (a copy follows). The parties are expected to study the contents of this sample, and to meet if possible, and to come to the pre-hearing conference prepared to discuss the issues and procedures dealt with in the sample order. Following the pre-hearing, the Board will issue a formal order governing the procedure and issues for the hearing, based on the discussion of the contents of the sample order at the pre-hearing. The Board Member(s) conducting the later hearing must follow the order, unless a party convinces the Member that it is appropriate to change the order.

If the Board hears some evidence and/or submissions on the issues in a preliminary hearing mode at the pre-hearing, and decides that it can dispose of some or all of them, it will make formal decisions about the issues (given either during the prehearing or at a later date). These will be set out in the written order following the pre-hearing, and this is a final order on those issues.

Note that the pre-hearing Member will not necessarily conduct the hearing. It is usually desirable that this Member preside at the hearing to ensure continuity. A Member may state this at the pre-hearing (it is often stated as "This Member is seized".) However, in order to ensure speedy hearings, the Board may assign another Member or Members where the pre-hearing Member is not available for an early hearing.

73. Pre-hearing Conference At the request of a party or on its own initiative, the Board may direct parties to participate in a pre-hearing conference, which can include settlement conferences, motions or preliminary hearing matters, in order to:

- (a) identify and simplify the issues;
- (b) identify facts or evidence the parties may agree upon or on which the Board may make a binding decision;
- (c) obtain admissions that may simplify the hearing;
- (d) provide directions for pre-filing of witness lists, expert statements and reports; for meetings of experts; and for further disclosure where necessary;
- (e) discuss opportunities for settlement, including possible use of mediation or other dispute resolution processes;
- (f) fix a date and place for the hearing and estimate its length, and encourage the parties to agree upon the dates for any procedural steps;
- (g) discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public, or to seal documents; and
- (h) deal with any other matter that may assist in a fair and quick resolution.

74. Sample Procedural Order and Meeting Before Prehearing Conference The Board may provide a sample Procedural Order to the parties before the pre-hearing conference. (The sample Procedural Order is attached). Whether or not a sample is sent, the parties should meet before the pre-hearing conference to consider the matters set out in Rule 73, and prepare to make recommendations for the conduct of the hearing

to the Board at the pre-hearing conference. The Board may order that the parties meet before the conference for this purpose.

75. Serving Notice of a Pre-hearing Conference The Board will give the applicant a Notice of Pre-hearing Conference which provides the time and place of the pre-hearing conference. The applicant must serve this on (*deliver it to*) those persons entitled to notice of the conference, and provide an affidavit to the Board proving the service at the conference. (*See Board Rule 35 for the form of affidavit.*)

76. Board Member Presides The Chair will designate a Member to conduct the pre-hearing conference.

77. Public Attendance at Pre-hearing A pre-hearing conference held in person will be open to the public, and one held by electronic conferencing will be open to the public where practical.

78. Conversion from One Procedure to Another The Board Member conducting a pre-hearing may conduct a procedural discussion, settlement conference or a preliminary hearing at any time, and may convert from one to another form. The Board will state in the notice of pre-hearing that the parties should arrive prepared for a procedural and settlement conference as well as a preliminary hearing where evidence or formal statements are heard. Even if no settlement is reached, the Board may proceed to make a final decision on any evidence received during the conference.

79. Results of Failure to Attend a Pre-hearing Conference If a party fails to attend the pre-hearing conference in person or by authorized representative, the Board may proceed without that party. They are not entitled to notice of future proceedings in the matter (*unless the Board accepts their excuse for not attending as a reasonable one.*)

80. Preliminary Hearing Following Settlement Conference If the Board is satisfied that a party reasonably objects to the same Member presiding at a preliminary hearing portion of a pre-hearing conference after conducting a settlement conference, the Board may set a later date for a preliminary hearing before another Member.

81. Board Order Following Prehearing The Member conducting the pre-hearing conference will issue an order which may decide any of the matters considered at the conference, as well as provide procedural directions for any proceedings to follow.

82. Hearing Member Bound The Member conducting the hearing is bound by the order resulting from the pre-hearing conference, unless the Member is satisfied that there is good reason to vary the order.

June 3, 2004