

June 26, 2007

EXECUTIVE COMMITTEE:

City Council on June 19, 20 and 22, 2007, referred the following Motion to the Executive Committee:

**M68 City Council Petition to the Province of Ontario
to Remove the City of Toronto from the
Jurisdiction of the Ontario Municipal Board**
Moved by Councillor Walker, seconded by Councillor Jenkins

SUMMARY:

There is no government agency so consistently reviled by residents of the City of Toronto as is the un-elected Ontario Municipal Board (OMB). Every neighbourhood in this City has been affected by an OMB decision made against the City's wishes. From Committee of Adjustment minor variance appeals to major Official Plan and Zoning By-law Amendments, the OMB is increasingly dictating how our City is planned and is adversely affecting our residents throughout the process. The City of Toronto ought to be free of the OMB.

The OMB is ruling against the City more than it ever has before. The magnitude and frequency of the amendments to Zoning By-laws and the Official Plan is increasing (though under the new Official Plan the need for amendments is inherently reduced by the vague malleability of the document). This is not only due to the Provincial Policy Statement and Places to Grow Act's push of 'Intensification' (the requirement that our City must aggressively build to accommodate a million more residents in twenty years time) – it's the Ontario Municipal Board. The City of Toronto could adhere to that Provincial Policy Statement adequately without the OMB, if Council only had the autonomy to tell applicants (developers) when and where they can develop, and by staying principled and consistent to our Official Plan and Zoning By-laws while ensuring adequate infrastructure planning able to accommodate this growth.

The OMB ought to be abolished for at least Toronto which has a large and sophisticated multi-million dollar Planning Division administration supporting it. By comparison, the second-guessing OMB has only a few staff members to support its decisions.

The existence of the OMB reduces Planning decisions to a bargaining exercise between what a developer proposes and what City Council feels is appropriate for development. Provincial planning documents are used to justify almost any size of development, almost anywhere. Speculation on properties is on the rise because there is a pattern of developing to double or triple what the Zoning By-law allow. It adds up to a loss of control over the growth, stability and the health of our neighbourhoods. To stop this pattern, accountability for planning decisions must rest solely with elected officials.

Residents feel the impact of these new developments incrementally diminishing their quality of life. Residents want Council's planning decisions to matter and be final. Residents know that planning decisions must not be made ad hoc or in isolation from the existing context of the development site's neighbourhood. The accumulated effect of developments on our quality of life and our infrastructure over time must be paramount. Residents know that our infrastructure (transit, schools, roads, water system) built years ago cannot sustain us today, let alone the in future.

Furthermore, residents' have spent millions of after-tax dollars on unsuccessful OMB appeals in the last ten years. Unlike the developer applicant who incorporates the cost of an appeal into the project cost, residents must fund-raise in the neighbourhood to support an appeal at the OMB. This is the most glaring example of the uneven playing field at the OMB. A Residents' group should not have to spend \$100,000.00 to essentially defend the City's position at the OMB.

The Ontario Municipal Board drains the City's resources by occupying our Planning (OMB appeals occupied nearly 2000 staff hours/280 staff days in 2006) and Legal Divisions and City Council debate, not to mention our residents and ratepayers' resources. The OMB puts our focus toward hopeless legal battles over a building that will have a part in shaping our City for the next 50-100 years. In 2005, the City won only 34% of appeal cases at the OMB.

The City of Toronto needs to make this a major issue in this upcoming Provincial election on October 10, 2007. The Provincial government did not amend the OMB Act when they amended the Planning Act (Bill 51) last year. Ontario Municipal Board decisions under the new Planning Act (i.e. – 2425-2427 Bayview Avenue) are just as egregious as the OMB decisions under the old legislation (i.e. – 200 Russell Hill Road, 468 Avenue Road, 271 Russell Hill Road, West Queen West Triangle).

OMB decisions have more impact on our City's long-term sustainability than any other force. The OMB's decisions affect the way our City breathe, move and live for the next 50 years. City Council needs to stand up against the existence of the Ontario Municipal Board once and for all.

There is nothing democratic about the OMB and the citizens of Toronto want us to remove its shadow from our planning decisions.

RECOMMENDATION:

1. City Council immediately and aggressively petition the Province of Ontario to remove the City of Toronto from the jurisdiction of the Ontario Municipal Board, thereby allowing appeals of City of Toronto planning decisions only through the Divisional Court or the Provincial Cabinet.

Council also considered a Financial Impact Statement (June 20, 2007) from the Deputy City Manager and Chief Financial Officer.

for City Clerk

M. Toft/cd

Attach.