

NOTICE OF MOTION**Protection for Residents' Groups in Ontario Municipal Board Decisions – Request For Anti-“SLAPP” Legislation**

Moved by: Councillor Walker

Seconded by: Councillor Stintz

SUMMARY:

The Ontario Municipal Board (OMB) presides over many important planning decisions in Toronto. More and more residents and residents' groups are getting involved with cases before the OMB.

To deter and intimidate residents' groups from opposing their proposals, developers in Ontario have begun filing for costs for OMB hearings to be paid by the residents' groups who oppose their proposals. This increasingly pervasive form of litigation aimed at opponents of contentious projects is known as SLAPP (Strategic Lawsuits Against Public Participation). The suits, also filed against citizen groups and environmental organizations by large corporations, usually come in the form of libel actions and injunctions to prevent public criticism and protests.

This latest strategy of developers in Ontario has been successful and has won cases by coercing the resident opposition to remove themselves from the OMB appeal because they do not have the financial wherewithal for the costs of the developer if awarded by the OMB, in addition to their own legal costs at the OMB.

In February 2008, in Barrie, Ontario, a developer filed at the OMB for costs of \$3.6 million against a residents' group, the Concerned Residents of Hillside, who had planned to oppose the developer's Big Bay Point proposal at the OMB. Subsequently, the residents' group dropped its party status at the OMB for fear of costs.

This strategy has been used in the United States by corporations/developers in the past. Some States already have anti-SLAPP legislation in place.

Because of the growing occurrence of these suits in Quebec, the Quebec Justice Minister has promised to table anti-SLAPP legislation before this June.

This type of financial intimidation is an assault on local democratic decision-making. SLAPPs hinder a citizen's right to access and fully participate in public process. The provincial government has an obligation to ensure the OMB operates democratically. We need to prevent this potential for intimidation of Torontonians any we can, as City Council, by requesting the required legislation from the provincial government.

RECOMMENDATIONS:

1. That City Council urgently request the provincial government to enact anti-“SLAPP” legislation, prohibiting all Strategic Lawsuits Against Public Participation (SLAPP) involving cases before the Ontario Municipal Board.
2. That this resolution be forwarded to the Premier of Ontario and the leaders of the Provincial Opposition for their action.

April 28, 2008

According to Chapter 27, Council Procedures:

Notice given	(√)
Fiscal Impact Statement provided	
Should have Fiscal Impact Statement prior to debate Requires two-thirds to waive requirement if Council wishes to debate	*
Should be referred to Executive Committee Requires two-thirds vote to consider at this meeting	(√)
Motion Recommendations are Urgent	

* Deputy City Manager and Chief Financial Officer to advise.