
2013 BUDGET BRIEFING NOTE

Ontario Municipal Board (OMB) Statistics

Issue/Background:

At its meeting of December 5, 2012, the Budget Committee adopted the following motions:

- *Motion 39:* That the City Solicitor provide a briefing note charting the use of outside planners on a ward by ward basis for 2010, 2011, and 2012 that shows a breakdown of appeals with and outside planner stemming from the Committee of Adjustment, rezoning on site-specific bylaws, and the percentage of successful appeals by category.
- *Motion 40:* That the City Solicitor provide a briefing note breaking down legal cost incurred on a ward by ward basis for 2010, 2011, and 2012 due to appeals to the Ontario Municipal Board (OMB) charted against the number of development applications and Committee of Adjustment applications on a ward by ward basis.
- *Motion 41:* That the City Solicitor provide a briefing note breaking down appeals generated by the applicant, City and third party, on application for committee of Adjustment, rezoning, site-specific bylaw amendment decisions for 2010, 2011, 2012.
- *Motion 42:* That the City Solicitor provide a briefing note on the number of appeals settled prior to a formal hearing, with a breakdown by Committee of Adjustment, rezoning and site-specific bylaws for 2010, 2011, 2012.

This briefing note responds to the above motions for 2011 only due to time constraints. Court decisions are considered favourable by the City when an outright win or settlement is attained. The chart accompanying this briefing note exhibits a strong rate of favourable outcomes in contested matters, regardless of whether the professional witnesses are City staff planners or independent land use planning consultants.

The chart accompanying this briefing note responds to the above motions (39 – 42) by listing only matters related to appeals. Wards that are not mentioned had no appealed matters in 2011. Development applications and undisputed development applications are not contained within the chart provided.

The specific information requested in the above motions (39 – 42) is set out in the attached chart entitled: "2011 OMB Hearings, Ward by Ward", as follows:

- *Motion 39:* Column 3 identifies when a City Planner was used. Use of an independent planning consultant and the associated cost are contained in Column 4.

2011 Summary

Favourable results (win or settlement) vs. unfavourable (loss) results are detailed below:

2011 Statistics Summary				
<i>Appeals of Committee of Adjustment Decisions</i>				
	Win	Settlement	Loss	Total
City Planner	11	7	3	21
Independent Planner	10	8	4	22
Total number of Committee of Adjustment appeals:				43
<i>Appeals of Other Development Applications</i>				
	Win	Settlement	Loss	Total
City Planner	14	22	6	42
Independent Planner	1	1	2	4
Total number of Development Application appeals:				46

2012 Summary

Summary of hearings at the Ontario Municipal Board for 2012 are described below.

2012 Hearings at the OMB

(some cases rolled-over from previous year)

Official Plan Amendment / Rezoning / Site Plan	Alcoholic Gaming Commission of Ontario/ License Appeal Tribunal	Conservation Review Board	Committee of Adjustment	Cost
70 cases	7 cases	3 cases	57 cases	\$192,196.56
266 days	22 days	6.5 days	90.5 days	

Out of a total of 137 cases: 115 used internal planners and 22 used external consultants.

- *Motion 40:* Fees paid to independent land use planning consultants \$374,957.73 are set out in Column 4 on a ward by ward basis. Statistics are not available for zoning or on a ward by ward basis for Committee of Adjustment applications.
- *Motion 41:* Information pertaining to the initiation of appeals is set out in Column 7 (the last column). The majority of appeals are initiated by the applicant, with minimal being initiated by a third-party.
- *Motion 42:* Details regarding appeals settled prior to a formal hearing are recorded in Column 5, titled "Results".

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Legend: **Red = CofA**
Black = Development Appeals
Green = AGCO

2011 OMB HEARINGS Ward by Ward

Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
50 Firwood Crescent - Rez/Site Plan - phc	3	City Planner		Settle	3 days	Applicant
TOTAL	1				3	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
Dundas St W/ Highway 427 Planning Framework Study	5	City Planner		Settle	4 days	Applicant
892 The Queensway - Site Plan	5	City Planner		Settle	1 day	Applicant
TOTAL	2				5	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
364 Lake Promenade - CofA - adj to 2012	6		\$ 12,220.95	Win	2 days	Applicant
40 Woodbury Road - CofA	6	City Planner		Settle	1 day	Applicant
2388-2398 Lake Shore Blvd West - rezoning	6	City Planner		Win	1 day	Third party
36 Park Lawn - ZBA and Site Plan	6	City Planner		ongoing	1 day	Info n/avail w/in timeline
3645-3647 Lakeshore- CofA	6		\$ 14,250.58	Win	4 days	City
TOTAL	5		\$ 26,471.53		9	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
19 Oakland Avenue - CofA	7		\$ 6,012.01	settle	0.5 days	Applicant
Weston Road, northeast corner/Oak St - rezoning	7	City Planner		Win	1 day	Applicant
96 Rivalda Rd - CofA	7		\$ 9,384.69	Settle	1 day	Applicant
TOTAL	3		\$ 15,396.70		2.5	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
3747-3757 Keele St/11 Le Page Court - CofA	8	City Planner		Settle	3 days	Applicant
TOTAL	1				3	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
801 Sheppard Ave. W - rez	10	City Planner		Win	2 days	Applicant
TOTAL	1				2	

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2011 OMB HEARINGS Ward by Ward

Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
1812 Weston Rd - AGCO	11	City Planner		Loss	1.5 day	Info n/avail w/in timeline
TOTAL	1				1.5	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
155 Morningside Ave - CofA	13		\$ 15,264.00	settle	1 day	Applicant
1844 Bloor - Rental Demolition	13	City Planner		Loss	1 day	Applicant
10 Elderwood Drive - CofA O/S PLANNER	13		\$ 22,994.70	Win	2 day	Applicant
TOTAL	3		\$ 38,258.70		4	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
1566 Queen Street - CofA	14		\$ 5,824.33	Win	3 days	Applicant
1346 Queen West - AGCO	14	City Planner		Settle	1 day	Applicant
321 Roncesvalles Ave - AGCO	14	City Planner		Settle	5 days	Info n/avail w/in timeline
1688 Queen Street West - AGCO	14	City Planner		Settle	1 day	Info n/avail w/in timeline
1704 Queen Street West - AGCO	14	City Planner			1 day	Info n/avail w/in timeline
TOTAL	5		\$ 5,824.33		11	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
3180 Bathurst Street - Rezoning	15	City Planner		Settle	2 day	Applicant
1928 Eglinton Avenue - AGCO	15	City Planner		Settle	1 day	Applicant
3180 Bathurst St - Zoning	15	City Planner		Settle	4 day	Applicant
TOTAL	3				7	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
507 St. Clements Ave - CofA	16		\$ 12,402.94	Win	2 days	Applicant
687 Woburn Ave - CofA	16		\$ 7,523.73	Withdrawn	--	Applicant
36 - 44 Eglinton Ave. West - Rezoning PHC	16	City Planner		settle	1 day	Third party
348 Joicey - CofA	16	City Planner		Win	1 day	Info n/avail w/in timeline
58, 60, 64, 68 Orchard View/ 439, 441, 443 and 445 Dup	16	City Planner		Win	4 days	Third Party
TOTAL	6		\$ 19,926.67		8	

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2011 OMB HEARINGS Ward by Ward

Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
257-259 Oakwood - CofA	17	City Planner			3 days	Info n/avail w/in timeline
TOTAL	1				3	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
Dufferin Jog Elimination Expropriation - Discoveries	18	City Planner	No results from discoveries		3 days	Applicant
953 Dufferin Street - Rezoning Application	18	City Planner		Settle	5 days	Info n/avail w/in timeline
1171 Queens St. W - Site Plan	18	City Planner		Settle	1 day	Applicant
TOTAL	3				9	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
1030 King Street West - Rezoning Application PHC	19		\$ 14,641.63	Win	12 day	Applicant
90 NIAGARA STREET - CofA	19		\$ 37,008.43	Loss	5 days	Applicant
149 Strachan - CofA	19	City Planner		Settle	1 day	Applicant
TOTAL	3		\$ 51,650.06		18	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
621 King St. West - CofA	20	City Planner		Win	2 day	Applicant
129 Baldwin St - CofA	20	City Planner		Win	1 day	Applicant
161 August Avenue - CofA	20	City Planner		Win	1 day	Applicant
224 McCaul Street - CofA	20		\$ 8,309.31	Settle	1 day	Applicant
621 King St W - CofA	20	City Planner		Win	3 days	Applicant
76 Lowther Ave - CofA	20	City Planner		Win	2 days	Applicant
38 Brunswick - Divisional Crt	20	City Planner		Win	1 day	Info n/avail w/in timeline
328-340 Adelaide Street West - Zoning By-law Amendr	20	City Planner		Settle	1 day	Applicant
11 Charlotte St - rezoning/site plan	20	City Planner		Settle	4 days	Applicant
10 and 14 Prince Arthur - Settlement Hearing - T/C	20	City Planner		Settle	3.5 days	Applicant
12 -18 Mercer/60 John St - site plan control - t/c	20	City Planner		Settle	0.5 days	Applicant
TOTAL	11		\$ 8,309.31		20	

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2011 OMB HEARINGS Ward by Ward

Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
173 Strathearn Rd - CofA -	21	City Planner		Loss	1 day	Applicant
1717 Bathurst Street - CofA	21		\$ 3,965.04	Settle	2 days	Third Party
212 Vesta Drive - CofA	21		\$ 30,798.76	Settle	3 day	Applicant
220 Rosemary Rd. - CofA	21				1 day	Info n/avail w/in timeline
32 Glenayr Road - CofA	21		\$ 21,814.55	Settle	1 day	Info n/avail w/in timeline
16 Vesta Drive - CofA	21		amount n/avail	Settle	1 day	Info n/avail w/in timeline
4 Bracondale Road - CofA	21	City Planner		Win/Settle	4 days	Applicant
310 Rosemary - CofA	21		\$ 16,459.37	Loss	2 days	Applicant
TOTAL	8		\$ 73,037.72		14	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
95 Lonsdale Road - CofA	22		\$ 5,961.00	Win	1 day	City
110 Heath St W - CofA	22	No planner		Settle	1 day	Applicant
TOTAL	2		\$ 5,961.00		2	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
393-403 Spring Garden Ave - opa/rezoning	23	City Planner		Win	1 day	Third Party
131 Church Avenue - CofA	23	City Planner		Loss	2 days	Applicant
167-181 Maplehurst - OPA/rez	23	City Planner		Loss	5 days	Applicant
278 Horsham Ave. - CofA	23	City Planner		Win	1 day	Applicant
Churchill/ Basswood Common Elements Condc	23	City Planner		Loss	1 day	Applicant
2900 Steeles Ave. W - rez	23		\$ 27,635.57	Loss	8 day	Applicant
76 Alfred Ave - CofA	23		\$ 7,392.24	Win	2 days	Info n/avail w/in timeline
219 Hollywood - CofA	23	City Planner			1 day	Info n/avail w/in timeline
15 Runnymede Road - CofA	23	City Planner		Win	1 day	Applicant
TOTAL	9		\$ 35,027.81		22	

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2011 OMB HEARINGS Ward by Ward

Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
30 Colonnade Road - CofA	24	No Planner		Settle	1 day	Applicant
5959 Yonge St. - Rezoning	24	City Planner		win	1 day	Info n/avail w/in timeline
TOTAL	2				2	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
35 Hemford Crescent - CofA	25		\$ 11,989.37	Win	2 days	Info n/avail w/in timeline
233 St. Leonard's Avenue – CofA	25	No Planner		Loss	1 day	City
2130 Bayview Avenue – Rezoning	25	City Planner		Settle	1 day	Applicant
11, 17 and 19 Roslin Road - CofA	25		\$ 21,131.11	Loss	2 days	Info n/avail w/in timeline
1860 Bayview Avenue - Rez/Site Plan Control - PHC	25	City Planner		Settle	3 day	Applicant
238 St. Leonard's Ave - CofA	25	City Planner		Win	2 days	Applicant
55 Owen - CofA	25	City Planner		Win	2 days	Applicant
TOTAL	7		\$33,120.48		15	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
25 Esander - Expropriation	26	City Planner		Loss	1 day	Applicant
218 Randolph - Rezoning	26	City Planner		Loss	3 days	Applicant
TOTAL	2				4	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
150 Bloor Street West - rezoning	27	City Planner		Motion	1 day	Third Party
512-514 Jarvis Street - CofA	27		\$ 10,199.58	Win	3 days	Applicant
2 Bloor West - rezoning	27	City Planner		Settle	1 day	Info n/avail w/in timeline
606 - 618 Yonge St - rez	27	City Planner		Settle	0.5 days	Info n/avail w/in timeline
9-21 Grenville - Rez	27	City Planner		Settle	2 days	Applicant
102 Shuter Street - OPA and Rezoning	27	City Planner		Settle	1.5 days	Applicant
288 Mount Pleasant Road - CofA	27	City Planner		Settle	1 day	Applicant
TOTAL	7		\$ 10,199.58		10	

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Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
East Bayfront - OPA/Zoning	28	City Planner		Prehearing	1 day	Third Party
TOTAL	1				1	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
2 True Davidson - OPA/rez	29		\$ 22,805.19	Settle	4 days	Applicant
TOTAL	1		\$ 22,805.19		4	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
1183 QUEEN STREET EAST - SITE PLAN APPEAL	30				1 day	info n/avail w/in timeline
521 Danforth - CofA	30	City Planner			1 day	Info n/avail w/in timeline
59 Colgate Ave. - CofA	30	City Planner		Settle	1 day	Applicant
TOTAL	3				3	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
66 to 76 Kippendavie Avenue - Rezoning	32		\$ 1,332.31		1 day	Third Party
1566 Queen St. W. - AGCO	32	City Planner		Settle	1 day	City
376 Glen Manor Dr	32			Win	1 day	Info n/avail w/in timeline
151 Balsam Ave - CofA	32	City Planner			1 day	Info n/avail w/in timeline
580 Kingston Rd - OPA/REZ	32	City Planner		Settle	8 days	Applicant
TOTAL	5		\$ 1,332.31		12	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
David Dunlap Circle (formerly part of 39 Green Belt Dr)	34		\$ 20,000.00	Loss	5 days	Applicant
142 Bexhill Ave - CofA	34	City Planner			1 day	Info n/avail w/in timeline
TOTAL	2		\$ 20,000.00		6	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
140 Westbourne Ave - CofA	35	City Planner		Decision Pending	2 days	Info n/avail w/in timeline
TOTAL	1				2	

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2011 OMB HEARINGS Ward by Ward

Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
NW of Gerrard St E at Clonmore Dr	36	City Planner		Loss	2 day	Applicant
2 and 4 Dale - rez	36	City Planner		Settle	1 day	Applicant
TOTAL	2				3	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
Markham-Ellesmere Revitalizatn Study	38	City Planner		Win	1 days	Applicant
TOTAL	1				1	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
10 Marilyn Ave - CofA	39		\$ 8,968.65	Loss	2 days	Info n/avail w/in timeline
TOTAL	1		\$ 8,968.65		2	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
8 Gloxinia Crescent - CofA	40	No Planner		Win	1 day	Applicant
TOTAL	1				1	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
103, 105 and 109 Scarboro Av - Zoning	44	City Planner		Settle	1 day	Applicant
6039 Kingston Road - Official Plan Amendment & Rez	44	City Planner		Win	4 days	Applicant
6500 - 6550 Lawrence Av East - Rez	44	City Planner		Win	1 day	Applicant
TOTAL	3				6	
Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
Shooting Ranges (ZBL 1151-2008)	all	City Planner		Win	1 day	Third Party
TOTAL	1				1	

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Particulars	Ward	City Planner	O/S Planner Cost	Results	Duration	Appeal Initiated by (Applicant, City, Third Party)
St. Clair Avenue Study - OPA Appeal	multi	City Planner			3.5 day	Third Party
Commercial Floorspace Requirements (OPA 94)	multi				1 day	Info n/avail w/in timeline
Kennedy/Passmore - Rez	n/avail	City Planner		Settle	1 day	Applicant
Seaton Lands (Pickering)	n/avail	City Planner		Withdrawn	1 day	Third Party
580 - 592 Kingston Road - OP/REZ	n/avail				5 days	Info n/avail w/in timeline
New Official Plan	multi				2 day	Info n/avail w/in timeline
Home Depot - York Mills and Lesmill	n/avail				2 day	Info n/avail w/in timeline
2205 Sheppard Ave. East - Hearing of Zoning and fees appeal	n/avail				14 days	Info n/avail w/in timeline
Central Waterfront Plan - OPA 388 and 389, Zoning for North Keating	multi				2 days	Info n/avail w/in timeline
Reverse Slope Driveways (North York ZBLs)	multi	City Planner		Win	3 days	Third Party
TOTAL	10				34	
2011 GRAND TOTAL		117 Cases	\$ 374,957.73		254 days	