



## HEALTHY COMMUNITIES • SUSTAINABLE COMMUNITIES

August 12, 2016

Ms. Audrey Bennett  
Director  
Provincial Planning Policy Branch  
Ministry of Municipal Affairs  
College Park  
777 Bay Street, 13th Floor  
Toronto, ON M5G 2E5

**Re: Review of the Ontario Municipal Board**

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Dear Ms. Bennett:

The Ontario Professional Planners Institute (OPPI) appreciates the opportunity to comment on the proposed recommendations to improve the Ontario Municipal Board (OMB) within the broader system of land use planning. As a key stakeholder in Ontario's planning system, we are pleased to provide our input.

OPPI is the recognized voice of the Province's planning profession. Our almost 4,500 members work in government, private practice, universities, and non-profit agencies in the fields of urban and rural development, urban design, environmental planning, transportation, health, social services, heritage conservation, housing, and economic development. Our Members meet strict practice requirements and are accountable to OPPI and the public to practice ethically and to abide by a Professional Code of Practice. Only Full Members are authorized by the Ontario Professional Planners Institute Act, 1994, to use the title "Registered Professional Planner" (or "RPP").  
[www.ontarioplanners.ca](http://www.ontarioplanners.ca)

### **Jurisdiction and Powers**

Ontario's land use planning system is complex and is a result of numerous levels of regulation and policy. The process also has many stakeholders with divergent and often competing views. The OMB plays an important role and provides a certain check and balance to this system by ensuring participants that an independent review by a neutral third party is available, should it be necessary.

### **Meaningful Citizen Participation and Local Perspective**

The OMB makes efforts to ensure fair hearings are held when a party is not represented by legal counsel. These efforts include explanatory literature available to participants and improving the manner in which hearings are conducted. More is needed, however, to help non-experts navigate the planning and appeals process. The Province should invest resources to make the OMB website more accessible with additional staff made available that can answer citizens' questions about the hearing process. This will help to address the public's perception that citizens have little or no power in the process and that the system is biased towards developers and their lawyers.

Unrepresented parties must not only receive a fair hearing but must also feel that they have received a fair hearing. This approach takes extra effort on the part of the hearing officer to explain proceedings, exercise patience, know when to intervene on a technical breach and to pace the hearing appropriately for the circumstances.

### **Clear/Predictable Decision Making**

A standardized decision format may assist the public in understanding the content and process leading to a decision, however, sufficient flexibility is required to ensure that Board members can address the question before them in a way that suits the nature of the hearing. There are several common elements to a decision, and consideration could be given to setting out the order to these items, while leaving room for the unique circumstances of each case.

### **Hearing Procedures and Practices**

One of the purposes of the Board is to allow a process of order to ensure a fair hearing of all relevant comments and opinions. A shortcoming of the planning process is the “noise” created by many voices with competing interests. The Board ensures that one voice is heard at a time, that this voice is cross-examined to test how robust the argument is, and that each voice is heard in turn.

The challenge with expert evidence is how to limit it to that which is necessary to make the point, and not unduly add to the length of the hearing. Guidelines for the giving of expert evidence could include main areas to cover, an order to oral evidence, and what is required in writing in advance of hearing and shared with other parties.

Hearings are expensive and care needs to be taken to ensure that costs and barriers are not put in place that unnecessarily inhibit the public’s ability to participate.

### **Alternative Dispute Resolution**

The Board utilizes Alternative Dispute Resolution (ADR) when agreed upon by the parties and this is viewed positively by many. More authority may be warranted for the Board to require ADR in certain types of files. Board members should feel free to conduct “active mediation” whereby direction and encouragement is given throughout the process to arrive at a good planning decision.

Less adjudication that leads to good planning decisions with more mediation, negotiation and a less adversarial approach would be beneficial for all parties. This allows issues to be resolved without the need for a hearing.

### **Other Comments**

Improvements to the involvement of the OMB in the planning process will be welcomed by most stakeholders. Care should be taken, however, to ensure the OMB remains equipped to make decisions as a neutral third party and that decisions result in good planning in communities across Ontario.

Appointment of more OMB Members would speed up timeliness of hearings and decisions.

Thank you again for the opportunity to comment. We look forward to the release of the consultation document. Please feel free to contact me at 416-668-8469 or by email at [l.ryan@ontarioplanners.ca](mailto:l.ryan@ontarioplanners.ca)

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Ryan', followed by a horizontal line extending to the right.

Loretta Ryan, RPP  
Director, Public Affairs  
Ontario Professional Planners Institute