



September 3, 2009

Julia Munro, MPP (York--Simcoe)
Chair
Standing Committee on Government Agencies
Room 1405
Whitney Block, Queen's Park
Toronto, ON M7A 1A2

**Ontario Professional Planners Institute
Submission to the Standing Committee on Government Agencies
Re: Ontario Municipal Board**

Dear Chair,

On behalf of the Ontario Professional Planners Institute (OPPI), I am pleased to provide this submission with respect to services and mandate of the Ontario Municipal Board (OMB).

OPPI is the recognized voice of the Province's planning profession. Our more than 3,000 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 and social services, heritage conservation, housing, and economic development. Many members provide valuable advice to municipal councils.

Ontario's planners have considerable experience and insight into the Ontario Municipal Board's functions and processes. As the voice of professional planners in Ontario, OPPI is taking this opportunity to share its perspective on the role and function of the OMB and to consider how this Board contributes to the advancement of the public interest through good planning throughout the Province.

It is OPPI's position that the role and function of the OMB continues to be critical to the success of the land use planning and development process in Ontario. We believe that it would be imprudent to make changes before we have had the opportunity to fully implement the Government's most recent amendments to the Planning Act. These amendments include requirements, for example, complete applications, regard to municipal council decisions and information used by Councils in reaching Board decisions.

The Appeals and Hearing Process

One of the most significant functions of the OMB is its responsibility to provide an opportunity for land use planning disputes to be determined through a fair and impartial process, where all stakeholders can present information to assist the Board in their consideration of a matter. A fundamental tenet of the Board's hearing process has been and remains, that all participants have an opportunity to provide the Board with relevant and objective information and opinions. Hearings provide for a fair and equitable consideration of all involved parties and reflect a fundamental principle of law that arises from a desire for equity and consideration of all information.

One of the key principles of OPPI is that its members, as Registered Professional Planners, provide objective analysis and advice on any particular planning matter with which that member is involved. This key principle is reinforced through OPPI's Professional Code of Practice (and related disciplinary procedures) which emphasize that members have a primary responsibility to define and serve the broad public interests.

The hearing process should focus on the consideration of impartial, objective information and evidence that will assist the Board in its determination of good planning and the public interest, as it relates to a particular matter. The OMB is frequently required to resolve complex land use planning disputes in which stakeholders assert very diverse positions. Often a stakeholder's perception of the Board is founded simply in whether or not its position prevailed in a particular matter before the OMB.

In our submission, it is not appropriate for individual perceptions based on specific cases and their outcomes to determine the current and future role of the OMB but rather that the breadth of the Board's efforts and experience is considered.

The Government's Legislative Initiatives

The Province has implemented a number of recent legislative programs that affect land use planning and development in Ontario, including the *Green Energy Act*, *Places To Grow Act* and, the *Clean Water Act*. These initiatives address the complexity of land use and environmental decision making in the 21st Century and may change the Board's traditional role and function and the traditional role and function of the Planning Act in municipal land use decision making.

In past re-organizations of the Planning Act, dating back to the Comay Report in 1977, land use policy was organized as policy statements to be applied within the framework of the Planning Act. Today, important policy outcomes are arrived at outside the framework of the Planning Act. These rely on planning instruments for implementation.

The Green Energy Act makes provisions for the approval of energy conservation plans (Section 6, Green Energy Act 2009) to achieve energy conservation. The Places to Grow Act and Plan provide for a number of specific land use objectives (e.g., intensification targets) to be met in municipal plans. The Clean Water Act provides for watershed management plans to be prepared and to be implemented in part through municipal planning instruments (e.g., Section 40, Clean Water Act 2006). In addition, scientific and public policy concerns arising on matters such as healthy, active community planning and climate change will require innovation if these matters are to be properly addressed in land use planning and decision-making.

When these matters are addressed as legislation, regulations and public policy, the Government needs to consider the implications of new initiatives on land use planning and think creatively about how the Planning Act and municipal and Board decision making support the objectives these new initiatives are intended to achieve.

The successful implementation of these initiatives may transform the OMB as we know it. OPPI believes the OMB has a future role and function in these matters based on the Board's extensive experience in understanding and implementing land use and development planning within the Province in the past. It may be appropriate to consider how a transformed Board would adapt its traditional role and function to address these and other Provincial initiatives and municipal policy concerns.

OPPI has embarked on a Healthy Communities initiative to help inform our members, municipalities and the private sector on how to plan for more active healthy communities. OPPI also supports programs to empower planners to address climate change more proactively. We all need to be aware of these emerging issues and prepare to engage them constructively through education, re-organization and co-ordination.

Mediation

The Board has exerted considerable effort in recent years to provide an alternative to the (sometimes costly and lengthy) hearing process through mediation facilitated by trained Board members. OPPI continues to support the Board's initiatives in this regard as it provides an opportunity for all stakeholders, including the public, to achieve a consensual resolution of a particular matter.

Cost of Hearings

The length (and related cost) of hearings can be extensive and therefore the Board needs to continue to manage and focus hearings through such initiatives as mediation and pre-hearings to ensure that the hearing process is efficient, as well as fair.

OMB Public Liaison and Outreach

In recent years, the OMB has undertaken several public outreach initiatives directed at individuals, un-represented groups and other key stakeholders. Specifically, the OMB has established the 'Citizen Liaison Office', which is available to assist with explaining the Board's rules, practices and procedures and to answer general questions concerning the functions of the Board. The Citizen Liaison Office also makes itself available to meet with any person or group wishing direct contact with, and information from the OMB.

The OMB has also prepared a 'Guide to the OMB' and a number of 'Information Sheets', which provide details about the Board's processes and procedures. Its web-site provides responses to a number of frequently-asked questions (such as, how to file an appeal to the OMB).

Further, the OMB re-designed its website to improve its functionality for the wide range of users that access information from the Board.

OPPI commends the OMB's public outreach initiatives as it demonstrates that the Board continues to be mindful of the role of the public and community at-large and their right to have access to, an understanding of, and ability to fully participate in, the hearing process. Our sense is these procedural matters may not be enough to address new Provincial initiatives such as those examples provided earlier. OPPI encourages these matters to be given consideration.

Ontario Municipal Members

As noted in a previous OPPI submission (2002, attached), the quality of administrative justice relies significantly on the perception that those conducting the hearings are credible, reliable and independent. While the backgrounds of OMB members are diverse, their professional qualifications and experience is critical to the achievement of a fair, independent and superior hearing process especially at this time. Therefore, appointees to the Board should have existing knowledge and a sound understanding of land use planning in Ontario. The cases being determined by the Board will become progressively more complex (such as the Growth Plan and related conformity policies, joint Board cases, and, land compensation hearings) and the need for Board members to have significant planning expertise is increasingly important.

As in the case of all organizations, ongoing training and education is important and Board members should be current on emerging planning issues. The OMB demonstrates its commitment to maintaining a high quality of service in its role and function through a continuing education process of all of its members. The Board reaches out to professional organizations to assist in keeping its members up-to-date on current issues and OPPI has

directly participated in the Board's educational functions through preparation of presentations on current land use planning issues.

Conclusion

As professional planners, OPPI submits that the OMB continues to play a critical role in the planning and development process in Ontario and does so in a credible, fair and balanced manner.

We would be pleased to discuss our submission. For further information, please contact Loretta Ryan, MCIP, RPP, Manager, Policy & Communications at 416-668-8469 or by e-mail at policy@ontarioplanners.on.ca

Sincerely,

A handwritten signature in black ink that reads "Wayne Caldwell". The signature is written in a cursive, flowing style.

Wayne Caldwell, MCIP, RPP
President,
Ontario Professional Planners Institute

Copy: Members of the Standing Committee on Government Agencies:

Lisa MacLeod, MPP (Nepean--Carleton), Vice-Chair
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