



Ontario Municipal Board and Board of Negotiation

Annual Report 2001-2002

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To the Honourable Norm Sterling, Attorney General

Minister:

We have the pleasure of submitting, for the approval of the Legislature, the Ontario Municipal Board and the Board of Negotiation's 2001-2002 Annual Report.

Respectfully submitted,

David J. Johnson
Chair
Assessment Review Board
Ontario Municipal Board
Board of Negotiation

Gail Taylor
Chief Executive Officer
Assessment Review Board
Ontario Municipal Board
Board of Negotiation

June 2003

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Chair's Message

I am pleased to present my second Annual Report as Chair of the Ontario Municipal Board (OMB) and the Board of Negotiation (BON). Over the past year, my appreciation for the role of the two Boards has deepened.

At the OMB, the impact of decisions can be far-reaching. People rightly hold strong opinions on questions of planning and development in their communities. Given such diverse viewpoints, making decisions on matters affecting people and their neighbourhoods is a significant challenge. Debate and media reports on the OMB tend to focus on large-scale developments, sometimes questioning the very existence of the Board. This debate and coverage is healthy, articulating and reinforcing the importance people place on the future of their communities.

Contrary to media attention and public perception, more than half of the files received by the Board deal with individuals seeking a minor variance or consent to sever a property and do not involve broad planning issues. For all planning and development issues, large or small, the Board's process allows property owners, municipalities and other stakeholders the opportunity for a fair hearing in an open, respectful forum.

The OMB continues to strive to provide access to such alternate dispute resolution mechanisms as pre-hearings, mediation and motion proceedings. The use of these mechanisms, including the mediation work performed by the Board of Negotiation, has increased over the past few years. The use of these mechanisms has the potential to save both time and money for those involved as many cases that go to mediation are resolved without the need for a full hearing.

Whether processing cases, scheduling hearings or issuing decisions, the OMB strives for fairness, accuracy, consistency, and quality. The Board continues to improve its timeliness, especially in dealing with smaller issues such as minor variances.

We continue to integrate the administration of the Ontario Municipal Board, the Assessment Review Board and the Board of Negotiation, with the goal of achieving efficient and cost-effective ways to serve the people of Ontario.

The Chairmanship of the Ontario Municipal Board and the Board of Negotiation continues to be a most rewarding responsibility. It is a pleasure serving Ontarians in this challenging environment.

A handwritten signature in black ink, appearing to read 'David J. Johnson', with a long horizontal flourish extending to the right.

David J. Johnson

June 2003

1. An Overview of the Board

Purpose of the Board

The Ontario Municipal Board (OMB) is an independent adjudicative tribunal that hears appeals and applications on a wide range of municipal and land-related matters. Among the matters dealt with by the OMB are official plans, zoning by-laws, subdivision plans, consents, minor variances, land compensation, development charges, ward boundaries, aggregate resources and a wide range of other land-related and municipal matters.

Along with other regulatory and adjudicative agencies, the OMB helps form the core of the administrative justice sector in Ontario. It has been demonstrated that agencies provide access to justice that is less expensive, less complex, and less formal than the courts.

Possessing specialized knowledge of relevant legislation and matters in their particular field, administrative agencies and their adjudicators, or Members, are integral components of Ontario's social and legal infrastructure.

History and Jurisdiction

The Ontario Municipal Board is one of the Province's longest standing adjudicative tribunals. It was created in 1897, when the Office of the Provincial Municipal Auditor was established to supervise account keeping by municipalities.

In 1906, the Ontario Railway and Municipal Board was created, with the added responsibility of supervising the then-burgeoning rail transportation system between and within municipalities. In 1932, it was renamed the Ontario Municipal Board. While the Board's mandate has changed and greatly expanded over the years, many of the powers given to the OMB at the time of its creation have been retained, albeit with changing scopes of responsibility.

The Province has provided for application or appeal to the OMB under more than 180 statutes. The Board's range of jurisdiction is broad, with most of its work arising from the *Planning Act*. Other statutes that account for the rest of the Board's work include the *Expropriations Act*, the *Development Charges Act*, the *Ontario Municipal Board Act* and the *Municipal Act*.

Agency Reform and Administrative Integration

In 1997, the Province's Wood Task Force on Agencies, Boards and Commissions recommended the amalgamation of the Ontario Municipal Board (OMB), the Assessment Review Board (ARB), and the Board of Negotiation (BON). Approved by the Government, the rationale for amalgamation emerged from the three tribunals' shared orientation to property and planning matters. At this time, the Government has not approved the creation of a single board, but has approved the movement towards administrative amalgamation.

This process began in 1998, when the three tribunals began to share leadership, resources and best practices. To this end, in February 1998 the Chair, along with two Vice Chairs of the OMB, were cross-appointed to the ARB. A joint Chief Executive Officer (CEO) was appointed in February 1999 to lead administrative integration.

A further step toward amalgamation was taken when the OMB and BON were transferred to the same Ministry as the ARB, the Ministry of the Attorney General. Prior to the November 1, 2000 transfer, the OMB and BON were under the Ministry of Municipal Affairs and Housing.

By March 31, 2002, the Boards shared a Chair, a CEO, three Vice Chairs, five Members, and two legal counsel. Opportunities for further amalgamation continue to be implemented with the goal of reduced expenditures and enhanced service to all the Board's clients.

Legislative Changes

Oak Ridges Moraine Protection Act, 2001

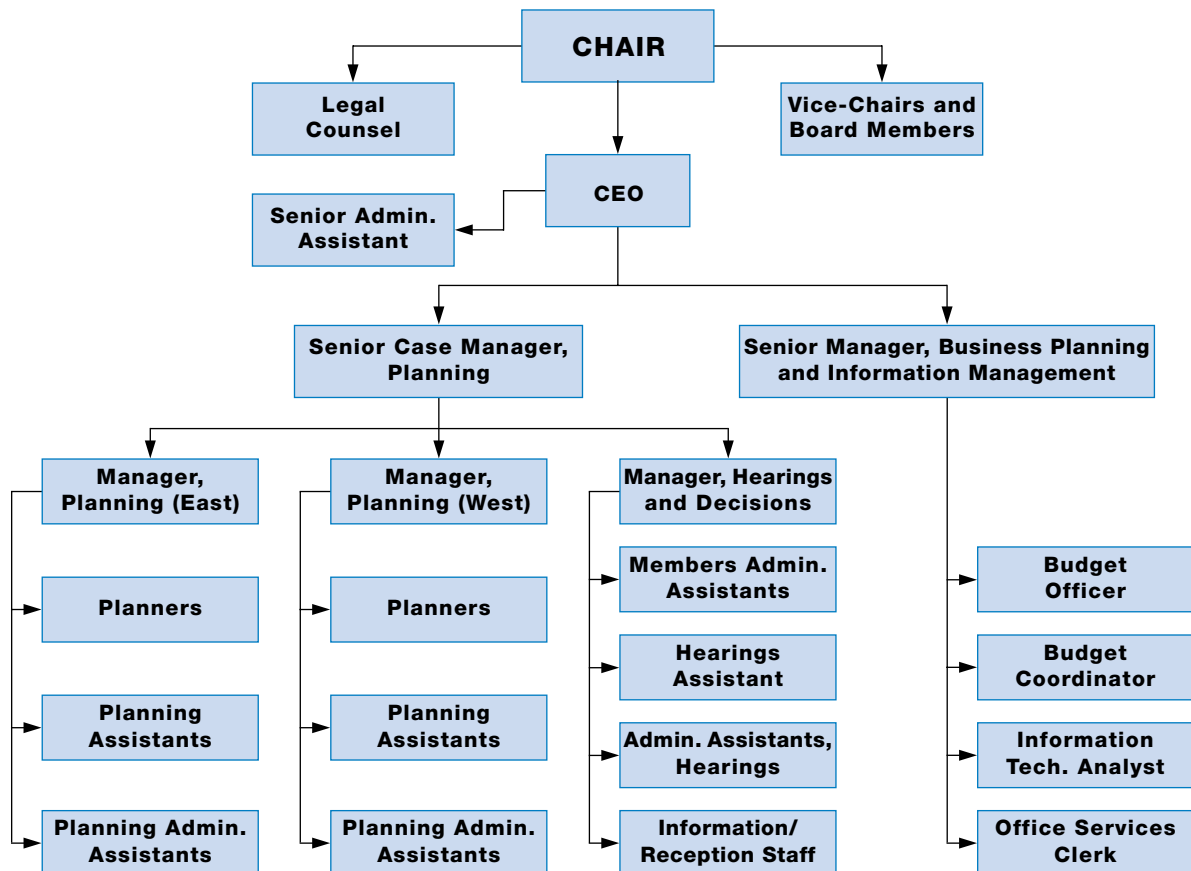
On May 17, 2001, the *Oak Ridges Moraine Protection Act, 2001* came into effect, establishing a six-month moratorium on development on the Moraine and postponing all proceedings that were under way on lands within the Moraine. At the time of the Act, the Ontario Municipal Board was hearing a number of cases that fell within the Moraine. These hearings were also postponed, or stayed.

The Board undertook to review its entire caseload originating from municipalities through which the Moraine runs. This initiative was meant to identify all cases that would have to be postponed during the moratorium established by the *Oak Ridges Moraine Protection Act, 2001*. The Board placed over 65 cases on hold as a result of this review, informing affected parties that such actions had been taken in accordance with the requirements of the Act.

On December 14, 2001, the *Oak Ridges Moraine Conservation Act, 2001* came into effect. A number of Regulations were also introduced in support of this new Act.

The Board must consider the *Oak Ridges Moraine Conservation Act, 2001* and related regulations as it proceeds to deal with those cases that had been postponed, as well as any new cases that come before it. Decisions on applications made on or after November 17, 2001 must conform to all aspects of the Oak Ridges Moraine Conservation Plan. For applications made before November 17, 2001, where no decision had been made before that date, decisions must also conform to the prescribed provisions of the Plan. These timelines will determine the degree to which the development must conform to the Plan and, consequently, the issues that the Board must take into account when adjudicating.

OMB Organizational Chart



2. OMB Operations 2001-2002

Caseload

Each incoming appeal and application to the Ontario Municipal Board is assigned both a file number and a case number. File numbers are unique, but those appeals and applications relating to a specific proposal or development are grouped under a shared case number. This means that a single “case” can vary greatly in size and/or complexity. For example, an appeal of a minor variance matter (i.e. one file) may represent the entirety of one case; yet multiple files pertaining to matters such as an official plan, zoning by-law, subdivision and site plan may together also comprise one case.

Although there was a slight decrease in the number of cases and files the Board received over the previous fiscal year, there were a number of factors that impacted demands on the Board’s Member and staff resources.

Many of the cases heard by the Board were composed of numerous files and required increased hearing time, leading to an overall increase in the number of hearing events required to adjudicate the Board’s caseload.

The complexity of the Board’s caseload also increased: approximately one half of the Board’s caseload consisted of cases from the Greater Toronto Area pertaining to complex urban planning issues requiring additional staff and hearing time, including an increase in the number of motions, pre-hearings and mediations.

Finally, parties and participants are accessing the system to a greater degree than in previous years. This has led to an increase in staff time required to manage the caseload outside of the hearing room, especially with respect to the number of requests for information about Board processes and procedures.

In this section, the percentage increase or decrease in each type of caseload activity should be read as a discrete statistic.

Table 1: OMB File Types Received

Files Received by Type (Appeals and Applications)	FISCAL YEAR					
	1999 - 2000		2000 - 2001		2001 - 2002	
	#	%	#	%	#	%
1 Minor Variances	595	28%	568	28%	549	30%
2 Consents	357	17%	385	19%	323	18%
3 Zoning By-laws	306	15%	309	15%	273	15%
4 Official Plans	227	11%	264	13%	194	10%
5 Zoning Refusal or Inaction	188	9%	209	10%	166	9%
6 Plans of Subdivision	89	4%	99	5%	143	8%
7 Municipal Structure (includes site plans)	115	5%	114	6%	87	5%
8 Development Charges	176	8%	43	2%	49	3%
9 Land Compensation	31	1%	37	2%	27	1%
10 Capital Expenditures	15	1%	16	1%	24	1%
11 Consolidated Hearings	3	0%	5	0%	0	0%
12 Assessments	2	0%	0	0%	0	0%
TOTAL	2,104	100%	2,049	100%	1,835	100%

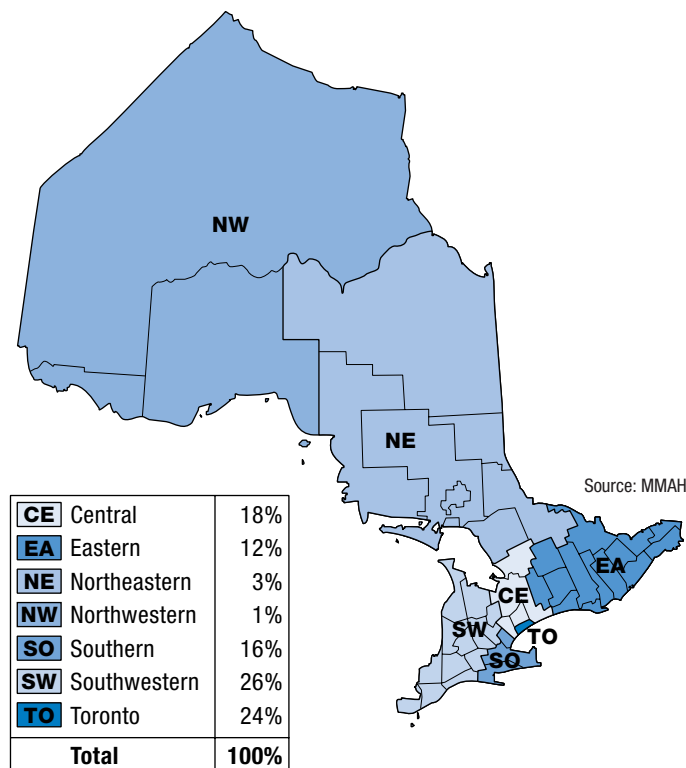
The Ontario Municipal Board (OMB) received 1,835 files during the 2001-2002 fiscal year, a 12 per cent decrease over the previous fiscal year. All file types other than appeals related to minor variances saw a decrease over the previous year. The Board's caseload intake during the 2001-2002 fiscal year was 1,255 cases, a decrease of 9 per cent over the previous fiscal year. The Board's rate of case closure in 2001-2002 was marginally lower than in 2000-2001.

Table 2: OMB Case Type Received, Closed and Active for 2001-2002

Case Type	Cases Opened	Cases Closed	Caseload at March 31/02
Planning	1,186	1,298	1,293
Municipal Finance	25	24	19
Land Compensation	33	27	111
Development Charges	11	27	46
Joint Board	0	0	2
TOTAL	1,255	1,376	1,471

Historically, the majority of the Board's caseload originates from the Greater Toronto Area (GTA), comprising Toronto and the Regions of Durham, Halton, Peel and York. The 2001-2002 fiscal year saw the continuation of this trend with 48 per cent of the caseload coming from the GTA. Generally, this can be traced to the higher volume of planning applications considered in the larger urban centres. The provincial distribution of cases opened during the 2001-2002 fiscal year was as follows:

Figure 1: OMB Caseload Distribution for 2001-2002



Source: OMB

Case Processing

Staff continued the Board's efforts to minimize the time from receipt of a case to resolution. Thoroughly reviewing each case to identify parties, staff worked with parties to establish issues, case complexity, the novelty of the issues, awareness of various legislated deadlines, and the estimate of time the matter might require for a hearing. Also, the Board must consult the relevant legislation to ensure its authority to deal with a given case.

The planners and planning assistants explored with the parties the potential for mediation to be applied to the case and/or the use of a pre-hearing as a mechanism to assist the parties in moving a matter forward to resolution. Board staff was also responsible for carrying out the instructions and decisions issued by Board Members in the management of a case, and assisting Members in communicating directions to the parties.

For the OMB's planning purposes, the province is divided into "East" and "West" teams, each led by a manager. Each team is then further broken down into five regions, with planners and planning assistants responsible for cases within their assigned region. This structure provides the OMB's clients with a consistent point of contact at the Board. The Board has also found that assigning caseload responsibility along regional lines allows managers and staff to build regional expertise, follow what is occurring at the local level, and predict which matters may ultimately be brought before the Board for adjudication.

Hearing Activity

The Ontario Municipal Board scheduled 2,013 hearing events during the 2001-2002 fiscal year. This represents a 6 per cent reduction in scheduled hearings over the previous fiscal year. Although there were fewer hearing events "scheduled" in 2001-2002, there were more actual hearing events held. The 1,696 hearing events conducted constituted a 3 per cent increase over the previous fiscal year.

The Board strove to ensure that cases were streamed appropriately and access to resolution opportunities were made readily available. The Board continues to place importance on the value of mediation, pre-hearings and motions as case management tools.

During fiscal 2001-2002, the Board scheduled 61 mediation events, an increase of 95 per cent over the previous fiscal year. The OMB found that parties were often ready to explore opportunities for the resolution of matters outside the traditional adjudicative hearing process. Board Members continued to raise the option for mediation with the parties during the pre-hearing process. While mediation cannot be imposed on parties, where parties voluntarily enter into the process with sincere intentions, mediation has proven either to fully resolve matters or reduce the number of issues that require adjudication through the hearing process.

Pre-hearing activity remained constant, with parties continuing to find that pre-hearings assisted in focusing and organizing the hearing. The 2001-2002 fiscal year saw a 13 per cent increase in the number of motions heard by the Board. Motions to dismiss appeals under the *Planning Act* increased by 30 per cent, a trend that may be attributed to parties gaining 'as of right' powers to request a motion to dismiss an appeal without a full hearing.

The OMB is conscious of the costs incurred by individuals in pursuing matters before the Board. Staff and Members attempt to ensure that all hearing events are necessary and efficiently scheduled.

Case Management - Assessment Appeals

In 1997 the *Assessment Act* was amended to remove the right to appeal a decision of the Assessment Review Board. Therefore, only those matters heard by the ARB prior to January 1, 1998 can be appealed to the Ontario Municipal Board.

The OMB worked diligently at resolving its assessment caseload. Those efforts were delayed awaiting a decision of the courts in *Slough Estates Canada Ltd. v. Ontario (Regional Assessment Commissioner, Region No. 15)* (2000), 48 O.R. (3d) 84. The OMB postponed more than 450 cases while awaiting the outcome of these court proceedings. The resolution of this matter in December 2000 allowed the Board to proceed with the majority of its outstanding caseload. The Board proceeded to work with parties to move the remaining cases forward and, by the end of the 2001-2002 fiscal year, the OMB had just 199 open assessment cases.

Following the trend of past years, the Board's experienced a high rate of settlement or withdrawal in assessment cases. The Board's experience is that matters often settle before a hearing date.

Performance Measures

In 1999 the Ontario Municipal Board established performance goals to measure and report on its performance as well as to improve its efficiency. After the first year, they were re-evaluated and the targets set at more aggressive levels for subsequent years.

The performance measures track the timeliness of the OMB in processing appeals, from the receipt of a case until the hearing process is complete and the decision is issued. Performance measures cover three aspects of case resolution.

Processing Phase

This performance indicator measures the time from the date a case is received at the OMB to the date the case is sent to the Hearings Division for scheduling. The indicator includes the time taken to create the case, enter information in the OMB data base, review the file to ensure all submission requirements have been met, await any additional related appeals, and discuss the issues with the parties in order to determine the appropriate type and length of hearing.

On some files, for a variety of reasons one or more of the parties may ask that the case be put on hold. Files received by the OMB may be incomplete or may have to be held in abeyance pending a decision by a municipal council on an application that is best heard concurrently with the file before the Board. Each of these factors may affect the length of time devoted to the processing phase. Consequently, there are some circumstances that create delays over which the Board has little or no control.

The Board has met or exceeded its targets in 2001-2002.

Table 3: Targets and Results for Processing Phase

1999 - 2000		2000 - 2001		2001 - 2002	
Targets	Results	Targets	Results	Targets	Results
40% within 60 days	64%	65% within 60 days	67%	65% within 60 days	65%
66% within 120 days	75%	75% within 120 days	80%	75% within 120 days	80%

Scheduling Phase

This performance indicator sets targets from the time that a case is ready to be scheduled for a hearing event until the start date of that hearing. This measure takes into account the time required to provide notice of the hearing, which ranges from 10 days for motions to as much as 60 days for appeals relating to the refusal or neglect of a municipal council to make a decision on an application. In most cases, the Board's practice is to provide 35 days notice of a hearing.

The Board maintained consistent results, exceeding the established targets.

Table 4: Targets and Results for Scheduling Phase

1999 - 2000		2000 - 2001		2001 - 2002	
Targets	Results	Targets	Results	Targets	Results
70% within 90 days	87%	85% within 90 days	88%	85% within 90 days	90%
80% within 120 days	95%	95% within 120 days	95%	95% within 120 days	96%

Decision Phase

The decision phase commences once a hearing event is completed. It measures the time from the end date of a hearing to the date that the decision is issued.

As its first priority, the Board is committed to rendering well-reasoned decisions. The length of the hearing, the amount of evidence, the number of witnesses and the complexity of the appeal are all factors that affect the time it takes for a Member panel to issue a decision.

The Board's performance is consistent with the previous fiscal year.

Table 5: Targets and Results for Decision Phase

1999 - 2000		2000 - 2001		2001 - 2002	
Targets	Results	Targets	Results	Targets	Results
80% within 30 days	68%	80% within 30 days	78%	80% within 30 days	75%
90% within 90 days	88%	90% within 90 days	94%	90% within 90 days	95%

Information Technology and Electronic Service Delivery (ESD)

E-Decisions, launched in March 2001, has proven to be a great success, with extremely positive response from clients. Through the Board's website at www.omb.gov.on.ca, interested parties can go online at any time and access all decisions issued by the OMB since January 1, 2001.

The Ontario Municipal Board's Case Management Information System (CMIS) remained a critical internal component in the Board's ability to deliver service to the public and stakeholders. We continued to make improvements to allow greater ease of use for staff. Recent refinements have meant faster analysis of caseloads and statistical reports to assist in reporting on our performance, easier tracking of trends, and quicker access to key information requested by our clients.

The Board has also developed an extensive Intranet site that provides Board staff and Members with easy access to such information as hearing locations, contact lists, on-line procedure manuals, presentations and speeches.

OMB Members reside in communities throughout Ontario, presiding over hearings anywhere in the Province. Electronic access for the Membership becomes an important means of communication between the Board's offices in Toronto and the Members in the field. Board staff makes extensive use of e-mail to communicate with Members and seek direction on case-specific issues and many Members transmit decisions to the Board electronically.

Stakeholder Consultation

The Ontario Municipal Board maintained its tradition of outreach to its stakeholders. The Board participated in education and other events sponsored by stakeholders, as well as met with stakeholders to inform them of new initiatives and consult on proposed practices and procedures. Some of the groups whom the OMB addressed during the fiscal year include: the University of Toronto Planning Alumni, Ontario Small Urban Municipalities, Ontario Bar Association – Municipal Law Section, Ontario Association of Committees of Adjustment, Canadian Institute of Planners, Ontario Professional Planners Institute, Northwestern Municipal Association, and the Ontario Municipal Administrators' Association.

Continuing Education

The Board places tremendous importance on Member education. The Continuing Education Committee conducted a variety of monthly workshops, including such topics as changes in legislation, recent court decisions, and all aspects of conducting hearings and other proceedings.

The Board actively supports the Society of Ontario Adjudicators and Regulators (SOAR), its training programs and its annual Conference of Ontario Boards and Agencies (COBA). Many Board adjudicators hold membership in the Council of Canadian Administrative Tribunals (CCAT), with Board Members and staff serving on the Executive of these groups.

Code of Conduct

In an effort to maintain and enhance the professionalism and integrity of the Assessment Review Board, the Board of Negotiation and the Ontario Municipal Board, David J. Johnson approved the implementation of a document titled *Code of Conduct, Public Complaints Policy and Member Description* in January 2002.

The primary objectives of the Code are to provide guidance to Members appointed to the three Boards on appropriate standards of conduct as well as to provide individuals appearing before the Boards with an understanding of the standards and expectations that apply to adjudicators.

Complementing and supporting the pre-existing procedures and policies at the Boards, the Code was founded on the recognition that the conduct of Members must be governed by the core principles of *fairness, integrity, timeliness, impartiality* and *independence*. Other important principles emerging from the Code of Conduct include *accessibility, consistency, personal conduct, optimum cost, conflict of interest* and *obligations* following the expiry of a Member's term of appointment.

3. Members of the Ontario Municipal Board 2001-2002

As of March 31, 2002, the end of the fiscal year, there were 27 full-time (Order-in-Council) appointees to the Board. The Lieutenant Governor, following a process that includes an opportunity for review by the all-party Standing Committee on Government Agencies, appoints Members to a three-year term. The Membership represents such professions as: lawyers, planners, engineers, accountants, economists, farmers, teachers, professors, municipal elected representatives and municipal administrators.

There is a requirement that the Board's head office be in the City of Toronto; however, many Members live in communities outside the Toronto area. As well, the Board offers bilingual adjudication when requested. During the year under review, one Executive Vice Chair and three full-time Board Members left the Board. One Member, Gary A. Harron, moved from full-time to part-time status and continued his cross-appointment to the Assessment Review Board.

Chair and Vice Chairs

Chair	Date Appointed
JOHNSON, David J.*	November 15, 2000
Executive Vice Chair	
FISH, Susan***	September 26, 1994
Executive Vice Chair	November 1, 1996 to March 13, 2002
Vice Chairs	
EGER, Marilyn F.	August 6, 1991
Vice Chair	September 8, 1994
HUBBARD, Marie*	December 10, 1997
Vice Chair	December 10, 2000
O'BRIEN, James	January 1, 1997
Vice Chair	September 5, 2000
OWEN, Robert D. M.*	January 4, 1983
Vice Chair	August 27, 1992
SEABORN, Jan de P.*	May 31, 2000
Vice Chair	May 31, 2000

note: * indicates those Members who were cross-appointed to the ARB as of March 31, 2002

** indicates those Members who are no longer with the OMB as of March 31, 2002

*** indicates those Members who were cross-appointed to the ARB but are no longer with the OMB as of March 31, 2002

OMB Members

Members	Date Appointed
AKER, John R.	May 10, 2000
BEACH, Calvin A.	March 2, 1992
BECCAREA, Robert A.	October 21, 1998
BISHOP, Gregory C. P.	September 18, 2000
BOXMA, J. Robert*	January 1, 1997
CRAWFORD, Norman A.	August 1, 2000
CULHAM, David J.	May 24, 2000
DALY, Gregory J.	October 21, 1998
DRURY, Robert E.*	April 29, 1999
EMO, Ronald J.*	February 5, 1997
GRANGER, Donald R.*	November 3, 1997
HARRON, Gary A.*	December 1, 1982 (<i>Full-Time</i>), February 1, 2002 (<i>Part-Time</i>)
JACKSON, Norman C.	October 6, 1997
KATARY, Narasim M.	August 1, 1989
KRUSHELNICKI, Bruce W.	August 6, 1991
LEE, S. Wilson	July 1, 1988
MAKUCH, Richard G. M.	November 18, 1998
McLOUGHLIN, Brian W.	January 1, 1984
MILLS, James R.	May 10, 1982

Members <i>(continued)</i>	Date Appointed
ROGERS, Susan D.	September 8, 1997
ROSENBERG, Morley A., Q.C.	January 3, 1983
WATTY, W. R. Franklin**	August 1, 1989 to July 31, 2001
WYGER, Penny L.	November 25, 1998
YAO, Ted**	July 3, 1989 to November 16, 2001

note: * indicates those Members who were cross-appointed to the ARB as of March 31, 2002
 ** indicates those Members who are no longer with the OMB as of March 31, 2002
 *** indicates those Members who were cross-appointed to the ARB but are no longer with the OMB as of March 31, 2002

OMB Member Biographies

John R. Aker was appointed to the Ontario Municipal Board on May 10, 2000. He is a graduate of Queen's University in business and commerce. He was City Councillor of Oshawa and Regional Councillor of Durham for over 20 years. He served as Works Chairman, Region of Durham and Member of the Planning Committee, City of Oshawa for several years. Prior to joining the Board, he was President of Schofield-Aker Insurance in Oshawa.

Calvin A. Beach was appointed to the Board on March 2, 1992. He is a professional engineer with design and management experience on civil and municipal engineering projects in the United Kingdom and Canada. Prior to joining the Board, Mr. Beach was an associate partner with the IBI Group.

Robert A. Beccarea was appointed to the Board on October 21, 1998. A lawyer since 1972, he is a graduate of the University of Western Ontario. Mr. Beccarea was a City of London Councillor for nine years and Chair of its Planning Committee. His most recent legal association was with the law firm of Siskind Cromarty Ivey & Dowler in London, specializing in municipal and labour law, including mediation and arbitration.

Gregory C. P. Bishop joined the Board on September 18, 2000. He is a graduate of the University of New Brunswick. He became a professional engineer in 1982, an Ontario Land Surveyor in 1986, and he practised for many years in rural Ontario. In 1997, he expanded his horizons into the financial planning and insurance industry. He served for five years as a member and chairman of a local community and housing corporation.

J. Robert Boxma was appointed to the Board on January 1, 1997. A lawyer, he was with the firm of Smith, Lyons in the City of Toronto and practised for many years in the municipal and planning fields, appearing frequently before the Board and the Environmental Assessment Board. He holds a Masters Degree in law from the London School of Economics and Political Science.

Norman A. Crawford was appointed to the Board on August 1, 2000. A lawyer since 1972, he is a graduate of Osgoode Hall Law School and practised in both the public and the private sector. Prior to his appointment to the OMB, he ran a general law practice in Kitchener, Ontario.

David J. Culham was appointed to the Board on May 24, 2000. He was a municipal Councillor with the City of Mississauga and the Region of Peel from their inception in 1974, chairing both of their Planning Committees several times. He graduated from the University of Western Ontario in 1967 with a Masters Degree in Geography and Planning.

Gregory J. Daly was appointed to the Board on October 21, 1998. A registered professional planner, he graduated from Ryerson Polytechnic University and then practised in both the public and private sectors, most recently as Senior Planner at the law firm Weir & Foulds in Toronto, advising the municipal and environmental law practice group.

Robert E. Drury was appointed to the Board on April 29, 1999. He has a broad background in agriculture, hydrology and small business. Mr. Drury was Mayor of Oro-Medonte Township for nine years and Warden of the County of Simcoe. He was also a member of, and chaired, various municipal planning committees.

Marilyn F.V. Eger was appointed to the Board on August 6, 1991, and became a Vice Chair on September 8, 1994. A planner, she was previously with the Regional Municipality of Peel and the Credit Valley Conservation Authority. She holds a Masters Degree in Environmental Studies from York University.

Ronald J. Emo was appointed to the Board on February 5, 1997. An Ontario Land Surveyor (O.L.S.) and Ontario Land Economist (P.L.E.), he was in practice in Collingwood for many years. He served on Collingwood Town Council for ten years, eight of which as Mayor. Mr. Emo served on several inter-municipal committees such as waste management and housing. He holds a degree in geography and political science from Wilfrid Laurier University.

Susan Fish, was appointed to the OMB on September 26, 1994, appointed Executive Vice Chair of the OMB in 1996 and cross-appointed as Vice Chair to the ARB in 1998. She holds a Master of Public Administration and has authored a number of studies on housing, transportation, urban development and municipal structure and finance. She has taught Municipal and Planning Law at York University and is an adjunct professor at the University of Toronto Law School. She was Executive Director of the Bureau of Municipal Research, a Toronto City Councillor, Minister of Citizenship and Culture and Minister of Environment. Prior to her appointment, she was a principal in a strategic planning and communications firm.

Donald R. Granger was appointed to the Board on November 3, 1997. He was a College Professor and Coordinator of the Municipal Planning and Development Program (now Urban and Regional Planning/GIS) at Mohawk College from 1978 to 1997. He served terms as Deputy Mayor and Mayor in the Town of Flamborough and Regional Councillor in Hamilton-Wentworth from 1988 to 1994. He co-chaired the Constituent Assembly on the Municipal Government System in Hamilton-Wentworth in 1995-1996. He is a former member and past president of the Royal Botanical Gardens. He is a Registered Planner in Ontario and a member of the Society for Conflict Resolution in Ontario.

Gary A. Harron was appointed to the Board on December 1, 1982. He is a former Reeve of Amabel Township and Warden of Bruce County. A graduate of the University of Guelph, he has an extensive background in agriculture.

Marie Hubbard was appointed to the Board on December 10, 1997 and a Vice Chair in 2000. She was cross-appointed as a Vice Chair of the Assessment Review Board in December 2000. She is a former Mayor of the Town of Newcastle and was also Chair of the Planning Committee, Region of Durham.

Norman C. Jackson was appointed to the Board on October 26, 1997. He was the City Solicitor for the City of Kingston for 20 years and formerly a solicitor with the City of Ottawa. He appeared frequently before the Board on planning and municipal matters.

David J. Johnson was appointed Chair of the OMB, ARB and BON on November 15, 2000. Prior to this appointment, he was President and CEO of the Toronto General and Western Hospital Foundation. He has been a Member of the Provincial Parliament for the Don Mills Riding, the Minister of Education and Training, Government House Leader, Minister of Health, Chair of Management Board of Cabinet, Finance Opposition Critic and Municipal Affairs Opposition Critic. He was also the Mayor of East York for ten years. He holds a Bachelor of Science degree from McMaster University and a Master of Mathematics degree from the University of Waterloo.

Narasim M. Katary joined the Board on August 1, 1989. His formal education includes civil engineering, city planning and regional economics, and he was the head of long range planning with the Regional Municipality of Sudbury prior to joining the Board.

Bruce W. Krushelnicki was appointed to the Ontario Municipal Board on August 6, 1991. Formerly an Associate Professor and Director of the Institute of Urban and Environmental Studies, Brock University, where he taught for 12 years, Dr. Krushelnicki studied in the schools of Urban and Regional Planning at Queen's University and the University of Waterloo.

S. Wilson Lee joined the Board on July 1, 1988. He served as the Assistant Regional Solicitor with the Regional Municipality of Peel for ten years and, prior to that, as an Assistant Regional Solicitor in the Regional Municipality of Sudbury.

Richard G. M. Makuch joined the Board on November 22, 1998. He was City Solicitor for the City of Gloucester and was legal counsel to two major federal tribunals. He appeared frequently before the Board as well as the Federal Court of Appeal and the Ontario Courts.

Brian W. McLoughlin joined the Board on January 1, 1984. Prior to his appointment, he was the Assistant Deputy Attorney General – Courts Administration. After graduating as a Chartered Accountant in 1961, he practised with Touche and Company before he joined the Ministry of the Attorney General.

James R. Mills was appointed to the Board on May 10, 1982. With a background in sales training and management, he operated his own insurance company for many years before joining the OMB. He was a councillor in Muskoka Lakes and he chaired numerous ratepayer groups. He was a Member and Vice Chair of the Toronto Committee of Adjustment for nine years.

James L. O'Brien was appointed to the Board on January 1, 1997 and a Vice Chair in 2000. He is a lawyer with extensive experience in the municipal and planning areas, both with the Regional Municipality of Ottawa-Carleton and the City of Ottawa, and also has a great deal of experience before the Board.

Robert D. M. Owen was appointed to the Ontario Municipal Board in 1983. He became a Vice Chair of the OMB in 1992 and was cross-appointed as a Vice Chair of the Assessment Review Board in 1998. Mr. Owen is Vice President of the Society of Ontario Adjudicators and Regulators' (SOAR) Board of Directors and is a Member of the Board of Directors of the Council of Canadian Administrative Tribunals (CCAT). A graduate of Queen's University Faculty of Law, he was called to the Ontario Bar in 1970. Prior to joining the OMB, he practised law in Orillia and Toronto.

Susan D. Rogers was appointed to the Board on September 8, 1997. She practised as a lawyer with the firm of Goodman and Carr in Toronto. Prior to that, she was a solicitor in the Law Department of the Regional Municipality of Halton and directed Halton's landfill environmental assessment process. Ms Rogers' speciality was the field of municipal, environmental and planning law and she appeared frequently before the Board.

Morley A. Rosenberg was appointed to the Board in 1983. He is a lawyer, and was formerly Mayor of Kitchener, Regional Councillor for the Region of Waterloo and member of the Grand River Conservation Authority.

Jan de P. Seaborn was cross-appointed to the Ontario Municipal Board as a Vice Chair on May 31, 2000. Prior to her appointment as a Vice Chair of the Assessment Review Board in March 1998, she was a partner in the regulatory, planning and environmental department of a Toronto law firm. Called to the Ontario Bar in 1983, her practice included many appearances as Counsel before the Environmental Assessment Board, Joint Board, Ontario Municipal Board and federal regulatory tribunals.

W. R. Franklin Watty joined the Board in August 1989. Prior to this appointment, he was the Director of Planning with the Regional Municipality of Waterloo.

Penny L. Wyger was appointed to the Board on November 25, 1998. She is a lawyer with extensive experience in municipal law who holds a Masters Degree in Public Administration. She was a Director of Planning and Development Law at the City of Scarborough and head of the legal department at the Town of Pickering. She has appeared frequently before the Board.

Ted Yao joined the Board on July 3, 1989. He has held the position of solicitor with the cities of Toronto, Mississauga and Oshawa and was an Urban Planner with the National Capital Commission, Ottawa. Prior to his appointment, Mr. Yao conducted civil litigation before all courts in Ontario, as well as appearing frequently before the Board.

1. An Overview of the Board

Purpose of the Board

The Board of Negotiation (BON) serves as an informal tribunal that negotiates compensation settlements in expropriation cases. The BON becomes involved only after alternative avenues for resolving the issues have not succeeded. The meetings with expropriated parties and the authorities are arranged throughout Ontario at no cost to either party. The Board reviews all written documentation from the parties and considers the submissions of the parties.

Through mediation, the Board attempts to bring the parties to an agreement on the appropriate compensation for the specific case. With no power to impose a settlement, the Board will, where sufficient information has been submitted, provide an opinion about how to reach fair compensation.

Subsection 27(5) of the *Expropriations Act* provides that the Members of BON must view the property in question prior to, or during, the hearing. Using its expert mediators, the BON has been able to achieve a high rate of success with the cases brought before it. If no settlement can be reached, the parties can take their appeal to the Ontario Municipal Board.

History and Jurisdiction

The Board of Negotiation was formed under the authority of the *Expropriations Procedures Act* 1962/63. The Act, which came into force on January 1, 1964, represented one of the recommendations of the report of the Select Committee on Land Expropriation.

As a result of subsequent studies on compensation and procedures, including the reports for the Ontario Law Reform Commission, the *Expropriations Act* came into force on January 1, 1970. Under the *Expropriations Act* the Land Compensation Board was established, forming a single tribunal that would possess the potential for uniform decision-making. The Land Compensation Board's duties have now been assumed by the Ontario Municipal Board.

2. BON Operations 2001-2002

Requests for BON Involvement

Table 6: **Meetings Requested and Held April 1, 2001 to March 31, 2002**

	APR	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	TOTAL
Requests Received	6	1	2	2	1	4	3	2	0	1	2	0	24
Meetings Held	4	6	1	1	2	0	0	1	2	2	2	1	22

Origin of Requests

Table 7: Origin of Requests for BON Involvement

Expropriating Party	Number of Requests	
	2000 - 2001	2001 - 2002
The Corporation of the City of London	1	2
Ministry of Transportation	9	18
The Corporation of the City of Nanticoke	2	0
The Municipality of Hamilton-Wentworth	1	1
The Township of South Glengarry	1	0
The City of Barrie	1	0
Catholic District School Board of Eastern Ontario	1	0
The Municipality of Clarington	1	1
The County of Hastings	1	0
The City of Windsor	1	0
The Town of West Flamborough	1	0
The Town of La Salle	1	0
The City of Toronto	1	0
The Regional Municipality of York	0	2
TOTAL	22	24

3. Members of the Board of Negotiation 2001-2002

Chair and Members

Chair	Date Appointed
JOHNSON, David J.	November 15, 2000
Members	
SWAYZE, Gordon W.	June 30, 1976
MOWAT, Warren J.	December 20, 1968
MILNE, John E.	November 1, 2000
PHILLIPS, Esther E.	February 3, 1993 – December 31, 1999 June 13, 2001 (Re-appointed)
DUECK, Ted C.	August 21, 2001

BON Member Biographies

Theodore C. (Ted) Dueck was recently appointed as a part-time Member of the Board of Negotiation. He earned his B.A. degree from Wilfrid Laurier University in 1973 and his LL.B. from Osgoode Hall in 1977. He was called to the Ontario bar in 1979 and has practiced civil litigation and mediation since that time. He is a member of the Ontario Trial Lawyers Association and has appeared before various courts and the Ontario Municipal Board as an advocate. He also practises as a professional mediator and is a member of the Toronto roster of the Ontario Mandatory Mediation Plan. He holds an LL.M. degree in Alternative Dispute Resolution and is a Chartered Mediator with the ADR Institute of Canada.

David J. Johnson was appointed Chair of the OMB, ARB and BON on November 15, 2000. Prior to this appointment, he was President and CEO of the Toronto General and Western Hospital Foundation. He has been a Member of the Provincial Parliament for the Don Mills Riding, the Minister of Education and Training, Government House Leader, Minister of Health, Chair of Management Board of Cabinet, Finance Opposition Critic and Municipal Affairs Opposition Critic. He was also the Mayor of East York for ten years. He holds a Bachelor of Science degree from McMaster University and a Master of Mathematics degree from the University of Waterloo.

John E. Milne, a recently appointed part-time Member of the Assessment Review Board, was appointed to the Board of Negotiation on November 1, 2000. He has had a wide and distinguished real estate appraisal and planning career. He is a member of the American Institute of Real Estate Appraisers (MAI), the Appraisal Institute of Canada (AACI), a former partner of Chambers and Company of Hamilton Real Estate Brokers, Lecturer, Councillor and Deputy Reeve of the Town of Ancaster.

Warren Mowat is a charter part-time Member of the Board of Negotiation. He joined the BON in 1968. Mr. Mowat is a former real estate broker and a former mayor of The Town of Whitby.

Gordon W. Swayze was appointed a part-time Member of the Board of Negotiation on June 30, 1976. On May 5, 1982 he was designated Chairman in which capacity he served until April 1, 1998 when he reverted to part-time Member. He is a member of the American Institute of Real Estate Appraisers (MAI), the Appraisal Institute of Canada (AACI), and is an Ontario Land Economist (OLE). Prior to joining the Board of Negotiation he served as Manager, Real Estate Division, National Trust, following which he operated his own brokerage and appraisal business.

Esther E. Phillip was appointed to the Board of Negotiation on February 3, 1993. Her original appointment ended December 31, 1999 and she was reappointed on June 13, 2001. She graduated from the University of Toronto in 1978 with a degree in Economic Geography. In 1986 she became an accredited appraiser with the Appraisal Institute of Canada (AACI). Her appraisal experience focused primarily on development land and investment properties. Prior to joining the Board, she spent several years teaching appraisal courses for the Ontario Real Estate Association and various Community Colleges.

Part Three: Combined 2001-2002 Financial Summary: OMB and BON

1. Financials

Revenue

Using the authority in section 100 of the *Ontario Municipal Board Act*, filing fees have been set for each application or appeal. The standard base fee is \$125.00.

Revenues collected under section 99 of this Act are reported as Miscellaneous. They include, for example, fees for publications, copies of documents, maps or plans, and all certificates provided under the legislation. The fees collected by the Board are remitted to the Minister of Finance.

Fees Collected

Table 8: Fees Collected

Please note that, as the Board of Negotiation does not collect fees for its services, the revenue below is generated solely through the Ontario Municipal Board.

	FISCAL YEAR (April 1, 2001 – March 31, 2002)		
	1999 - 2000 (\$)	2000 - 2001 (\$)	2001 - 2002 (\$)
Application, Appeal or Renewal Fees			
Capital Expenditures	1,500.00	1,750.00	2,875.00
Planning Act Matters	264,439.25	264,995.00	231,275.25
Development Charges	39,500.00	7,500.00	3,375.00
Assessment Appeals*	505.00	250.00	0.00
Miscellaneous	3,124.00	7,374.50	1,357.75
TOTAL	309,068.25	281,869.50	238,883.00

Source: Public Accounts

*A change in legislation, effective January 1, 1998, made the Assessment Review Board the sole tribunal to resolve assessment appeals.

Actual Expenditures

Table 9: Expenditures of the OMB and BON

	FISCAL YEAR (April 1, 2001 – March 31, 2002)		
	1999 - 2000 (\$)	2000 - 2001 (\$)	2001 - 2002 (\$)
Account Item			
Salary and Wages	4,472,635.00	4,423,277.00	4,600,953.00
Employee Benefits	875,209.00	846,490.00	836,274.00
Transportation & Communications	651,957.00	696,390.00	700,454.00
Services	698,679.00	828,173.00	623,977.00
Supplies & Equipment	121,829.00	136,231.00	74,908.00
Transfer Payments	NIL	NIL	NIL
TOTAL	6,820,304.00	6,930,561.00	6,836,566.00

Allocation

The budgets of the Ontario Municipal Board and the Board of Negotiation are provided within the *Estimates of the Ministry of the Attorney General* on a fiscal-year basis.