



Ontario Municipal Board and Board of Negotiation

Annual Report 2002-2003

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To the Honourable Michael Bryant, Attorney General

Minister:

We have the pleasure of submitting, for the approval of the Legislature, the Ontario Municipal Board and the Board of Negotiation 2002-2003 Annual Report.

Respectfully submitted,

Marie Hubbard
Chair
Assessment Review Board
Ontario Municipal Board
Board of Negotiation

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

March 2004

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Chair's Message

As the current Chair of the Ontario Municipal Board (OMB) and the Board of Negotiation (BON), I am pleased to present the 2002-2003 annual report.

For the majority of Ontarians, property is their most important investment and financial consideration, and planning decisions impacting their communities are close to their hearts. People don't always agree on how their communities should grow and develop, and disputes can arise about community planning issues. For this reason, it is critical that there is a mechanism for a sober second thought – completely independent of the local decision-making process – on property and land-use issues. The OMB provides such a forum, and the Board continues to strive to ensure that the principles of fairness, timeliness, quality, consistency, and transparency are evident in all aspects of its adjudication.

Over the course of the past fiscal year, the OMB continued its efforts to provide effective and efficient service delivery, including undertaking stakeholder consultation with a view to developing new public information products and innovative ways to offer client service.

In accordance with stakeholder recommendations, the Board employed mediation and other forms of alternative dispute resolution as tools for case resolution. The majority of OMB Members have attended accredited mediation courses, and the Board is in the process of developing a Code of Conduct for OMB Mediators.

Following a stakeholder consultation process, the OMB effected amendments to its *Rules of Practice and Procedure*, designed to ensure expedient resolution of issues before the Board.

On March 1, 2003, the OMB introduced "E-Status" – an online Internet-based information service. E-Status allows individuals to look up the status of cases before the Board. Parties, participants or the public can view information about scheduled hearings, access Decisions and Orders issued by the Board, or link to "E-Decisions" – an online service that provides access to OMB Decisions.

At this time when municipalities across Ontario are constantly changing and growing, community planning issues are highly scrutinized. This reality makes the mandate and functions of the OMB and BON as important as ever. My role as Chair is a most rewarding responsibility. It is a pleasure serving Ontarians in this challenging, dynamic environment.

A handwritten signature in black ink that reads 'Marie Hubbard'. The signature is written in a cursive, flowing style.

Marie Hubbard

March 2004

1. OMB Overview

Definition and Purpose of the OMB

The **Ontario Municipal Board (OMB)** is an independent adjudicative tribunal established under statute by the Province of Ontario. The Board hears appeals and applications on a wide range of municipal and land-related matters including official plans, zoning by-laws, subdivision plans, consents and minor variances, land compensation, development charges, ward boundaries, and aggregate resources.

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 OMB 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 its 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.

Legislative Changes

On January 1, 2003, the *Municipal Act, 2001* replaced the *Municipal Act, R.S.O. 1990, c. M. 45*. As a result, the OMB no longer hears appeals pertaining to Business Improvement Areas (BIAs). A BIA allows local business people and property owners to join together and, with the support of the municipality, organize, finance and carry out physical improvement and promote economic development in a given district.

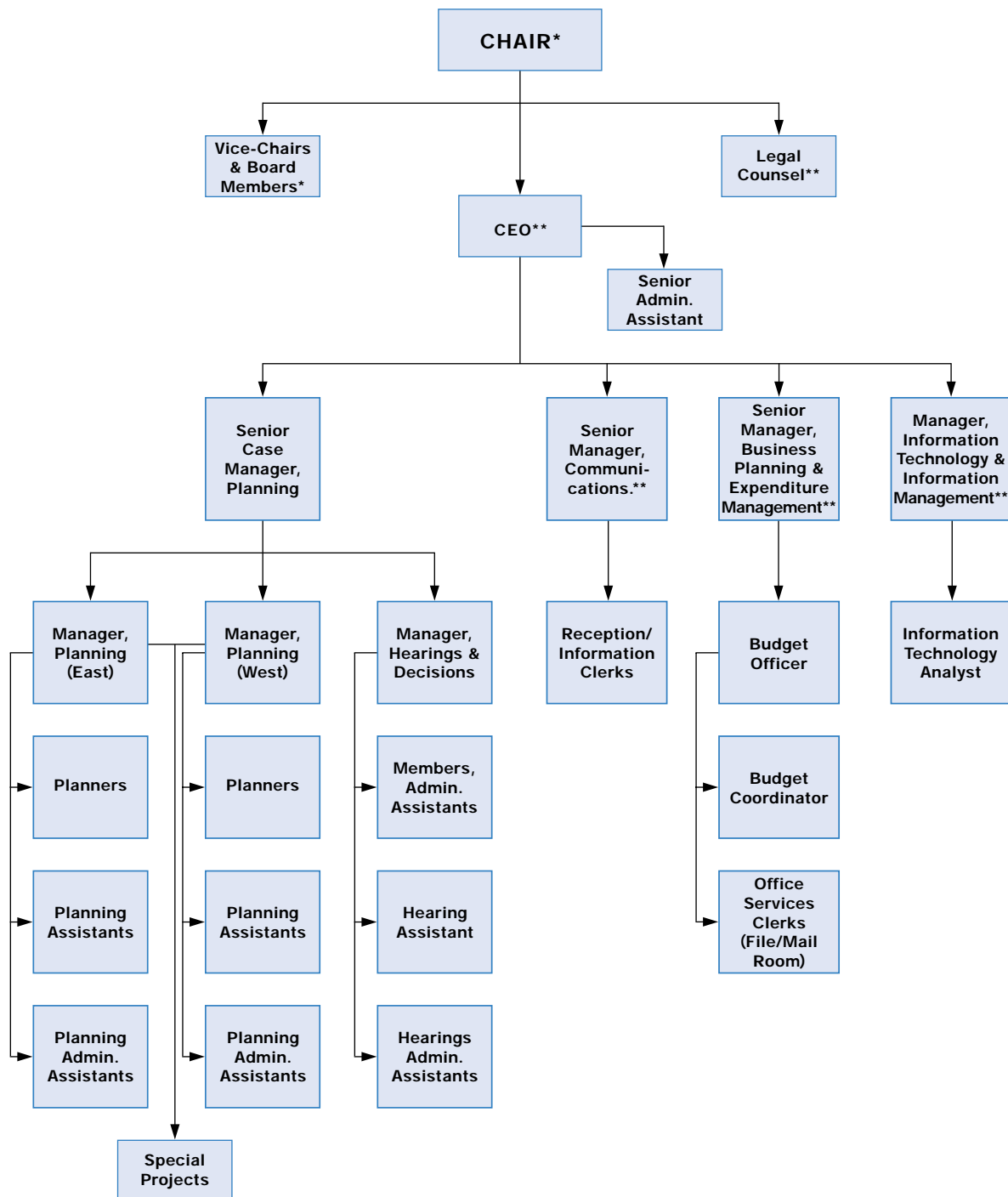
In addition, as a result of the new *Municipal Act*, the *Local Improvement Act* was repealed. The *Local Improvement Act* allowed municipalities to charge back the cost of local improvements – e.g. water and sewer systems construction, or street and sidewalk improvements – to the properties that benefited from the service. Charges that have had priority lien status under the *Local Improvement Act* have continued to have that status under the *Municipal Act, 2001*.

A very small percentage of cases heard before the OMB pertained to BIAs or the repealed *Local Improvement Act*. Therefore, the effects of these changes on the volume and complexion of the Board's caseload were minimal.

Changes to OMB Rules of Practice and Procedure

In March 2003, the OMB's *Rules of Practice and Procedure* were revised to include additional rules and clarification. New rules, and revisions to existing rules, impacted the sections pertaining to court reporters at OMB hearings (*Rules 94-98*), service of Notices of Hearing (*Rules 17-17.2*), and parties' requests for costs incurred as the result of an OMB hearing (*Rules 99-107*).

OMB Organizational Chart



* For information on cross-Board appointments, see Section 3.

** Indicates staff members cross-appointed to the ARB, OMB and BON.

2. Operations 2002-2003

File and Case Intake

Each incoming appeal to the OMB is assigned both a file number and a case number. File numbers are unique, but those appeals 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, in an appeal of a minor variance matter one file may represent the entirety of the case; yet in matters such as an official plan, zoning by-law, subdivision or site plan, one case may be comprised of numerous files.

During the 2002-2003 fiscal year, there was an increase in the number of cases and files the Board received over the previous fiscal year. Parties 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 OMB processes and procedures.

Table 1: Case and File Intake and Closure

Caseload	2001 - 2002	2002 - 2003
Cases Received	1,257	1,302
Files Received	1,816	2,012
Cases Closed	1,378	1,210
Files Closed	2,003	1,860

The OMB received 2,012 files during the 2002-2003 fiscal year, a 10 per cent increase over the previous fiscal year. All file types other than appeals related to subdivision planning, development charges and capital expenditures saw an increase in number over the previous fiscal year. In 2002-2003 one joint board hearing took place before the OMB and the Environmental Review Tribunal. Joint board hearings are held under the provisions of the *Consolidated Hearings Act* and are coordinated by the Office of Consolidated Hearings.

Table 2: OMB File Types Received

Files Received by Type (Appeals and Applications)	2000 - 2001		2001 - 2002		2002 - 2003	
	#	%	#	%	#	%
Minor Variances	568	28	549	30	653	32
Consents	385	19	323	18	360	18
Zoning By-laws	309	15	273	15	293	15
Official Plans	264	13	194	10	223	11
Zoning Refusal or Inaction	209	10	166	9	192	10
Plans of Subdivision	99	5	143	8	93	5
Municipal Structure (inc. site plans)	114	6	87	5	139	7
Development Charges	43	2	49	3	7	<1
Land Compensation	37	2	27	1	37	2
Capital Expenditures	16	1	24	1	14	1
Joint Board	5	<1	0	0	1	<1
TOTAL	2,049	100	1,835	100	2,012	100

During the 2002-2003 fiscal year, the OMB received 1,299 cases, a 3 per cent increase over the previous fiscal year. The OMB's rate of case closure in 2002-2003 was marginally lower than in 2001-2002.

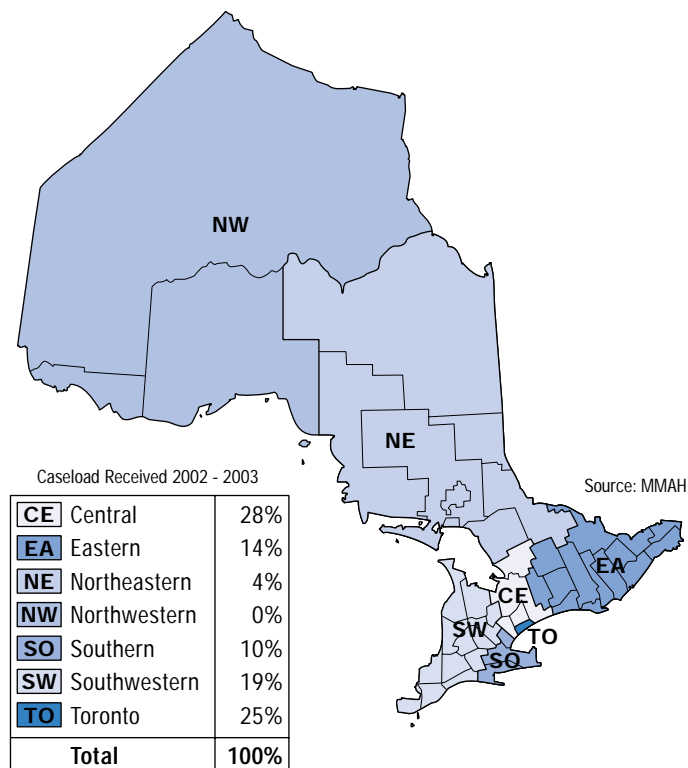
Table 3: OMB Cases by Type Received, Closed and Active for 2002-2003

Case Type	Cases Opened	Cases Closed	Caseload at March 31/03
Planning	1,241	1,169	1,396
Municipal Finance	14	19	6
Land Compensation	37	25	127
Development Charges	6	8	43
Joint Board	1	0	1
TOTAL	1,299	1,221	1,573

Caseload Distribution

Historically, the majority of the OMB's caseload has originated from the City of Toronto and the regions of Durham, Halton, Peel and York. The 2002-2003 fiscal year saw the continuation of this trend with 25 per cent of the Board's caseload coming from the City of Toronto alone. Generally, this trend can be traced to the higher volume of planning applications considered in the province's larger urban centres. The provincial distribution of cases opened during the 2002-2003 fiscal year is as follows:

Figure 1: OMB Caseload Distribution for 2002-2003



Source: OMB

Case Processing

The OMB continued its efforts to minimize the time from receipt of a case to its resolution. Staff members worked with parties to thoroughly review each case and identify parties, establish issues and case complexity, discuss the novelty of the issues, and promote awareness of various legislated deadlines.

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. Administrative staff were also responsible for carrying out the instructions and decisions issued by OMB 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 two halves: "East" and "West." A team of planners and planning assistants is assigned to each half. The two teams are responsible for cases within their assigned region. This structure provides the OMB's clients with a consistent point of contact at the OMB. Assigning caseload responsibility along regional lines also 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 OMB for adjudication.

Hearing Activity

The OMB scheduled 2,081 hearing events during the 2002-2003 fiscal year. This represents a slight increase in the number of scheduled hearings over the previous fiscal year. Of the 2,081 cases scheduled to be heard, 1,670 resulted in hearings. Although there were more hearing events scheduled in 2002-2003, there were 26 fewer cases that actually resulted in hearings, compared to 2001-2002. The OMB is conscious of the costs incurred by individuals in pursuing matters before it, and administrative staff and Members take care to confirm that all hearing events are necessary and efficiently scheduled. The OMB streams cases before it appropriately and provides access to alternative dispute resolution opportunities outside the traditional hearing procedures.

Mediation, Pre-hearings and Teleconferences

During fiscal 2002-2003, the OMB scheduled 50 mediation events. As was the case in 2001-2002, when 61 mediation events were held, parties were often ready to explore opportunities for the resolution of matters outside the traditional adjudicative hearing process. OMB Members continued to raise the option of mediation with the parties during the pre-hearing process. While it 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 and teleconferences also remained useful tools. Parties continued to find that pre-hearings and teleconference calls assisted in focusing and organizing issues to be addressed at the OMB hearing.

Performance Measures

In 1999, the OMB established performance goals to measure and report on its performance as well as to improve its efficiency. After the first year, these goals 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 a decision is issued. Performance measures cover three phases of case resolution: "processing," "scheduling" and "decision."

In 2002-2003, the level of performance exhibited by the OMB met or exceeded targets in all areas, except the 60-day target for case processing and the 30-day target for decision issuance. This was due to the Ontario Public Service labour disruption that began in March 2002, during which all case processing was halted. Despite this disruption, the OMB was able to meet both its 120-day processing target and its 90-day decision target. The following sections explain the three phases of case processing at the OMB and the performance standards that have been established for each.

Processing Phase

This performance indicator measures the time from the date a case is received at the OMB to the send-date to its hearings division for scheduling. The indicator includes the time taken to create the case, enter information in the OMB database, review the information 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 the hearing.

In some situations, for a variety of reasons, one or more of the parties may ask that the case be put on hold. Information 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 case before the OMB. 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 OMB has little or no control.

As in 2001-2002, the OMB met its 120-day processing target.

Table 4: Targets and Results for Processing Phase

2000 - 2001		2001 - 2002		2002 - 2003	
Targets	Results	Targets	Results	Targets	Results
65% within 60 days	67%	65% within 60 days	65%	65% within 60 days	51%*
75% within 120 days	80%	75% within 120 days	80%	75% within 120 days	76%

*An OPS labour disruption impacted this target. Although no case processing activity occurred during the labour disruption, the calculation remained from the date of receipt of the case.

Scheduling Phase

This performance indicator sets targets concerning the time period beginning when a case is ready to be scheduled for a hearing event and ending on the start date of that hearing event. This measure takes into account the time required to provide the notice of hearing, which ranges from 10 days for motions to as many 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 OMB's practice is to provide notice of hearing at least 35 days prior to the hearing date.

The OMB maintained results consistent with the previous fiscal year, meeting or exceeding the established targets.

Table 5: Targets and Results for Scheduling Phase

2000 - 2001		2001 - 2002		2002 - 2003	
Targets	Results	Targets	Results	Targets	Results
85% within 90 days	88%	85% within 90 days	90%	85% within 90 days	88%
95% within 120 days	95%	95% within 120 days	96%	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 OMB 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(s) to issue a decision.

The OMB’s performance is consistent with the previous fiscal year. Although the 30-day target was not achieved, the 90-day target was met.

Table 6: Targets and Results for Decision Phase

2000 - 2001		2001 - 2002		2002 - 2003	
Targets	Results	Targets	Results	Targets	Results
80% within 30 days	78%	80% within 30 days	75%	80% within 30 days	75%
90% within 90 days	94%	90% within 90 days	95%	90% within 90 days	90%

Information Technology and Electronic Service Delivery (ESD)

“E-Decisions,” launched in March 2001, has proven to be a great success, with an extremely positive response from stakeholders. At the OMB’s website, 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.

In March 2003, the OMB launched “E-Status.” E-Status provides details on cases that have been received by the OMB since November 8, 2002. When visitors to the Board’s website identify a specific file or case of interest from the listing, information about scheduled hearings, as well as information about Decisions and Orders that have been issued by the OMB, will be displayed.

The OMB has also implemented a pilot project called “E-Documents.” Through this project, the OMB will provide a hosting service for posting documents on its website. The documents that are eligible are those identified at the pre-hearing conference for exchange between parties prior to a specified date. Although the program is not expected to replace the official service of documents between parties, it will, however, provide the general public and OMB stakeholders with convenient access to such documents.

In keeping with matters electronic, the OMB's case management information system (CMIS) remained a critical internal component in its ability to deliver efficient service to the public and stakeholders. Continual improvements to CMIS have been made to allow greater ease of use for OMB staff. Recent refinements have meant faster analysis of caseloads and statistical reports as well as easier tracking of trends and quicker access to key information requested by clients.

The OMB has also developed an extensive Intranet site, which provides staff and Members with easy access to such information as hearing locations, contact lists, online procedure manuals, presentations and speeches. This site is constantly updated, and plans have been made for a more consolidated Intranet site with the ARB.

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

Stakeholder Consultation

The OMB maintained its tradition of outreach to its stakeholders. Members participated in education events sponsored by OMB stakeholders, as well as meetings to introduce new initiatives and to consult on proposed practices and procedures, including the increased use of alternative dispute resolution techniques. Some of the groups that the OMB addressed during the fiscal year included: the Ontario Bar Association, Urban Development Institute, Ontario Professional Planners Institute, Canadian Institute of Planners, Greater Toronto Home Builders Association, Ottawa-Carleton Home Builders Association, the University of Western Ontario, Conestoga College and the Law Society of Upper Canada.

Members' Continuing Education

The OMB places tremendous importance on Member education. The Continuing Education Committee conducted a variety of monthly workshops, and the yearly three-day training seminar took place in May 2002. Furthermore, a majority of OMB Members attended a 40-hour accredited mediation course and obtained certification as mediators.

The OMB actively supports the Society of Ontario Adjudicators and Regulators, its training programs and its annual Conference of Ontario Boards and Agencies. Some OMB adjudicators hold membership in the Council of Canadian Administrative Tribunals. Also, some OMB Members and staff serve as executives of these groups.

3. OMB Members 2002-2003

At the end of the 2002-2003 fiscal year, there were 29 full-time (Order-in-Council) appointees to the OMB. 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. Members of the OMB include professionals from different areas of the province with diverse backgrounds such as lawyers, former elected officials, engineers, surveyors, planners and public administrators.

Chair and Vice Chairs

Chair	Date Appointed
JOHNSON, David J. [†]	November 15, 2000
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
TILSON, David	February 27, 2003
Vice Chair	February 27, 2003

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, Norm 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
JACKSON, Norman C.	October 26, 1997
KATARY, Narasim	August 1, 1989
KAY, Robert, C.	February 27, 2003
KRUSHELNICKI, Bruce W.	August 6, 1991
LEE, S. Wilson	July 1, 1998
MAKUCH, Richard	November 22, 1998
MILLS, James R.	May 10, 1982
ROGERS, Susan D.	September 8, 1997
SMOUT, Jennifer A.	May 22, 2003
WYGER, Penny L.	November 25, 1998

note: [†] indicates Chair was cross-appointed to the OMB, ARB and BON as of March 31, 2003.

* indicates those Members who were cross-appointed to the ARB as of March 31, 2003.

** indicates those Members who are no longer with the OMB as of March 31, 2003.

*** indicates those Members who were cross-appointed to the ARB but are no longer with the OMB as of March 31, 2003.

OMB Member Biographies

All Vice-Chairs and Members of the Board are members of the Society of Ontario Adjudicators and Regulators.

John R. Aker was appointed to the OMB on May 10, 2000. Prior to joining the Board, he was president of Schofield-Aker Insurance in Oshawa. Mr. Aker was a councillor in the City of Oshawa and the Region of Durham for over twenty years and also served as works chairman in Durham and as a member of the planning committee in Oshawa for several years. He is a graduate of Queen's University in business and commerce.

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

Robert A. Beccarea was appointed to the OMB on October 21, 1998. Prior to joining the Board, he was a lawyer in private practice for 27 years. He also served nine years as a City of London councillor and was chair of its planning committee. Mr. Beccarea holds a law degree from the University of Western Ontario.

Gregory C. P. Bishop was appointed to the OMB on September 18, 2000. Prior to joining the Board, he practised as an Ontario land surveyor for many years in rural Ontario. In 1997, he entered the financial planning and insurance industry. Mr. Bishop also served for five years as a member and the chairman of the local community and housing corporation. A professional engineer, he is a graduate of the University of New Brunswick.

J. Robert Boxma was appointed to the OMB on January 1, 1997 and cross-appointed to the ARB on March 31, 2000. Prior to joining the Boards, he was with the firm of Smith, Lyons in the City of Toronto and practised many years in the municipal and planning fields, appearing frequently before the OMB and the Environmental Assessment Board. Mr. Boxma holds a Master's Degree in law from the London School of Economics.

Norman A. Crawford was appointed to the OMB on August 1, 2000. Prior to joining the Board, he operated a general law practice in Kitchener, Ontario and has practised in the public, corporate and private sectors. A lawyer since 1972, Mr. Crawford is a graduate of Osgoode Hall Law School.

David J. Culham was appointed to the OMB on May 24, 2000. Prior to joining the Board, in addition to continuing as a part-time secondary school teacher, he was a councillor with the City of Mississauga and the Region of Peel from their inception in 1974. During his tenure, Mr. Culham was chair of numerous committees including planning, public works, and the public vehicle authority. Mr. Culham also served on the Blue Ribbon Task Force on air quality in the Greater Toronto Area and, in 2002, was awarded the Queen's Jubilee Medal for his community service. Mr. Culham graduated from the University of Western Ontario in 1967 with a Master's degree in geography and planning.

Greg Daly was appointed to the OMB 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 OMB on April 29, 1999 and was cross-appointed to the ARB on March 31, 2000. He has experience in agriculture, hydrology and small business and served as mayor of Oro-Medonte Township for nine years as well as the warden of Simcoe County. Mr. Drury has also been a member and chair of various municipal planning committees.

Marilyn F.V. Eger was appointed to the OMB 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. Ms. Eger holds a Master's degree in environmental studies from York University.

Ronald J. Emo, P.L.E. was appointed to the OMB on February 5, 1997 and cross-appointed to the ARB on May 10, 2000. An Ontario land surveyor and land economist, he practised in Collingwood and served on Collingwood town council for ten years, eight of which as mayor. Mr. Emo also chaired several inter-municipal committees, such as waste management and housing. He holds a degree in geography and political science from Wilfred Laurier University.

Donald Granger was cross-appointed to the OMB and the ARB on November 3, 1997. Prior to joining the Boards, he was a college professor and coordinator of the Municipal Planning and Development Program at Mohawk College from 1978 to 1997. Mr. Granger also served terms as deputy mayor and mayor of the Town of Flamborough as well as councillor for the Region of Hamilton-Wentworth.

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

Marie Hubbard was appointed to the OMB on December 10, 1997 and as a Vice-Chair on December 10, 2000 – at which time she was also appointed as a Vice-Chair of the ARB. She is a former mayor of the Town of Newcastle and was also chair of the planning committee for the Region of Durham.

Norman C. Jackson was appointed to the OMB on October 26, 1997. He was the solicitor for the City of Kingston for 20 years and, previously, a solicitor with the City of Ottawa appearing 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 joining the Boards, he was president and C.E.O. of the Toronto General and Western Hospital Foundation. Mr. Johnson 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 the 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 Katary was appointed to the OMB on August 1, 1989. Prior to joining the Board, he was the head of long range planning with the Regional Municipality of Sudbury. He has formal training in engineering, city planning and regional economics.

Robert C. Kay was appointed to the OMB on February 27, 2003. Prior to joining the Board, he spent a number of years as counsel in both the public and private sectors. Active in both professional and community organizations, Mr. Kay is a graduate of Osgoode Hall Law School and a member of the Ontario, Canadian and American Bar Associations.

Bruce W. Krushelnicki was appointed to the OMB on August 6, 1991. Prior to joining the Board, he was an associate professor and director of the Institute of Urban and Environmental Studies at Brock University, where he taught for 12 years. Dr. Krushelnicki studied at the school of Urban and Regional Planning at Queen's University and at the University of Waterloo.

S. Wilson Lee was appointed to the OMB on July 1, 1988. Prior to joining the Board, he served as an assistant regional solicitor with the Regional Municipality of Peel for ten years and, prior to that, as an assistant regional solicitor for the Regional Municipality of Sudbury.

Richard Makuch was appointed to the OMB on November 22, 1998. Prior to joining the Board, he was solicitor for the City of Gloucester and was legal counsel to two major federal tribunals. Mr. Makuch has appeared frequently before the OMB as well as the Federal Court of Appeal. Mr. Makuch holds an Honours Bachelor of Arts degree from Loyola College in Montreal, a Bachelor of Law degree from the University of Ottawa, and was called to the Ontario Bar in 1981.

James R. Mills was appointed to the OMB on May 10, 1982. Prior to joining the Board, he operated his own insurance company for many years. Mr. Mills has a background in sales training and management. He was also a councillor in Muskoka Lakes and he chaired numerous ratepayer groups in both Muskoka and Toronto. As well, Mr. Mills was a member and vice-chair of the Toronto committee of adjustment for nine years as well as a founding member of the Toronto recycling action committee.

James L. O'Brien was appointed to the OMB on January 1, 1997 and as a Vice-Chair on September 5, 2000. He is a lawyer with extensive experience in the municipal and planning areas with the Regional Municipality of Ottawa-Carleton and the City of Ottawa, where he had a great deal of experience appearing before the OMB.

Robert D. M. Owen was appointed to the OMB January 4, 1983. He became a Vice-Chair of the OMB on August 27, 1992 and was cross-appointed as a Vice-Chair of the ARB on February 1, 1998. Prior to joining the Boards, he practised law in Orillia and Toronto. Mr. Owen is a member of the board of directors of the Council of Canadian Administrative Tribunals. A graduate of Queen's University Faculty of Law, he was called to the Ontario Bar in 1970.

Susan D. Rogers was appointed to the OMB on September 8, 1997. Prior to joining the Board, she practised law in the public and private sectors in British Columbia and Ontario, including serving as assistant solicitor and landfill approvals coordinator for the Region of Halton and as a partner at the Toronto law firm of Goodman and Carr. Ms. Rogers has taught business law at Sheridan College as well as legal writing and public law as a part of the Bar admission courses at the Law Society of Upper Canada. Ms. Rogers holds a Bachelor's degree in environmental studies from the University of Waterloo and a Law degree from the University of British Columbia. She was called to the Bar in British Columbia in 1979 and in Ontario in 1982. She has also completed the Phase II arbitration course and the Phase II advanced mediation skills course required by the Arbitration and Mediation Institute of Ontario.

Jan de P. Seaborn was cross-appointed to the OMB as a Vice-Chair on May 31, 2000. Prior to her appointment as a Vice-Chair of the ARB on March 23, 1998, she was a partner in the regulatory, planning and environmental department of a Toronto law firm. Called to the Ontario Bar in 1983, Ms. Seaborn's practice included many appearances as counsel before the Environmental Assessment Board, Joint Board, OMB and federal regulatory tribunals.

Jennifer A. Smout was appointed to the OMB on May 22, 2002. Prior to joining the Board, she was an assistant city solicitor with the City of London. She has been affiliated with Carlyle, Smout Barristers & Solicitors, Brown, Beattie, O'Donovan Barristers & Solicitors, and Siskind, Cromarty, Ivey & Dowler Barristers & Solicitors. Ms. Smout graduated from the University of Western Ontario's law school in 1986 and was called to the Bar two years later.

David Tilson, Q.C. was appointed to the OMB as a Vice-Chair on February 27, 2003. Prior to joining the Board, he was a member of provincial parliament from 1990 to 2002, representing the riding of Dufferin Peel Wellington Grey. Mr. Tilson served two terms on the council of the Town of Orangeville and two terms on the Dufferin County board of education. He is a graduate of the University of New Brunswick and Queen's University and practised law in the Town of Orangeville from 1970 to 1990.

Penny L. Wyger was appointed to the OMB on November 25, 1998. Prior to joining the Board, 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, where she appeared frequently before the Board. Ms. Wyger is a lawyer and holds a Master's degree in public administration.

1. BON Overview

Definition and Purpose of the BON

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. Meetings with expropriated parties and the authorities are arranged throughout Ontario at no cost to either party. The BON reviews all written documentation and considers the submissions from the parties.

Through mediation, the BON attempts to bring the parties to an agreement on the appropriate compensation for the specific case. With no power to impose a settlement, the BON 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 BON Members 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 OMB.

History and Jurisdiction

The BON 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 by 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 OMB has now assumed the Land Compensation Board's duties.

2. Operations 2002-2003

Requests for BON Involvement

Table 1: Meetings Requested and Held April 1, 2002 to March 31, 2003

	APR	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	TOTAL
Requests Received	1	5	0	1	8	2	2	2	2	3	1	1	28
Meetings Held	0	0	1	2	0	4	6	1	1	1	3	0	19

Table 2: Origin of Requests for BON Involvement

Expropriating Party	Number of Requests	
	2001 - 2002	2002 - 2003
The Corporation of the City of London	2	2
Ministry of Transportation	18	12
The Municipality of Hamilton-Wentworth	1	2
The City of Barrie	0	2
The Municipality of Clarington	1	0
The City of Toronto	0	1
The Regional Municipality of York	2	3
The Town of Aurora	0	1
The Town of Pembroke	0	1
The Region of Peel	0	1
The Town of Caledon	0	1
The City of Cambridge	0	1
The City of Ottawa	0	1
TOTAL	24	28

3. BON Members 2002-2003

Chair	Date Appointed
JOHNSON, David J. [†]	November 15, 2000
Members	
DUECK, Ted C.	August 21, 2001
MILNE, John E.*	November 1, 2000
MOWAT, Warren J.	December 20, 1968
PHILLIPS, Esther E.	June 13, 2001
SWAYZE, Gordon W.	June 30, 1976

note: [†] indicates Chair was cross-appointed to the OMB, ARB and BON as of March 31, 2003.

* indicates those Members who were cross-appointed to the ARB as of March 31, 2003.

BON Member Biographies

Theodore C. (Ted) Dueck was appointed to the BON on August 21, 2001. He also practises as a professional mediator and is a member of the Toronto roster of the Ontario Mandatory Mediation Plan. Mr. Dueck is a chartered mediator with the Alternative Dispute Resolution Institute of Canada. He received his LL.B. from Osgoode Hall in 1977 and was called to the Bar in 1979. Mr. Dueck also holds an LL.M. degree in alternative dispute resolution as well as a Bachelor of Arts degree from Wilfrid Laurier University.

David J. Johnson was appointed Chair of the OMB, ARB and BON on November 15, 2000. Prior to joining the Boards, he was president and C.E.O. of the Toronto General and Western Hospital Foundation. Mr. Johnson 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 the 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 was appointed to the BON on November 1, 2000. He was cross-appointed to the ARB on March 31, 2003. Mr. Milne's career has been in real estate as an appraiser and planner. He is a member of the American Institute of Real Estate Appraisers, the Appraisal Institute of Canada, a former partner of Chambers and Company of Hamilton Real Estate Brokers, as well as a lecturer, councillor and deputy reeve of the Town of Ancaster.

Warren Mowat was appointed to the BON on December 20, 1968. Mr. Mowat is a former real estate broker and a former mayor of the Town of Whitby.

Esther E. Phillips was originally appointed to the BON on February 3, 1993 and re-joined the Board on June 13, 2001. Prior to joining the Board, she spent several years teaching appraisal courses for the Ontario Real Estate Association and various community colleges. In 1986 Ms. Phillips became an accredited appraiser with the Appraisal Institute of Canada. Her appraisal experience focused primarily on development land and investment properties. She graduated from the University of Toronto in 1978 with a degree in economic geography.

Gordon W. Swayze was appointed to the BON on June 30, 1976. Prior to joining the Board, he served as the manager for the real estate division of National Trust, following which he operated his own brokerage and appraisal business. On May 5, 1982 he was designated chairman of the BON, in which capacity he served until April 1, 1998 when he reverted to a part-time Member. He is a member of the American Institute of Real Estate Appraisers, the Appraisal Institute of Canada and is an Ontario land economist.

Part III: Combined 2002-2003 Financial Summary: OMB and BON

1. Financials

Under the authority of section 100 of the *Ontario Municipal Board Act*, filing fees have been set for each application or appeal filed with the OMB. The standard fee is \$125.

Revenue collected under section 99 of the *Act* is reported as "miscellaneous." This includes, for example, fees for publications, copies of documents, maps or plans and all certificates provided under legislation. All fees collected by the OMB are remitted to the Ministry of Finance.

Fees Collected

Please note: The BON does not collect fees for its services. The revenue stated below is generated solely through the services of the OMB.

Table 1: Fees Collected, Fiscal 2002-2003

	FISCAL YEAR (April 1, 2002 – March 31, 2003)		
	2000 - 2001 (\$)	2001 - 2002 (\$)	2002 - 2003 (\$)
Application, Appeal or Renewal Fees			
Capital Expenditures	1,750.00	2,875.00	1,875.00
Planning Act Matters	264,995.00	231,275.35	296,201.63
Development Charges	7,500.00	3,375.00	1,000.00
Assessment Appeals*	250.00	0.00	0.00
Miscellaneous	7,374.00	1,357.75	3,029.37
TOTAL	281,869.50	238,883.00	302,106.00

Source: Public Accounts

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

Actual Expenditures

Table 2: Expenditures of the OMB and BON

	FISCAL YEAR (April 1, 2002 – March 31, 2003)		
	2000 - 2001 (\$)	2001 - 2002 (\$)	2002 - 2003 (\$)
Account Item			
Salary and Wages	4,423,277.00	4,600,953.00	4,426,800.00
Employee Benefits	846,490.00	836,274.00	854,390.00
Transportation & Communications	696,390.00	700,454.00	671,427.00
Services	828,173.00	623,977.00	626,675.00
Supplies & Equipment	136,231.00	74,908.00	113,248.00
Transfer Payments	NIL	NIL	NIL
TOTAL	6,930,561.00	6,836,566.00	6,692,540.00

Allocation

The budgets of the OMB and the BON are provided within the *Estimates of the Ministry of the Attorney General* on a fiscal-year basis.