



Ontario Municipal Board and Board of Negotiation

Annual Report 2006-2007

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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 2006-2007 Annual Report.

Respectfully submitted,



**Marie Hubbard
Chair
Ontario Municipal Board
Board of Negotiation**



**Ali Arlani
Chief Executive Officer
Assessment Review Board
Ontario Municipal Board
Board of Negotiation**

2007

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Chair's Message - 2007

As the Chair of the Ontario Municipal Board (OMB) and the Board of Negotiation (BON), it is my pleasure to present the 2006-2007 OMB/BON Annual Report.

The OMB is an independent, tribunal established by provincial law. It plays an essential role in Ontario's land use planning process by providing an independent public body to resolve land-use disputes.

The OMB conducts its business in accordance with the laws and policies set forth by the Ontario government. The Board's Members make decisions independently based on the law and the evidence presented at hearings.

This year saw significant legislative changes with the proclamation of both the *Planning and Conservation Land Statute Law Amendment Act, 2006* and the *City of Toronto Act, 2006*.

Changes to OMB business practices and procedures have produced many improvements in client and stakeholder services. New initiatives were introduced to encourage parties to use mediation as an alternate way to resolve disputes. A Citizen Liaison Office was created to help the public better understand OMB processes.

During the 2006-2007 fiscal year, 5 new Members were appointed to the OMB, bringing with them valuable experience and knowledge to hear and resolve cases.

The BON provides valuable mediation services for the people of Ontario. When disputes develop regarding compensation for expropriated land, BON Members are available to mediate possible settlements. There were 21 requests for mediation this year.

Enclosed in this report is information about the OMB and BON and their activities for the 2006-2007 fiscal year. Each year, the Boards continue to change and transform to better suit the needs of all Ontarians.

Sincerely,



Marie Hubbard

Chair of the Ontario Municipal Board and the Board of Negotiation

PART I: ONTARIO MUNICIPAL BOARD (OMB)

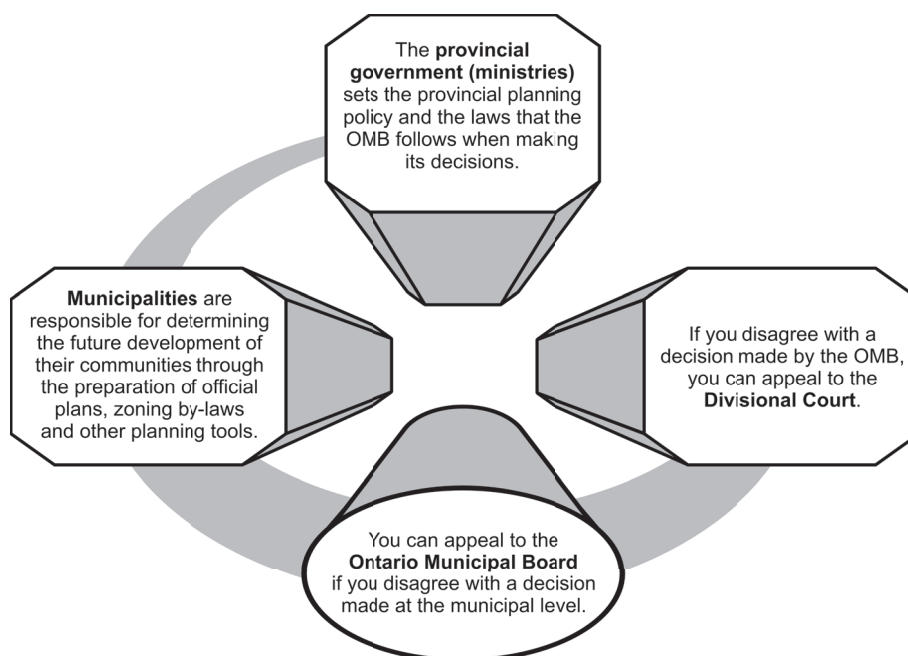
SECTION I: OVERVIEW

The OMB Role

The Ontario Municipal Board (OMB) is an independent tribunal established through provincial legislation. 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 administrative justice sector in Ontario. It allows for disputes to be resolved in a more informal, less expensive and timelier process than the court system. Like judges, OMB Members hear an appeal in a court-like setting and make independent decisions based on the law and evidence presented at the hearing.

Land Use Planning System in Ontario



The above diagram illustrates the land use planning system in Ontario. The Ontario government makes the laws and establishes the provincial planning policies. Municipalities develop land use planning instruments and local rules. When a dispute arises, appeals can be made to the Ontario Municipal Board (OMB) under the Planning Act and other legislation. An OMB decision can also be appealed, on a matter of law, to the Divisional Court of Ontario.

The OMB Process

Disputes are brought to the OMB by filing an appeal. Depending on the type of dispute, there are different processes and timelines for filing an appeal. The OMB reviews the appeal and streams it into mediation, motion, pre-hearing or hearing. Most appeals are resolved by a full hearing.

The OMB holds hearings across the province, most often in the municipality where the property is located. OMB Members hear the appeal in a court-like setting and make independent decisions based on the law and the evidence presented at the hearing. OMB Member decisions are based on provincial law, the provincial planning policy, municipal planning documents, and the principals of good planning.

History and Jurisdiction

The OMB is one of the province's longest-standing adjudicative tribunals. In 1906, the OMB assumed new responsibilities, including those previously carried out by the Office of the Provincial Municipal Auditor. Originally named the Ontario Railway and Municipal Board, it was created to oversee municipalities' accounts and to supervise the then-burgeoning rail transportation system between and within municipalities. It was renamed the Ontario Municipal Board in 1932.

While the OMB's mandate has evolved 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.

Agency Clustering Project

In September 2006, the Ontario government appointed an Agency Cluster Facilitator to work with five tribunals in the municipal, environment and land-use planning sectors to find ways to improve services through cross-agency coordination of operations, administration and dispute resolution.

The five tribunals included in the cluster are: the Assessment Review Board, the Board of Negotiation, the Conservation Review Board, the Environmental Review Tribunal and the Ontario Municipal Board.

An interim report was released in January of 2007 and can be accessed through the government of Ontario website.

Legislative Changes

Bill 51, the Planning and Conservation Land Statute Law Amendment Act, 2006, received Royal Assent on October 19, 2006 and came into force and effect on January 1, 2007. Changes to the Planning Act now provide more opportunities for public input before local decisions are made. When a municipality receives a complete application for development, all the information and material must be made available to the public at the beginning of the planning process. Bill 51 has made a number of changes in relation to procedural and substantive matters at Board hearings. Some of these changes necessitate the hearing of new motions, while other changes involve the admission of evidentiary matters.

The City of Toronto Act, 2006 came into force on January 1, 2007, and the Municipal Act, 2001 no longer applied to Toronto as of that date. The Act retains provisions for appeals to the OMB similar to the Municipal Act, 2001.

Changes to OMB Rules of Practice and Procedure

There were no changes to the rules during this fiscal period.

SECTION 2: INTERNAL REFORMS AT THE OMB

Member Training & Professional Development

The OMB places tremendous importance on Member education and has developed a comprehensive training program for its Members.

Board Members actively support the Society of Ontario Adjudicators and Regulators (SOAR); participate in their training programs and their Annual Conference of Ontario Boards and Agencies.

Public Participation

As part of its internal reform, the Board reviewed how it facilitates public participation on matters before it. It is important for the Board to ensure that accurate information is quickly and easily available to the public.

In 2006-2007, the Board continued to update its website www.omb.gov.on.ca, to allow for quick access to key information. The website updates make it easier for first-time and returning visitors to quickly and easily locate information, often within one or two steps.

New OMB appeal forms and improved municipal submission forms were implemented. These forms are intended to assist the public and municipalities with filing complete appeal information to the Board. Copies may be found on the Board's website.

Mediation

As an alternative to the hearing process, the OMB also provides mediation for dispute resolution. In 2006-07 the Board held 60 mediation events. As well, the Board initiated a review of its mediation processes and practices. External consultants were hired to provide additional expertise to the review. As a result of the review, refinements to the Board's mediation procedures and protocols have been implemented.

Citizen Liaison Office

A Citizen Liaison Office was established to help the public to gain better understanding of OMB policies and practices. By providing information to the public, such as how to file an appeal and the OMB hearing process, the Citizen Liaison Office can help the public to participate effectively in the OMB process. As well, the Citizen Liaison Officer assists with developing information materials about the OMB. The Office provides information to the public either in person, by telephone or e-mail.

SECTION 3: OPERATIONS 2006-2007

Case Management

The OMB's case management department is responsible for the case management of all appeals/applications received by the Board from intake through to resolution, with the exception of the adjudication of matters undertaken by the Members of the Board.

The OMB's case management department is divided into three teams: two planning teams and a hearings team. The planning teams are based on regional areas. This team structure helps to streamline cases and provides OMB clients with a consistent point contact. Assigning caseload responsibility along regional lines also allows managers and staff to build regional expertise, monitor local issues and anticipate matters that could be brought to the OMB for adjudication.

The hearings team is responsible for the scheduling and facilities coordination of all hearing events across the province. The hearings team carries out the instructions of the Chair regarding the assignment of Members to hearings and is the main conduit to the Board for Members conducting hearings across the Province. The fluctuation in the number of Members over the course of the fiscal year presented a challenge in delivering on the demand for hearings while endeavouring to maintain and improve on the timeliness of hearings.

Files Received

During the 2006-2007 fiscal year, there was a decrease of 9% in the total number of appeals and applications received by the Board, as shown in Table 1.

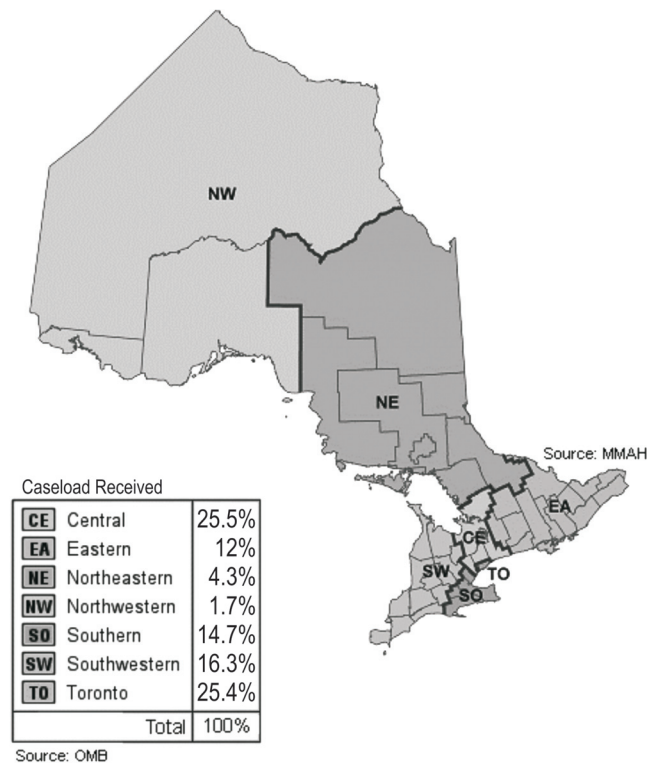
Table 1: OMB File Types Received

File Types Received (Appeals and Applications)	2004 – 2005	2005 – 2006	2006 – 2007
Minor Variances	660	612	551
Consents	311	445	341
Zoning By-laws	282	290	340
Official Plans	239	226	210
Zoning Refusal or Inaction	148	203	188
Plans of Subdivision	108	108	109
Municipal Structure (incl. site plans)	147	146	119
Development Charges	91	20	15
Land Compensation	34	55	47
Capital Expenditures	19	23	11
Joint Board	4	11	1
TOTAL	2,119	2,139	1,932

Caseload Distribution

Historically, the majority of the OMB's caseload has originated from the City of Toronto. Toronto still represents the largest percentage of caseload from a single municipality with 25.4 per cent of the Board's caseload. The Region of Peel, the County of Simcoe, the City of Hamilton, the Region of Niagara and the Region of York follow Toronto in volume of caseload with the high of seven per cent and a low of five percent of the caseload received. The geographic distribution of the Board's caseload by region is shown below:

Figure 1: OMB Caseload Distribution for 2006-2007



Hearing Activity

The OMB scheduled 2,406 hearing events during the 2006-2007 fiscal year. This represents a slight decrease over the previous fiscal year mainly attributable to the decrease in the number of adjudicators appointed to the Board. Of the 2,406 cases scheduled, 1,648 resulted in hearings, a slight decrease from the previous fiscal year.

The OMB is conscious of the costs associated with proceeding with an OMB hearing. Administrative staff and Board Members ensure that all hearing events are necessary and are efficiently scheduled. The OMB carefully streams cases and will recommend alternative means of dispute resolution when appropriate. Methods outside the traditional hearing procedures, including teleconferencing and mediation are some of the alternatives available to OMB clients.

Performance Results

The scheduling of hearing dates at the OMB depends on many factors including: the correct filing of documents, the number of witnesses expected, availability of hearing rooms and the readiness of parties to proceed.

- For Minor Variance appeals, in 95 per cent of the cases, the first hearing day was within 150 days of filing
- For all types of applications and appeals, in 87 per cent of the cases, the first hearing day was within 180 days of filing

The OMB strives to issue its decisions in a timely manner, In the 2006-2007 fiscal year:

- 73 per cent of decisions were issued within 30 days of the hearing
- 94 per cent of decisions were issued within 90 days of the hearing

Information Technology and Electronic Service Delivery

The Board uses a variety of technologies to process its caseload and provide information to the public.

The Board uses a Case Management Information System (CMIS) to process and track applications and appeals. Each year, the Board enhances CMIS to address changes in business practices and to improve functionality. A project is underway to implement a new system with the ability to use scanning technology and improved integration with other systems at the Board.

The website continues to receive thousands of hits each month for its E-status and E-decisions applications. An online feedback form allows the public to submit comments directly to the Citizen Liaison Office of the OMB through the website. With the feedback form, questions, concerns or suggestions can be addressed via e-mail.

OMB Members

The Lieutenant Governor in Council appoints Members for terms of between 2 and 5 years. Members of the OMB include professionals from different areas of the province with diverse backgrounds such as lawyers, former elected officials, engineers, planners and public administrators. The OMB Chair is cross-appointed to the Board of Negotiation (BON).

For more information on Member appointments, please visit the Public Appointments Secretariat website at www.pas.gov.on.ca.

Below is the list of active OMB Members from April 1, 2006 to March 31, 2007.

Chair

HUBBARD, Marie †

Executive Vice-Chair

LEE, Wilson S.

Vice-Chairs

CAMPBELL, Susan B.
EGER, Marilyn F.*
GRANGER, Donald R.

O'BRIEN, James
OWEN, Robert D.M.*
SEABORN, Jan de P.

OMB Members

AKER, John R.
ATCHESON, J. Peter
BARBIR, Draga
BECCAREA, Robert A.
BOUSFIELD, Joel*
CHEE-HING, Jason
HUSSEY, Karlene
CULHAM, David J.*
DENHEZ, Marc
FARRELL, Frederic G.*
FLINT, Joanne*
GATES, Douglas
GOLDKIND, Harold
HEFFERON, Colin

JACKSON, Norman C.
KATARY, Narasim*
MAKUCH, Richard*
O'CONNOR, Gary
PENDERGRAST, Eudora
ROGERS, Susan D.*
ROSSI, Reid
SCHILLER, Susan
SMOUT, Jennifer A.*
SNIEZEK, Joseph E.
SOMERS, Michael G.
STEFANKO, Steven
STOCKTON, Malcolm*
SUTHERLAND, Sylvia

Note: † Indicates Chair of the OMB and BON

*Indicates Members who were no longer with the OMB as of March 31, 2007

PART II: THE BOARD OF NEGOTIATION

SECTION 1: BON OVERVIEW

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 settlement 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 a settlement cannot be reached, the parties may 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.

SECTION 2: RESULTS: 2006-2007

Requests for BON Involvement

Table 1: Meetings Requested and Held April 1, 2006 to March 31, 2007

	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	TOTAL
Requests Received	1	1	3	4	1	3	0	1	4	3	0	0	21
Meetings held	0	1	4	0	1	4	0	2	0	4	3	5	24

Members

The Lieutenant Governor in Council appoints part-time Members to a term of up to three-years. Members travel throughout the province to conduct hearings and view properties. For more information on Member appointments, please visit the Public Appointments Secretariat website at: www.pas.gov.on.ca.

Chair

HUBBARD, Marie

BON Members

ARMSTRONG, Hilje
BOYAK, Mark
MILNE, John E.
MOWAT, Warren

PHILLIPS, Esther E.
SIMMONS, Lawrence John
SWAYZE, Gordon W.

PART III: COMBINED 2006-2007 FINANCIAL SUMMARY: OMB and BON

SECTION 1: FINANCIAL SUMMARY

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

APPLICATION, APPEAL OR RENEWAL FEES	FISCAL YEAR (April 1—March 31)		
	2004-2005 (\$)	2005-2006 (\$)	2006-2007 (\$)
<i>Planning Act</i> Matters	313,589	285,935	302,715
Miscellaneous	864	18,057	1,787
TOTAL	314,453	303,992	304,502

SOURCE: PUBLIC ACCOUNTS

Actual Expenditures

Table 2: Expenditures of the OMB and BON

ACCOUNT ITEM	FISCAL YEAR (April 1—March 31)		
	2004-2005 (\$)	2005-2006 (\$)	2006-2007 (\$)
Salary and Wages	4,829,190	5,143,655	5,380,665
Employee Benefits	572,660	610,702	667,884
Transportation & Communications	732,445	828,725	719,491
Services	409,083	359,229	341,683
Supplies and Equipment	109,681	301,016	395,456
Transfer Payments	NIL	NIL	NIL
TOTAL	6,653,059	7,243,327	7,505,179

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.