



Ontario Municipal Board and Board of Negotiation

Annual Report 2007-2008

To the Honourable Chris Bentley, Attorney General

Minister:

We have the pleasure of submitting, for the approval of the Legislature, the Ontario Municipal Board and the Board of Negotiation 2007-2008 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**

2008

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Chair's Message - 2008

As the Chair of the Ontario Municipal Board (OMB) and the Board of Negotiation (BON), it is my pleasure to present the 2007-2008 OMB/BON Annual Report.

The OMB plays an essential role in Ontario's land use planning process. We provide an independent public body to resolve land-use disputes.

The OMB conducts its business in accordance with the laws and policies set by the Ontario government. Its Members make independent decisions based on the law and the evidence presented at hearings.

Changes to OMB business practices and procedures have produced many improvements in client and stakeholder services. The Citizen Liaison Office, which was introduced last year, continued to help the public with understanding the OMB process. As well, the OMB website was updated to allow easier access to information.

During the 2007-2008 fiscal year, four 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 mediate possible settlements. There were 24 requests for mediation this year.

Enclosed in this report is information about the OMB and BON and their activities for the 2007-2008 fiscal year. Each year, the Boards continue to look at ways to improve its services to suit the needs of all Ontarians.

Sincerely,

A handwritten signature in cursive script, reading "Marie Hubbard".

Marie Hubbard

Chair of the Ontario Municipal Board and the Board of Negotiation

PART I: ONTARIO MUNICIPAL BOARD (OMB)

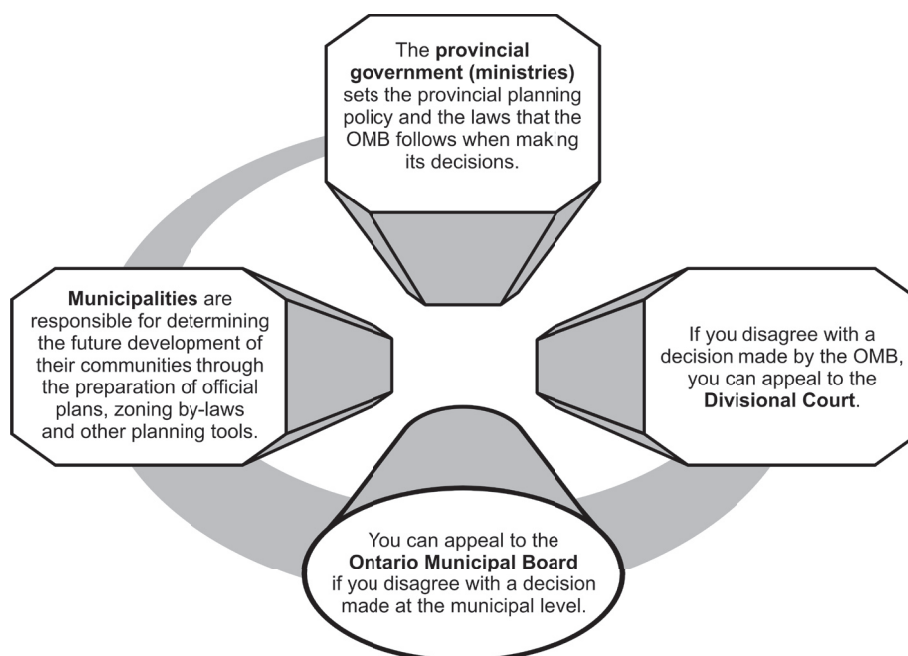
SECTION I: OVERVIEW

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 principles 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 rapidly growing 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.

The Assessment Review Board, the Board of Negotiation, the Conservation Review Board, the Environmental Review Tribunal and the Ontario Municipal Board co-located in March 2008 to 655 Bay Street in Toronto.

Legislative Changes

There were no significant changes to legislation or regulations directly affecting the Board.

Rules of Practice and Procedure

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

SECTION 2: OPERATIONS 2007-2008

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 of 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.

Files Received

Table 1: OMB File Types Received

File Types Received (Appeals and Applications)	2005-2006	2006-2007	2007-2008
Minor Variances	612	551	578
Consents	445	341	279
Zoning By-laws	290	340	275
Official Plans	226	210	198
Zoning Refusal or Inaction	203	188	172
Plans of Subdivision	108	109	95
Municipal Structure (incl. site plans)	146	119	92
Development Charges	20	15	16
Land Compensation	55	47	25
Capital Expenditures	23	11	8
Joint Board	11	1	0
Site Plan after Nov. 15	N/A	N/A	25
TOTAL	2,139	1,932	1,763

Hearing Activity

The OMB scheduled 2,189 hearing events during the 2007-2008 fiscal year. This represents a slight decrease over the previous fiscal year mainly due to the decrease in the number of adjudicators appointed to the Board. Of the 2,189 cases scheduled, 1,652 resulted in a hearing.

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.

Mediation

As an alternative to the hearing process, the OMB also provides mediation for dispute resolution. In 2007-08, the Board held 76 mediation events. Previously, 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 were implemented in 2007-2008.

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 stand-alone minor variance appeals, 81 per cent of the cases had a first hearing event within 120 days of filing.
- For all types of applications and appeals, 81 per cent of the cases had a first hearing event within 180 days of filing of the last application that formed part of the case.

The OMB strives to issue its decisions in a timely manner. In the 2007-2008 fiscal year:

- 81 per cent of decisions were issued within 45 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 upgraded its case management system to allow the use of scanning technology and improved integration with other systems at the Board. The new system incorporated additional functions including computer assisted scheduling and document production.

In 2007-2008, the Board updated 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.

The website continued 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 through the website. With the feedback form, questions, concerns or suggestions can be addressed via e-mail. The Board received about 200 e-mails each month.

OMB Members

The Lieutenant Governor in Council appoints Members for terms of up to 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, 2007 to March 31, 2008.

Chair

HUBBARD, Marie †

Executive Vice-Chair

LEE, S. Wilson

Vice-Chairs

CAMPBELL, Susan B.
GRANGER, Donald R.
McKENZIE, James

SEABORN, Jan deP.
ZUIDEMA, Jyoti

OMB Members

AKER, John R.
ATCHESON, J. Peter
BARBIR, Draga
BECCAREA, Robert A.
CHEE-HING, Jason
CONTI, Chris
HUSSEY, Karlene
DENHEZ, Marc
GATES, Douglas
GOLDKIND, Harold
HEFFERON, Colin

JACKSON, Norman C.
O'CONNOR, Gary
PENDERGRAST, Eudora*
ROSSI, Reid
SCHILLER, Susan
SILLS, Mary-Anne
SNIEZEK, Joseph E.
SOMERS, Michael G.
STEFANKO, Steven
SUTHERLAND, Sylvia

Note: † Indicates Chair of the OMB and BON

* Indicates Members who were no longer with the OMB as of March 31, 2008

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 a recommendation on what would be 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: OPERATIONS 2007-2008

Requests for BON Involvement

Table 1: Meetings Requested and Held April 1, 2007 to March 31, 2008

	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	TOTAL
Requests Received	0	1	1	8	0	1	0	2	1	3	1	6	24
Meetings held	1	0	1	0	1	4	1	0	6	2	1	0	17

Members

The Lieutenant Governor in Council appoints part-time Members to a term of two, three and five 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.*

TAYLOR, Ian

*Note: *Indicates Members who were no longer with the BON as of March 31, 2008*

PART III: COMBINED 2007-2008 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.

Fees Collected

The BON does not collect fees for its services. The revenue stated below is generated solely through the services of the OMB. All fees collected by the OMB are remitted to the Ministry of Finance.

Table 1: Fees Collected

	FISCAL YEAR (April 1—March 31)		
APPLICATION, APPEAL OR RENEWAL FEES	2005-2006 (\$)	2006-2007 (\$)	2007-2008 (\$)
<i>Planning Act</i> Matters	285,935	302,715	243,162
Miscellaneous	18,057	1,787	1,326
TOTAL	303,992	304,502	244,488

*Includes \$15,503 in one time recovery of prior year expenditure

SOURCE: PUBLIC ACCOUNTS

Actual Expenditures

Table 2: Expenditures of the OMB and BON

	FISCAL YEAR (April 1—March 31)		
ACCOUNT ITEM	2005-2006 (\$)	2006-2007 (\$)	2007-2008 (\$)
Salary and Wages	5,143,655	5,380,665	5,408,227
Employee Benefits	610,702	667,884	705,775
Transportation & Communications	828,725	719,491	649,965
Services	359,229	341,683	496,250
Supplies and Equipment	301,016	395,456	291,351
Transfer Payments	NIL	NIL	NIL
TOTAL	7,243,327	7,505,179	7,551,568

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.