



November 6, 2011

Planning and Growth Management Committee
10th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2
Attention: Merle MacDonald, Committee Clerk

RE: PG 9.11 Removing Toronto from the Jurisdiction of the Ontario Municipal Board (OMB) and Asking the Province of Ontario to Abolish the OMB - Motion MM11.7 Referred by City Council on September 21 and 22, 2011

Dear Councillor Milczyn:

This is to express our general support, but with reservations, regarding the Motion (PG 9.11) brought forward by Councillors Wong-Tam and Matlow.

The Motion proposes:

- that City Council request the province that the OMB be abolished:
- that if the province agree to effect the abolition of the OMB, then the City should establish a Local Appeal Body for appeals of Committee of Adjustment decisions
- that the City support and involve itself in public consultation on the matter, and
- that if there is support for the continued jurisdiction of the OMB, then councils be allowed the option of removal from the OMB's purview.

While the Motion involves a considerable amount of conditionality, it is apparent that the intent is to abolish the OMB, or if this is impossible, to enable municipalities like Toronto to remove themselves from its jurisdiction.

FoNTRA has previously recommended that Toronto should no longer be under the OMB's jurisdiction, except under some limited and hopefully unusual circumstances, when the OMB may need to "insert" itself into Toronto's land-use planning process. In the context of *Planning Act* reform consultations by the Ontario government in 2006, FoNTRA recommended that: "**The Ontario Municipal Board shall defer to any decision of Council consistent with its Official Plan ... , except in instances of demonstrated unfairness, patent unreasonableness, error in law or fact, or material inconsistency with the provincial policy statements under the *Planning Act***" [See Appendix for more detailed wording.]

Further, FoNTRA has previously submitted recommendations to Councillor Milczyn with regard to the OMB's jurisdiction as an appeal body for Toronto Committees of Adjustment (CofA) decisions. FoNTRA recommended the elimination of the OMB jurisdiction for CofA appeals and the establishment of the Local Appeal Body for CofA appeals, as enabled in the *City of Toronto Act*¹.

¹ FoNTRA Report: Recommendations for Improvement to the Functioning of Committees of Adjustment (dated February 18, 2011); FoNTRA submission to Chair, Planning and Growth Management Committee, on Legal Services Attendance at Ontario Municipal Board Hearings of Appeals of Committee of Adjustment Decisions. October 2011.

In conclusion, FoNTRA supports the Motion of Councillors Wong-Tam and Matlow, but with certain reservations as outlined above.

Yours truly,

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Cc: FoNTRA Representatives & Other Interested Individuals
City of Toronto Councillors

Appendix

"Amend the *Planning Act* by adding a section related to decisions of Toronto Council and approval authorities, as follows:

"Regarding planning decisions of Toronto Council

"When the Ontario Municipal Board makes a decision under the *Planning Act* that relates to a planning matter, it shall:

- (a) **have regard** to any decision that is made under the *Planning Act* by Toronto Council that relates to the same planning matter; and
- (b) **on request, consider any information and material that Toronto Council considered in making the decision described** in clause (a) above and any submissions related (a) above, subject to the provisions of the *Planning Act*.

"The **Ontario Municipal Board shall defer to any decision of Toronto Council consistent with its Official Plan** in effect on the date of the decision, **except in instances of demonstrated unfairness, patent unreasonableness, error in law or fact, or material inconsistency with the policy statements of the *Planning Act*** that are in effect on the date of the decision or material non-conformity or conflict with the provincial plans that are in effect on that date."

The Federation of North Toronto Residents' Associations (FoNTRA) is a non-profit, volunteer organization comprised of 27 member organizations. Its members, all residents' associations, include at least 170,000 Toronto residents within their boundaries. The 27 residents' associations that make up FoNTRA believe that Ontario and Toronto can and should achieve better development. Its central issue is not *whether* Toronto will grow, but *how*. FoNTRA believes that sustainable urban regions are characterized by environmental balance, fiscal viability, infrastructure investment and social renewal.