

**FEDERATION OF NORTH TORONTO RESIDENTS'
ASSOCIATIONS (FONTRA*)**

**Planning Reform
Strategies for 2010**

Discussion Paper

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Introduction

- **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.

Introduction (cont'd)

- Since early 2004, FoNTRA has been actively involved in proposing reforms to the planning system including the OMB.
- On August 9, 2006, FoNTRA presented a detailed written brief at Queen's Park to the Standing Committee on General Government regarding Bill 51 (An Act to Amend the *Planning Act* and Other Acts).

Key FoNTRA Messages in 2004

- **The OMB must only be allowed to hear evidence previously presented at municipal council. Municipal councils should become the focus for development decision-making.** The "buck stops" at the municipal council regarding development decisions.
- **The OMB should be an advisory body only.** Elected representatives on municipal councils throughout Ontario must have the right to override an OMB decision by a 60% majority.
- **The OMB and municipal councils must consider the citywide impact and the precedent setting nature of proposed developments.** Development proposals should not be considered in "splendid isolation".

Problems Identified

- FoNTRA has identified issues for further planning reform.
- The number of appeals going forward to the OMB is excessive and an important contributor to this excess, especially in Toronto, is confusion between long-term planning and development control where the majority of Official Plan (OP) amendments are site-specific and treated like re-zonings.

Key message for planning reform

- **Improve long-term planning through a stable Official Plan**
Enhance the effectiveness of the OP as a planning instrument and reinforce the provisions of Bill 51 related to mandatory updates of the OP and Zoning By-law.

Two key planning reform strategies: Improve long-term planning through a stable Official Plan

Strategies to address problems identified

- Enhance the effectiveness of the OP as a planning instrument and reinforce the provisions of Bill 51 related to mandatory updates of the OP and Zoning By-law.
- Strengthen both the planning substance and the planning process, while complementing the recent planning reforms, with **two *Planning Act* changes**:
 1. OPs should be required to provide population densities and land-use intensities which would provide guidance for site-specific re-zonings;
 2. Site-specific amendments to the OP by individuals (developers) should be eliminated in order to maintain the validity of public policy in between the mandatory comprehensive OP updates every five years.

Results if Strategies are Implemented

- FoNTRA believes that the number of appeals to the OMB would be drastically reduced since any re-zonings would likely be in conformity with the adopted OP.
- The OP would be enhanced as a planning tool and would reinforce changes introduced in Bill 51, especially the mandatory updates of both the OP and the Zoning By-law and certain policies that cannot be appealed to the OMB.

Major Action Steps for 2 Key Strategies

- Actively support 1) a restriction on the number of site-specific OP amendments; 2) regular updates or amendments to the OP proposed by public agencies and **not** those proposed by individuals; and 3) the inclusion of population densities and land-use intensities in the OP.
- Modify the *Planning Act* to include: 1) population densities and land-use intensities as part of the Official Plan in Section 16(1) (a); and 2) delete the words ‘person or’ to read as follows: “If a *public body* requests a council to amend its OP, the council shall...” in Section 22(1).

Major Strategies for Planning Reform

Six Strategies

- Amend the *City of Toronto Act* so that the OMB functions solely as an appellant body which shall not conduct *de novo* hearings with respect to Toronto planning matters.
- Amend the *Planning Act* to prevent non-elected OMB members from reversing the decision of democratically-elected members of municipal councils.
- Amend the *Planning Act* with respect to planning matters so that the role of the OMB is limited to reviewing amendments to the OP and Zoning By-law within the context of a **stable** Official Plan.
- Provide assistive/intervener funding for residents' associations so they can access the OMB on an equal financial footing with developers.
- Improve the hearing and record keeping procedures at the OMB to bring it to a standard similar to the judiciary such that the OMB can be held legally accountable for its actions.
- Amend the *Planning Act* so that the language in Section 45(1) to codify four distinct tests, each of which must be satisfied in order to permit (but not require) approval of a minor variance application (July 2005 Vincent v. Degasperis Divisional Court decision).

Recommended Action Steps

- Actively support the city in development of a Local Appeal Body (LAB) for Committee of Adjustment (CofA) Appeals and the procedural changes to the CofA.
- Encourage the city to review the changes to the OMB and examine, as they affect Toronto, the decisions that were made under Bill 51 effective as of January 2007.
- Change the appropriate *Planning Act* wording so the OMB “shall have regard” rather than “should have regard” to municipal decisions.
- Determine the extent to which recent development applications have been affected by *de novo* hearings at the OMB resulting in the OMB simply overturning the city’s decision instead of sending it back for reconsideration.
- Promote a more stable Official Plan by limiting the number of Official Plan and Zoning By-law amendments.
- Examine the extent to which OMB costs are high and prohibitive for ratepayers and resident associations (and even municipalities) being unable to afford professional defence of their interests at OMB hearings.
- Promote a standard for hearings and record keeping that is similar to the judiciary so that the OMB can be held accountable for its actions.
- Actively promote the four-fold test for minor variances and determine additional enforcement mechanisms that could be introduced in the *Planning Act*.

Concluding Remarks

- Bill 51 is a step in the right direction but further actions by the province and city can enhance the planning process.
- Staff Report of October 21, 2008 outlines the city's requests for OMB reform and the actual results of legislation.
- FoNTRA believes that long-term planning can be improved through making the OP more stable by enhancing it as a planning instrument.
- Provisions of Bill 51 can be reinforced as it relates to mandatory updates of the OP and Zoning By-law through effective changes to the *Planning Act* as identified in our key messages.