

Ontario East Municipal Conference

Zen and the Art of the Ontario Municipal Board 2.0

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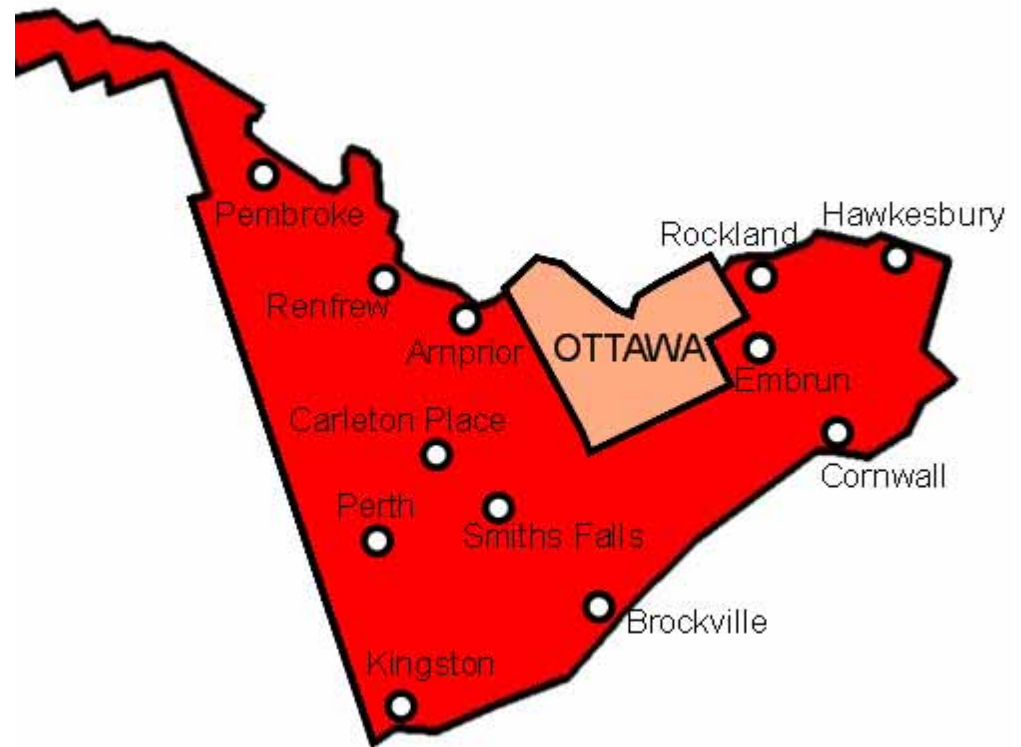
September 14, 2011

The views expressed in this paper are those of the author and do not necessarily represent the views or opinions of the Ministry of the Attorney General or the Legal Services Branch of the Ministry of Municipal Affairs and Housing.

The OMB and The East

❖ The East: Not just a geographical designation

❖ Also a state of mind



The OMB and Zen



ZEN: Developed primarily in the Tang dynasty in China



ZEN: Not simply a device for centering and calming the mind but also embracing the wisdom of enlightenment.



ZAZEN (sitting in meditation): A Buddhist practice to settle your mind in its original state of *purity and clarity, and from that you can see everything as it is.*

zenguide.com

What's New at the OMB

New Executive Chair:
Lynda Tanaka (former Chair of the
Licence Appeal Tribunal)

Currently 23
members in total

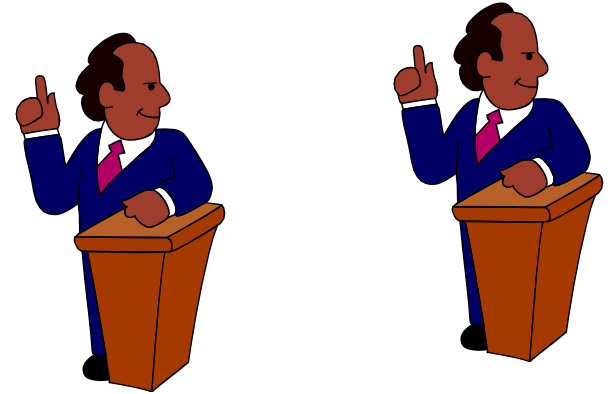


Practice Before the OMB

- OMB Web Site:
 - *www.omb.gov.on.ca*
- *Guide to the Ontario Municipal Board, 2009*
- Rules of Practice and Procedure, 2009
- Infosheets
- Annual Reports

Roles of the Appellant/Party

OMB Rules of Practice and Procedure (issued August 11, 2008, amended November 2, 2009)



Appellant and party status:

- 1) Where there is only one appellant
- 2) Conditions on party status
- 3) Use of OMB administrative process

Prior Oral/Written Submissions

The *sine qua non* of appellant status:

SMH-CRC v. Ottawa,
Decision/Order dated March 3, 2011
(OMB case PL101333).

Mistakes in Giving Notice

By accident mistakes:

Pike v. North Huron, Decision/Order dated May 5, 2011 (OMB case PL100500)

Mistakes in Giving Notice

On purpose mistakes:

Pepin v. Sault Ste. Marie & Ministry of Municipal Affairs and Housing, Decision/Order dated March 11, 2011 (OMB case PL100774)

Mistakes in Filing the Appeal

You filed it where?

Mitron v. Hearst & Ministry of Municipal Affairs and Housing, Decision/Order dated June 17, 2011
(OMB case PL100746)

When a non-decision is a decision

Ability to appeal from a non-decision of the Committee of Adjustment?

Starwood Acquisitions Inc. v. Ottawa,
Decision/Order issued May 11, 2011 (OMB case
PL101239)

Integrating the EA/PA Process



Westhill Redevelopment Company Limited v. Aurora, Decision/Order issued April 14, 2011 (OMB case PL0309997)

Consistency under s. 3(5) - Update

Does a DC by-law need to be consistent with the PPS?

2135252 Ontario Inc. (Chartwell) v. Region of Durham,
s. 43 Decision
dated Feb. 25, 2010

Original Decision dated
July 23, 2009 (OMB case
DC080008)



Calculating Development Charges

Is it as gross as all that?

Orangeville District Home Builders Association v. Orangeville, (Decision/Order issued Sept. 3, 2010 (OMB case DC090049))

Divisional Court
decision issued
March 21, 2011
File 464/10)



Application for approval to finance construction

Anomaly or New Trend?

King Township v. Hopkinson,

Decision/Order dated

September 30, 2010

(OMB Case FL100005)



Quarries and Land Use Planning

Rockfort Quarry

James Dick Construction Limited v. Caledon,
Decision/Order issued November 12, 2010 (OMB
case PL000643)

Resource Recreational Uses

Is a golf course a resource?

... It depends on your handicap.

Whitetail Golf & Country

Club Estates Inc. v.

Kawartha Lakes,

Decision issued

August 8, 2011 (OMB case PL101329)



SCC - Constitutional Cases

Zoning out?

Lacombe v. Québec [2010] 2 S.C.R. 453, 2010
SCC 38

COPA v. Québec [2010]
2 S.C.R. 536, 2010 SCC 39



SCC – First Nations Consultation

Impact on the Hearing Process?

Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council [2010]
2 S.C.R. 650, 2010 SCC 43

*Atkins v. Sault Ste Marie
Planning Board*, Decision
Issued August 19, 2011
(OMB case PL070640)

*Red Bay and Howdenvale
Resident Group v. Bruce County*,
Decision issued June 30, 2011
(OMB case PL091020)

