



20 September 2016

Ministers Naqvi and Mauro,

Re: Ontario Municipal Board

We, the undersigned Councillors in the City of Ottawa, are pleased to offer the following input into your review of the Ontario Municipal Board (OMB).

Ottawa is currently a city in transition. The principles of intensification and transportation sustainability have been adopted in recent Official Plans, and the city is growing in population, in height, in density and along our new light rail corridor.

The Provincial Policy Statement encourages, appropriately, these trends. It is the lens through which the City of Ottawa crafts its long-term policies, and its thrust is one with which we strongly agree. The central tenet of the PPS is smart growth that minimizes the impacts of low-density suburban development. Its implementation at the local level is critical. As elected officials, we strive to achieve the benefits of the Provincial Policy Statement always with the long-term first and foremost in mind.

In successive Official Plans, and subsequent Secondary Plans, the City of Ottawa's professional planning staff have worked with some of Ontario's most expert and engaged community associations and developers to craft a local land use planning framework that allows for significant intensification, puts residents in close proximity to sustainable transit, and works to preserve green and amenity spaces for our growing population.

Pursued as planned, Ottawa's growth will position it to be one of Canada's most sustainable cities.

Unfortunately, holistic planning is often difficult to achieve when the final word on Official Plans and re-zonings is not Council's. Too often, efforts by Council to consider the big picture when making land use planning decisions is undermined by an unelected and unaccountable OMB. Recent OMB decisions have overturned thorough land-use policies approved by Council – from determining the City's urban boundary to residential development applications. For their part, residents are often not able to participate due to monetary or time constraints.

Rather than an orderly transition to a new and sustainable city, we consider that development is proceeding without certainty, coherency, or the appropriate regard for

the trade-offs of increased density. To address these, we consider that the issues below related to Board reform might usefully be considered.

1. Re-consider the necessity of having planning appeals at all in large jurisdictions.

The City of Ottawa's Planning and Growth Management Branch spends roughly \$26 million each year on transportation and land-use planning, mostly to employ expert planners and other professionals. The City's Official Plan is a sophisticated document drafted by experts and approved by a fully-engaged City Council.

The hearing of appeals *de novo* by an unelected OMB is an unnecessary duplication of efforts. When Councils and the OMB reach different conclusions, we assert that it is the cities' that carries the greater weight simply by virtue of being reached with a holistic view of the City's development in mind, and with full consideration by planning and legal experts.

We, of course, recognize that no legislative body can make decisions unchecked. But, the OMB's role with respect to large cities that have sophisticated municipal governance should be limited to questions of judicial review.

The existing duplication of efforts has the perverse effect of putting staff and Council in the position of anticipating how the OMB might rule on any hypothetical appeal, rather than rigorously defending particularly its secondary plan policies. Appeals to the Board by developers incur significant costs to all parties, including the taxpayer. Even where a municipality might wish to deny a zoning application, the uncertainty and cost associated with appeals may lead decision-makers down the path of least resistance.

2. If the OMB is retained, ensure meaningful resident participation

The OMB is a quasi-judicial body that gives significant deference to the opinion of professional planners and lawyers. In this environment, residents do not have sufficient resources to ensure their voice and concerns are given appropriate weight. In Ottawa, Council has frequently approved applications for which there is a reasonable community opposition and differing viewpoint. While any objector can file an appeal to a Council decision, the volunteer sector cannot as a matter of course pursue the OMB as a recourse as the development community can. The resources necessary to mount a credible challenge - hundreds of volunteer hours and as much as \$40,000 to hire legal and planning help - render appeals an uneven playing field.

The deck is stacked against communities.

When the roles are reversed, and developers challenge decisions by elected Councils, there are still further challenges. Municipalities' own planners are often called as witnesses against the decisions by elected officials. Communities are not normally party to these proceedings, and cannot support or defend Councils' decisions. The same community members who are heavily engaged with the process of creating and amending Official Plans are on the sidelines of these debates, unable to weigh in during the course of the Board's hearings.

In cases when community members seek to engage the Board as participants, their testimony is given less weight than the expert planners and lawyers engaged by developers.

The quasi-judicial nature of the Board effectively, for all the reasons above, freezes out community participation. If the Government seeks to preserve the Board as an appeals body to Council decisions, then some mechanism such as binding arbitration following a baseball format should be considered. It would also be worthwhile to consider the circumstances that might merit public interest funding for groups such as community associations.

Formal, expensive and dismissive of community expertise, the current system is falling short in Ottawa. We seek your help to change that.

Board reform is a critical discussion in our communities. We are grateful that the Government has undertaken to review it. We urge the Ministers to take the time necessary to consider fully all feedback, and to have a rich consultation. How our cities grow – sustainably and maintaining the quality of life for all residents – has never been so critical.

We are at your disposal to discuss our feedback in greater depth, if so desired.

Sincerely,



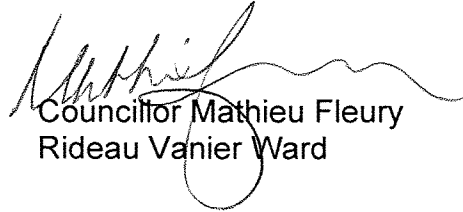
Councillor Jeff Leiper
Kitchissippi Ward



Councillor Tobi Nussbaum
Rideau Rockliffe Ward



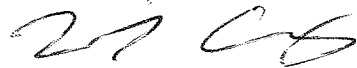
Councillor Catherine McKenney
Somerset Ward



Councillor Mathieu Fleury
Rideau Vanier Ward



Councillor Riley Brockington
River Ward



Councillor David Chernushenko
Capital Ward