

ST. PAUL'S, COUNCILLOR  
Toronto City Hall, 2<sup>nd</sup> Floor, Suite B26  
100 Queen Street West  
Toronto, Ontario M5H 2N2

TEL: (416) 392-7906  
Fax: (416) 392-0124  
councillor\_walker@toronto.ca  
www.michaelwalker.ca

**FORMAL SUBMISSION**

**TO: Standing Committee on General Government, Province of Ontario**

**FROM: Councillor Michael Walker, City of Toronto, St. Paul's**

**DELIVERED BY DEPUTATION: August 3, 2006 at 3:50 p.m., Room 151**

**SUBJECT: Bill 51, Planning And Conservation Land Statute Law Amendment Act, 2006**  
***- Required Amendments to Legislation***

My name is Michael Walker and I represent St. Paul's which incorporates the geographic centre of our city. The citizens whom I represent are all too familiar with the Ontario Municipal Board (OMB) and the power its unelected members hold over this city's well being. Many residents wish to see the OMB abolished, some want major reform, but all want more protection for their neighbourhood than Bill 51 presently offers.

Over the past years I have worked with the resident umbrella group, FoNTRA (Federation of North Toronto Residents' Associations), meeting with various MPPs and their staff to convey the urgency for reform needed to protect our neighbourhoods from irresponsible overdevelopment. This legislation does not put in place a process by which the citizen is properly respected – this legislation does not strike the right balance between the rights of the citizen with the rights of the provincial government. If Bill 51 is passed as is, the OMB will still be able to make subjective judgments on proposed developments over the heads of local elected officials and the residents affected by a proposed development in their neighbourhood. The OMB will still be able to force their own prejudices and interests upon Toronto in the name of the public interest. Last time I checked, the public interest is defined by what the public is interested in and by what they value – not by a ruling hand from up above driven by a process which defers to developers.

In the words of the OMB, here's a common, frustrating example of an OMB decision which overturned a City decision:

“...the proposed development is not out of character with its neighbourhood ... Such a proposal successfully balances the goal of intensification with the goal of protecting a stable neighbourhood ... **Finally, the Board finds that well intentioned neighbours who fear change in their neighbourhoods reflect private interests, not the public interest.** They have a right to bring their concerns to the Board, as does the Ward Councillor, but the Board must not mistake private interest, or public opinion as enunciated by an elected official for the public interest...”

This is the level of insult and contempt our citizens receive from the OMB and its process. What is the public interest but the collective interest of the governed? How can an unelected board so brazenly brush aside the will of the citizen and locally elected official? How is the OMB's decision accountable to anyone?

Further, in the words of a North Toronto ratepayer past-president, “clearly it is the OMB’s view that together, the tax-paying residents of our community and duly elected representatives cannot be trusted to know what is best for our neighbourhood. Indeed, they have once again demonstrated that [our area] requires the sage offerings of an appointed board to make the appropriate decisions for our own neighbourhood. This is yet another galling example of how the OMB totally disregards community opinion and that of our elected officials.”

Your Committee needs to hear this. Your Committee needs to understand how people are being treated and how they feel about the OMB. As in that quote, residents all over the city are fed-up with the OMB usurping their city’s planning decisions.

Bill 51 needs to be amended to overcome the many areas of concern of the citizens I represent. I want to make nine suggestions for change to your committee:

- 1) The OMB should be an advisory body only;
- 2) *[Amend 3. (2.1)]* OMB decisions need to not only “have regard to” municipal council decisions but should be “consistent with” municipal council decisions supported by the official plan in force;
- 3) *[Amend 8.1(4)]* A Local Appeal Body for minor variance appeals should be composed of municipal councillors, as well by citizens deemed eligible by the municipal council;
- 4) *[Delete all of: 8.(9) -Section 17 (44.2 – 44.6); 14.(13) -Section 34 (24.2 – 24.6); 21.(8) -Section 51 (52.2 – 52.6)]* A number of sections restrict the addition of new evidence to the hearing of an appeal. The OMB should hear any evidence from residents submitted at the time of appeal to the OMB – this is crucial for public input on a proposal;
- 5) *[Delete all of: 8.(6) -Section 17(24.9); 8.(8) -Section 17(36.1); 8.(9) -Section 17(44.1); 14.(5) -Section 34(11.0.2); 14.(12) -Section 34(19.1); 14.(13) -Section 34(24.1); 21.(8) -Section 51(52.1)]* A number of sections restrict the addition of new parties to the hearing of an appeal. The OMB should hear from any resident who wishes to join the appeal stage;
- 6) *[Amend 14.(1) -Section 34(3)]* This Bill gives the municipality the power to regulate minimum densities and minimum heights of developments. This is plainly undemocratic. Private property should not be impinged upon any more than it is. A resident should not be forced to build something taller and denser than what she/he needs or wants;
- 7) Bill 51 does not amend the administration and accountability of the OMB itself:
  - (a) Terms of office for OMB members should be lengthened to reduce the effect of political appointments;
  - (b) Compensation should be reviewed so the best qualified applicants apply;
  - (c) OMB members should be required to regularly attend formal training on land-use planning issues throughout their term of office;
  - (d) Members should be selected against standard and published criteria for qualification;
  - (e) A list of eligible/qualified candidates for appointment to the OMB should be developed and maintained as in the professional civil service;

- (f) Elected officials should only select members for appointment from a published list of qualified candidates developed by the civil service;
  - (g) The qualifications of candidates for appointment should disallow former elected officials, former government senior staff, former lobbyists, development lawyers and other specialists involved in the development industry until a “cooling-off” period has taken place;
- 8) Minor variance applications heard by the Committee of Adjustment should be required to meet all four tests of the Planning Act, not only some of the four tests. Therefore, Section 45(1) should be amended to include the wording for approval, “...provided the variance application meets EACH of the following FOUR tests:...” This stronger wording should also govern any new Local Appeal Body hearing appeals of Committee of Adjustment decisions;
  - 9) Section 37 of the Planning Act presently excludes the municipality from using financial donations secured under this section to conduct Heritage Conservation District studies. The need for Heritage Conservation of select buildings or entire neighbourhoods is often instigated by new development in an area of heritage significance. Therefore, Section 37 of the Planning Act should be amended to allow the municipality to use these funds to conduct Heritage Conservation studies;

Bill 51 also mandates that the municipality must update its Official Plan every 5 years and its Zoning Bylaw every 3 years. This will be nearly impossible for large cities such as Toronto to do. Toronto’s new Official Plan is presently in its fourth year of appeals at the OMB and Toronto’s Zoning Bylaw is sorely out of date by twenty years in most areas. This will serve only to reduce the municipality’s integrity at the OMB since this updating will not be achieved and the responsibility will fall on the municipality for failing to meet this arbitrarily high standard. The developer will be able to punch holes in the armour of the municipality’s defence and the OMB will once again rule on the side of a developer who has proposed a development in a neighbourhood they don’t know or care about.

All through this Bill are provisions that allow the Minister or the Ontario Municipal Board to usurp the municipality’s power and interest. This should not be. City Council needs to have the final say over development proposals and if the provincial government will not abolish the OMB, then at least give the necessary autonomy to the elected officials of the municipality over which the OMB looms. Then accountability will rest with elected officials – where, in a democracy, it belongs.

Bill 51 does not change the OMB. Bill 51 does not change the Planning Act for the better. What does Bill 51 do? It only restricts citizens even further from having any real control over the planning of their city. This Bill enables elected provincial officials to shirk responsibility and defer to appointed members of the OMB. It seems the provincial government would rather listen to the concerns and count the election contributions of developers than those of the citizens they purport to represent.

Where will it stop? The Province still has not adopted election campaign finance rules that exclude developers from feathering the nest of sitting MPPs and municipal politicians.

There is no justification for the role of the OMB in Toronto as proposed in Bill 51. Toronto needs real autonomy over its planning decisions and Bill 51 only hinders the process and continues to favour developers over the people through their elected representatives.

Thank you.