

## **EXECUTIVE SUMMARY**

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This report examines written decisions by OMB members in 2007 on appeals made under the 2005 *Provincial Policy Statement (PPS)*. Specifically, the decisions were subjected to a content analysis to understand the general nature and characteristics of appeals, what the outcomes were and the evidence considered when providing a decision. The research method employed was primarily based on those used by John G. Chipman in his book "*A Law Unto Itself: How the Ontario Municipal Board has Developed and Applied Land Use Planning Policy*" (2002). This report does not analyze specific cases, but rather examines trends in the sample collected. Research goes beyond a case-by-case analysis and looks at collective trends in decisions rendered by Board members in 2007.

For decisions to be properly analyzed, it was important to select decisions from the Ontario Municipal Board Reports (hereafter *OMBRs*) in 2007 that highlighted diverse planning issues. All appeals reported in the *OMBRs* that dealt with official plans, zoning by-laws, consents and minor variances were subjected to numerical and textual analysis. Decisions had to be the final decision rendered and submitted under the most current planning legislation, such as the 2005 *PPS*. This screening resulted in 59 decisions to be further analyzed. Decisions were examined in order to illustrate different trends and appeal characteristics, such as primary appellants, most common appeals made, decision outcomes, representation of both parties, most frequent witnesses and evidence most often cited.

The findings of this report suggest that private development proponents are most likely to appeal a decision that denies development of their personal property (46% of applications were made by this party). Minor variances (25% of applications) and zoning by-law

amendments (20%) are the most common appeals made to the Board under the *Planning Act*. Research also indicates that expert witnesses called before the Board are most often professional planners (73% of witnesses) who can provide expert testimony regarding specifics of a case. Several key terms were found to be commonly cited in decisions analyzed and the most frequent includes expert evidence (49%), the *PPS* (42%) and good planning (33%). These terms were vital considerations in many of the decisions analyzed.

Research supports that Board members are increasingly placing importance on provincial policy matters, as well as local planning documents, such as an official plan and zoning by-law. Finally, of the 59 cases analyzed for this report, it was found that the Board is more likely to approve development applications than not. These findings, support to a degree, the findings and conclusions reached by Chipman.

This tribunal often renders contentious decisions that are unfavourable amongst professionals, politicians and concerned citizens and is believed to be pro-development. Limited academic research has been published on analysis of the Board and additional investigations could reinforce optimism regarding this administrative body. Decision-making at the Board is a process specific to a member's interpretation, and therefore a standard procedure for decision-making must be established.

Radical reform is not recommended; rather, minor modifications that would improve the Board's efficiency, effectiveness and decision-making. Reform in the way of the Board's role and procedures could heighten its existence, as well as popularity.