

The OMB Challenge

I came late in life to Urban Planning and Design. “Design” had always been important, but mostly design of systems and organizations. But an emotional NIMBY reaction to a proposed building inspired a new found interest in Urban Design. I soon recognized that NIMBY doesn't carry much weight, nor should it, at least not in downtown Toronto. But Urban Design questions ought to be of central importance.

Toronto by a combination of happy accident and intentional plan has evolved to have a number of vibrant, attractive downtown neighbourhoods. But many of those neighbourhoods would be under threat were developers to be given permission to do everything they want. City Planning is our first line of defense. Official Plans and Planning Frameworks provide an additional line of defense. And then there's the OMB.

The OMB has the power to act almost as an absolute monarch, at least in relation the use of land in Ontario. Its members are not subject to recall by the public, nor must they stand for election. Their interpretations stand unchecked by any other body. They are under no obligation to provide precedents for their decisions, nor are they under any obligation to explain their reasoning. And even were they to do so, there would be no appeal of their decisions excepting only contravention of law. Review to the extent that it's available is limited to questions of fact.

They are given powers appropriate for philosopher kings and queens. They must be wise and understand social values and how those are shaped by built form and space. They need to understand the values in practice in a neighbourhood and how those values will be shaped by allowed built forms and shapes. They need to understand the values in practice within larger areas – cities, counties, Ontario, and Canada. Nothing in the published criteria for OMB candidates suggests any of these concerns. The OMB is composed of limited “experts” with power that should only be granted to philosopher kings and queens.

Under these circumstances, it's hardly surprising that neighbourhoods, cities and counties often disagree with the decisions of the Ontario Municipal Board. Unfortunately, there is no practical recourse. The OMB is a near absolute sovereign. This should not be allowed to continue.

Finding true philosopher kings and queens to sit on the OMB is doomed to failure, ... it also flies in the face of our most fundamental democratic principles. The OMB must be reformed, or its powers sharply limited at least in cases where recognized experts and elected officials make transparent land use decisions. Toronto has a fully qualified professional staff of urban planners, and a well-defined political process that considers all requests for zoning exceptions. The OMB should not be allowed to overturn decisions by our elected representative, especially in the case of Toronto.

The only acceptable alternative that I can see would bind the OMB to follow all approved Official Plans and approved Planning Frameworks. The OMB would be forced to become a constitutional monarch following rules subject to review by the body politic. Our future is too important to be left in the hands of unelected absolute monarchs. In the case of Toronto, the simple solution is to just remove Toronto land use decisions from the OMB purview. It's past time to take this simple step.

Robert Fabian
25 Maitland Street