
NOVAE RES URBIS

NEWS OF THE CITY • TORONTO
VOL 5 • NO. 49 • FRIDAY, DECEMBER 21, 2001

In this Issue of Novae Res Urbis

Toronto Hydro set for open market.....	3
City thwarted in bid to protect apartments.....	3
Top ten municipal law firms in the City of Toronto (2000 - 2001).....	5
AMO and Province sign historic agreement.....	10
Three finalists announced for ROM expansion.....	11
Ontario Municipal Board.....	11
Mark these Dates.....	13

Published by NRU PUBLISHING INC
TEL 416.260.1304 FAX 416.979.2707

“There was rot in the finance department”

by Karen Wirsig

A garment in the city’s dirty laundry pile was well aired at a special city council meeting on December 20, as councillors attempted to get to the bottom of a complicated lease agreement made with **MFP Financial Services** in the summer of 1999 for computer equipment. This is one in a number of contracts being investigated by the city’s audit department related to information technology.

At the top of the special meeting, council voted unanimously to make all of the staff reports on the issue public, a move they refused only two weeks ago during the last regular council meeting. Included in them is a recommendation to make a settlement with MFP that would forgive \$3.2 million of the \$8.4 million the company says it is owed since the city stopped payments when the investigation began last May. The settlement lets MFP off the hook for any future attempts to recover money but requires that the company co-operate with investigations of the deal and provide expense reports on entertaining city staff. (The settlement was not approved at publishing time.)

The council reports, as well as staff responses to councillor questions, tell a story of questionable practices by former senior city staff in the awarding and execution of the lease agreement. Generally, the story goes like this: finance staff recommended leasing computer equipment instead of purchasing it through debentures in 1999. A request for quotations on the financing of \$43 million worth of equipment was put forward and six bids were submitted. The bidders were expected to explain how much it would cost to finance each \$1,000 worth of equipment bought

within the first 90 days of the lease (up to October 1999) and then how the future lease rates would be set after that time.

As it turns out, MFP was one of two bidders that did not give a precise formula for how future lease rates would be set. Under questioning from **Councillor Bas Balkissoon**, city auditor **Jeffrey Griffiths** said he felt the company’s bid should have therefore been disqualified. (*See page 2, red flags of bid-rigging.*) Nonetheless, MFP’s bid, which offered the lowest interest rate for the first 90-days – 4.6 per cent – was recommended by staff. As well, according to a report from Griffiths to the audit committee in late November, the 1999 report that went to council did not specify that it was the best deal only if the future lease rates stayed at the quoted rate of 4.6 per cent. “This important caveat was edited out of the final version (of the staff report), apparently by the former Chief Financial Officer (**Wanda Liczyk**),” the report states.

(Continued on page 2)

STIKEMAN ELLIOTT

Straightforward Legal Solutions
for the development industry and municipalities

- Land Use Planning
- Strategic Alliances
- Financing

James W. Harbell
Mark Osbaldeston
(416) 869 5500
www.stikeman.com



Rot in finance department (from page 1)

In fact, the IT department never ordered any equipment for the first three months of the deal, despite giving finance staff the impression that all of the equipment would be bought by September, and therefore the city never benefited from the low financing rate. As well, staff apparently acted without council authority to finance an additional \$37 million worth of equipment through MFP, bringing the total value of equipment under the leasing contract to \$80.5 million. Lease rates on the equipment and software range between 7.8 and 11.94 per cent.

“There was rot in the finance department,” **Councillor David Miller** told reporters. “It looks like staff were awfully close to MFP. They must have had confidence that some senior politician was in their corner.”

Griffith’s report indicates that Liczyk, who left the city in June to join **Toronto Hydro**, and former executive director of information technology, **Jim Andrew**, who is now with the **Municipal Property Assessment Corporation**, had relationships with MFP that “compromised their objectivity” and were in conflict of interest. Liczyk took a number of hockey tickets from the company, and a chartered flight to an Ottawa game, while Andrew had a prior relationship to MFP dating back to previous employment with the provincial government and had lunch meetings in his calendar with company representatives.

According to calculations provided by the city’s finance department on December 20, the city could

have saved nearly \$6 million by buying the equipment and issuing debentures. That does not include the \$335,000 that has been spent this year on outside leasing expertise and external auditors to investigate the situation. It also doesn’t include the cost of hiring one of the most expensive litigation lawyers in the city, **Alan Lenczner**, to get an agreement with MFP.

As well, when staff chose to finance additional equipment through MFP, they sold \$23 million worth of equipment to the company that the city had already bought. Despite the fact that they began paying leases for the equipment immediately, they did not receive payment for it from MFP for about a year. As well, the city paid \$13 million up front for software leases that MFP did not have to pay for right away. In effect, the city itself financed its own financing company in both situations. As part of the settlement, the city would receive an additional credit of \$890,000 for interest on the money the city fronted to the company.

It is clear that this is not the end of the story. For one thing, MFP also has a lease agreement with **Toronto Police Services**, a contract that will likely come under intense scrutiny in the coming weeks. As well, as indicated in Griffiths’ report, the MFP deal was made in the context of Y2K, when proper purchasing procedures were not followed. He is now looking into how the city spent \$160 million on outside contracts to deal with potential bugs. More to follow in the new year...•

Red flags of possible fraud by bid-rigging

- Unusual departures from standard format or documentation for accepted proposals or bid
- Legitimate bidders are excluded on narrow technicalities
- Terms of winning bid or proposal are later “renegotiated” to benefit of winner to reflect unforeseen “problems”
- File for transaction is “thin” or filled with self-serving memos compared to similar transactions
- Acquisition or disposition process under control of one employee or a small group of employees who are personal friends
- Carefully written proposals appear to favour certain companies or those with inside information.
- Tight deadlines for submission and evaluation of bids or proposals, given nature of proposed transactions
- Request for proposals or tenders announced on day before a major holiday weekend with limited or unusual advertising undertaken
- Limited information provided to marketplace about goods or services being sought or offered
- Bid or proposals opening not public; opening of bids under control of employee who is managing project, or friendly colleague
- Terms or evaluation of winning bid exceeds second place bidder by a very small margin
- Other bidders are shell companies with linkages to winning bidder

Source: Charles Smedmor & Associates, Litigation and Forensic Accountants

Toronto Hydro set for open market

Toronto Hydro is eager and ready for the electricity market to open next May. Speaking to a business audience at the **Toronto Board of Trade** on December 19, CEO **Courtney Pratt** exuded confidence about the city-owned utility's prospects in a de-regulated market.

The vast bulk of Toronto Hydro's business is distribution of electricity, which will continue to be regulated under the new system. It provides electricity to 650,000 customers in the city. However, the utility has also set up an energy retailing arm and has signed \$1 billion worth of contracts with consumers over the next three years in jurisdictions across the province.

"If the market didn't open, it would be hugely problematic for us. We've invested a huge amount of capital in getting ready and we've signed all these contracts," Pratt told reporters after his speech. "If the cash doesn't flow then, not just for us but for every utility in the province and every retailer, it would create a big problem."

Pratt said that an unusually large number of customers in Ontario are signing contracts with new retailers, and estimates 20 to 30 per cent will have switched from their existing utilities. Those who decide not to do so will continue to get electricity from their existing utility at floating prices. Once the market is open, wholesale trade will take place through the **Independent Electricity Market Operator**, a provincial not-for-profit, on a spot market where prices for the energy itself will fluctuate continuously. Retailers, on the other hand, are offering fixed prices over one to three years.

No one knows what prices will be when the market opens, Pratt underscored. He said he doesn't expect major long-term price increases, but said short-term "fly-ups" are quite possible. Utilities and retailers have been working with the IMO to make sure that they can handle the volume of transactions that will come into play once the wholesale and retail markets are functioning.

"Consumers aren't convinced prices will fall, but they do want the lights to stay on," Pratt said.

Electricity distribution provides 90 per cent of Toronto Hydro's revenue. Prices for distribution must

(Continued on page 4)

City thwarted in bid to protect apartments

The private bill that would have allowed the **City of Toronto** to stop demolition of rental housing has been left in limbo with the closure of the Ontario legislature for its winter break. The bill was crafted by the city, in consultation with the **Ministry of Municipal Affairs and Housing**, and sponsored by Liberal MPP **Michael Bryant**.

"I am going to work with the city to keep pressure on the government to bring closure to this issue," Bryant told *Novae Res Urbis*. He said it was extremely rare for private bills, which are brought forward by individuals or corporations to get specific legislative exceptions, to fail after being approved by the private bills committee at Queen's Park. The committee has a majority of Tories who could have scuttled the bill at that stage.

Despite implicit support from the ministry and from the government representatives on the committee, the bill did not go through with the rest of the private bills on the last day of the legislature, December 13. "The Premier intervened," Bryant said. "I believe he didn't want to see any housing victories for Toronto."

"The government is pretty unglued right now with the Premier's resignation," Bryant added. "Often the right hand doesn't know what the left hand is doing."

The bill, based on provisions in the now-defunct *Rental Housing Protection Act*, would have allowed the city to stop rental demolition, even where the owners didn't require new planning approvals, when rental vacancy rates are below 2.5 per cent. The current vacancy rate is only 0.9 per cent. Alternatively, the city could have allowed demolition and would have authority to negotiate with owners about replacement with the same number of units of a similar size and price, for which existing tenants would get first right of refusal.

"The province should start thinking of the public interest instead of their political coffers," **Councillor Brad Duguid** told *NRU*. "The only people who had concerns about this (bill) were in the development industry."

In the meantime, the city is being challenged in the courts over an official plan amendment that would give the city leverage to negotiate with landlords

(Continued on page 4)

City thwarted (from page 3)

under section 37 of the *Planning Act* on applications to demolish rental buildings. However, OPA 2 only applies when owners require planning approvals to add density or height when redeveloping their property. There is still no court decision on OPA 2, but Bryant said new legislation would “remedy the judicial fight.”

The bill, Pr22, could still come back before the house in the spring sitting. The government has called for more public consultation and Bryant said they could, indeed, hold hearings early next year and pass it at the end of the session. Another possibility is that the new Premier, who is to be selected at a Tory leadership convention in March, will call for a quick election and the house will close without meeting again, meaning the bill would die on the order paper.

Also, it could be introduced as a private member’s bill and go through the process again, but not likely until at least next fall.

The city put the bill forward because it argued it was the only jurisdiction in the province threatened with rental housing demolition. There have been six applications to demolish a total of more than 1,000 rental units in Toronto since 1998. The **Ontario Municipal Board** has approved a net loss of 431 apartments since 2000, according to the city. At the same time, very few new rental units have come onto the market and there are applications currently in the works to convert at least 1,700 rental apartments to condominiums. The city believes it has a role in protecting rental housing, not least because a majority of households in Toronto are renters. •

Toronto Hydro set (from page 3)

be approved by the **Ontario Energy Board** and make up a relatively small portion of the consumer’s final bill. However, distribution is seen as a relatively low-risk business with a stable income stream. Pratt said Toronto Hydro, the biggest municipal utility in the province, is still too small for a de-regulated market and will be looking to grow, through acquisitions, partnerships or mergers with other local utilities. Pratt said the utility should grow to at least one million customers, although the 35 per cent transfer tax that applies when municipalities sell their utilities is preventing consolidation in the industry.

“The real challenge for us is to make ourselves competitive so that no one can come to our shareholder and say ‘sell it to us - we can make this place a lot more competitive than these guys can,’” Pratt said. The city, Toronto Hydro’s sole shareholder, has shown no signs of wanting to sell the utility lately and has put up nearly \$1 billion for which it will collect 6.8 per cent interest over the next two years and should begin to receive dividend payments in 2003. •

CLAYTON RESEARCH



Real Estate Analyst (Toronto)

Clayton Research, one of Canada’s leading urban and real estate economic consulting firms, is expanding. As a real estate analyst in our residential studies practice, you will provide developers and builders across Canada with market research and strategic advice on all types of residential development.

Qualifications:

- High energy levels, top notch analytical skills and love of research
- Familiar with the residential real estate sector in Canada
- Graduate degree in economics, urban geography, or a related field
- Must have own vehicle for site work
- As a key part of the position is writing reports for distribution to our clients only candidates with excellent writing skills are encouraged to apply

Please forward your profile in confidence to:

Clayton Research Associates Ltd.
1580 Kingston Road
Toronto, Ontario, M1N 1S2
Fax: (416) 699-2252
e-mail: clayton@clayton-research.com

Top ten municipal law firms in the City of Toronto (2000 – 2001)

Fourth annual ranking of the City's most prolific performers

For the past three years we have analyzed the most prolific municipal law firms in the City of Toronto as a tribute to all those lawyers who have worked hard in the planning and development field. It has become an annual ritual. As promised, here is our review of the municipal legal activities in the City from *August 2000 to July 2001*, as reported by *Novae Res Urbis*. For those tracking GTA activity outside of Toronto, be sure to see a copy of this past Wednesday's edition of *GTA Municipal News*.

1. McCarthy Tétrault

[Rank last year: 2]

(Mary Bull, John Dawson, Stephen Diamond, Calvin Lantz, Cynthia MacDougall, Phil Sanford, Brad Teichman, Gordon Willcocks, Dennis Wood)

Reasons for Ranking: After slipping to 2nd place last year, McCarthy Tétrault has reclaimed the title of most prolific municipal law firm in Toronto. The number of cases, and successes and the broad range of clients and geographic reach, assisted in this decision. Ask any of the City of Toronto municipal legal beagles, who their counterpart is on a given development case and eight times out of ten they will stay "McT".

OMB/Court Matters or Hearings: representing Kosmor Construction regarding environmental issues at Eglinton Ave. and Brentcliffe Rd. (MacDougall) (✓); representing First Ontario Realty Corp. (formerly 1160963 Ontario Ltd.) regarding rental redevelopment proposal for 435-513 Rosewell Ave. and 164-170 Cheritan Ave. (Diamond, MacDougall) (✓); representing Omni at the City Centre Inc. and Omni South Inc. regarding the redesignation of land at the N/E corner of Brimley Rd. and Omni Dr. (Diamond, MacDougall) (✓); representing Port Royal Place Development Inc. regarding the residential development at 5055 Dundas St. W. (Bull); representing St. Clair's Multifaith Housing Society regarding the conversion of offices into apartments at 255 Leppard Ave. (MacDougall) (✓); representing Kosmor Construction Inc. regarding Brentcliffe Rd. between Eglinton Ave. E. and Research Rd. (MacDougall) (✓); representing Toronto Hydro Energy and Toronto Renewable Energy Co-operative regarding a wind turbine at 1313 Lakeshore Blvd. E. (MacDougall) (✓); representing Toronto District School Board regarding residential/mixed subdivision at 8800 Sheppard Ave. E. (Teichman); representing 1160963 Ontario Inc. regarding an apartment at 330 Spadina Rd. (Dawson);

(Continued on page 6)

How the information was collected

With the assistance of the search engine on our website and some manual research, we tracked each of the law firms mentioned in *Novae Res Urbis* (OMB News and Development News) over this one-year period. From there we determined the firms that were most frequently mentioned and sorted through the projects and hearings they were involved with. It became apparent that some firms (given their size) were involved in a variety of developments across the City of Toronto, while others had particular associations with major clients. The original data were collected from applications and OMB files, plus our research for *Novae Res Urbis* stories.

Determining the top 10

The most difficult task was in balancing the number of clients, the range of projects, the difficulty of cases, as well as some unique features about the projects/cases. Remember, this list was based only on items covered in *Novae Res Urbis*, excludes activities in other parts of the GTA and does not account for the vast number of cases and firms involved with such matters as minor variance applications, assess-

ment appeals or for those that participated as part of a development team without our knowledge. Hence, there is a certain degree of subjectivity in our ranking.

The listings

Each grouping in the list notes the firm and each of the lawyers mentioned in *Novae Res Urbis* in a given matter. Items have been grouped into 1) noted development project-those development applications that noted a solicitor on file; 2) OMB matter/court hearing- those involved with hearings, pre-hearings, and mediation sessions. In cases which involved board decisions and a clear winner/loser or settlement was determined, we noted the appropriate symbol (✓) or (✱) following the case description. If there was no clear win/lose or the matter involved a pre-hearing, or the matter is still pending before the OMB no symbol was applied; and 3) other- an open category that noted the mention of a law firm in our stories. Finally, a brief reason is given at the beginning of each firm listed explaining why we ranked them as we did.

Top ten municipal law firms (from page 5)

representing Wittington Properties regarding Yonge St. south of Scollard and north of Yorkville (Diamond, Lantz, MacDougall) (✓); representing York Montessori School regarding a school gym at 1320 Yonge St. (MacDougall); representing First Professional Developments Ltd. regarding 165 North Queen St. (Wood) (✓); representing Mondeo Developments regarding development charge credit claims (Dawson); representing Toronto District School Board regarding GTAA amendments to former city plans (Sanford); representing G.C. Jain Investments regarding 219 Broadview Ave. (MacDougall) (✓); representing Bellanda Holdings regarding 1533 Victoria Park Ave. (MacDougall).

Noted Development Projects: representing Water View Corp. regarding a residential tower at 2115-2139 Lakeshore Blvd. W. (Diamond); representing 611406 Ontario Inc. regarding a residential tower at 2944 and 2914 Yonge St. (Diamond); representing a 19-storey condominium at 230-244 Bloor St. W. (Diamond).

2. Aird & Berlis

[Rank last year: 1]

(Robert Doumani, Patricia Foran, Tom Halinski, Kim Kovar, Leo Longo, Josephine Matera, Jane Pepino, Christopher Williams, Steven Zakem)

Reasons for Ranking: Another busy year at Aird & Berlis involving a diversity of cases and wins to boot. While not winning the “double crown” for the most prolific in Toronto and the GTA (the firm was ranked first in the GTA this year), the firm again proved to be one of the dominant municipal legal forces in the city.

OMB/Court Matters or Hearings: representing Shiu Pong Developments Ltd. regarding Minto’s section 37 hearing concerning 1252-1260 Bay St. and 61-63 Yorkville Ave. (Kovar); representing Kenneth-Sheppard Ltd. regarding OPA 447 appeal (North York Centre Secondary Plan) (Doumani); representing Urban Development Institute and Ontario Home Builders’ Association regarding the redesignation of land at the N/E corner of Brimley Rd. and Omni Dr. (Doumani); representing 1385521 Ontario Inc. regarding a cemetery in Etobicoke at the N/E corner of Evans Ave. and Horner Ave. (Foran, Longo) (✓);

representing Kenneth-Sheppard Ltd. regarding 160 Greenfield Ave., 150 Maplehurst Ave. and 120 Sheppard Ave. E. (Doumani); representing 255 Development Ltd. and Co-operators Development Corp. regarding 247 Richmond St. E. (Pepino) (✓); representing Concord Adex Development Corp. regarding a parking structure for charter buses at 305 Bremner Blvd. (Kovar, Longo); representing Peter Devine regarding 374 Russell Hill Rd. (Pepino) (✓); representing Toronto East General Hospital regarding a parking garage at 825 Coxwell Ave. (Longo) (✓); representing Christie Gardens Senior Residence regarding the seniors’ complex expansion in Frankel-Lambert Park (Kovar); representing D. O’Born and J. Harvey regarding an addition at 32 Crescent Rd. (Pepino); representing Select properties regarding Sheppard corridor amendments (Kovar); representing Loblaw Properties regarding 731 Eastern Ave. (Zakem); representing the Torchin Group regarding development charge credit claims (Williams); representing Select Properties regarding a residential tower at Bayview shopping centre (Kovar) (✓).

3. Davies Howe Partners

[Rank last year: 6]

(John Alati, Kim Beckman, Jeffrey Davies, John Inglis, Michael Melling, and Susan Rosenthal [formerly of Harper Rosenthal])

Reasons for Ranking: A very impressive year for the folks on Mercer Street that resulted in a move of three ranks up from last year. This year saw more files outside of the firm’s traditional Scarborough territory, with a high degree of success.

OMB/Court Matters or Hearings: representing Jasamax Holdings regarding payment for a subdivision approval at Bayview Ave. and Nesbitt Dr. (Melling); representing Morningside Heights Landowners regarding OP policies for Morningside Planning Area (Davies, Melling); representing Garden Court Apartment Complex regarding an office conversion at 1477 Bayview Ave. (Alati) (✓); representing 554056 Ontario Ltd., Trans-Gate Ltd., M&R Holdings, Silvercore Properties Inc. and 1385917 Ontario Ltd. regarding the Rouge Valley subdivision (Alati, Davies) (✓); representing 1147771 Ontario Ltd. regarding

(Continued on page 7)

Top ten municipal law firms (from page 6)

row houses at 27 and 29 Clark St. (Davies) (✓); representing 576807 Ontario Inc. regarding density provisions for OPA 447 at Sheppard Ave. and Hwy 401 (Davies) (✗); representing Graywood Investments Ltd. regarding a technical amendment on measuring Scarborough lots (Alati); representing F. Dobb regarding Sheppard corridor amendments (Alati); representing 576807 Ontario Inc. regarding density applications for OPA 447 at Avondale and Yonge St. (Davies); representing A. Byck regarding a third floor addition at 839 Manning Ave. (Inglis) (✓); representing Rosedale Developments regarding a mixed use project at 4917-4995 Yonge St., 11-27 Hollywood Ave. and 8 and 18 Spring Garden Ave. (Davies, Inglis); representing Yellow Moon Homes regarding 5421 Lawrence Ave. (Davies); representing Marklib Investments regarding a townhouse project at 35 Cedarcroft Blvd. (Alati, Melling) (✓); representing the Old Fish Market Development regarding 10-12 Market St. (Alati).

Noted Development Projects: representing Brunswick Court Inc. regarding an in-fill townhouse at 403 Brunswick Ave.

4. Goodman and Carr

[Rank last year: 4]

(Patrick Devine, Mary Flynn-Guglietti, Yvonne Hamlin, Stephen Longo, Douglas Quick)

Reasons for Ranking: A steady volume of cases, successes and work amongst the team members maintained Goodman and Carr's ranking this season. The team was busy in Rosedale and North York this year, with some diversion in both the west and east ends of the city.

OMB/Court Matters or Hearings: representing Minto BYG Inc. regarding Minto's section 37 concerning 1252-1260 Bay St. and 61-63 Yorkville Ave. (Devine, Longo) (✓); representing Rudd/Porter regarding mixed use development at 216 Carlton St. (Longo) (✗); representing Intar Corporation regarding in-fill development at Kipling, Bloor and Dundas St. (Flynn-Guglietti) (✓); representing Two Roxborough East Ltd. regarding a minor variance for a coffee shop at Roxborough St. and Yonge St. (Devine) (✓); representing Metcorp Ltd., Elte Carpets Ltd., Down-

town Tennis Courts Inc. and Indo-Asian Carpets Ltd. regarding expropriation compensation for 21-45 and 185 Eastern Ave. (Chernos, Quick, Sutherland); representing The Royal Canadian Legion regarding a mixed use project at 4917-4995 Yonge St., 11-27 Hollywood Ave. and 8 and 18 Spring Garden Ave. (Flynn-Guglietti); representing Diamante Development Corp and City Front Developments regarding development charge credit claims (Hamlin); representing 1299089 Ontario Inc. regarding a townhouse project at 2 and 4 Dale Ave. (Flynn-Guglietti); representing Josan Homes Inc. regarding 840 Dundas St. W. (Flynn-Guglietti) (✓); representing Deep Pocket Investments regarding 1533 Victoria Park Ave. (Flynn-Guglietti).

5. Brown, Dryer & Karol

[Rank last year: 5]

(Adam Brown) Awarded "*The municipal lawyer who most deserves a holiday*"

Reasons for Ranking: This was a tough one for the selection committee. If volume and success were the only criteria, Brown would be the poster boy for prolificacy. Given the nature of the cases compared to others in the running we had to rank accordingly. This entry has inspired a new specialty award in this year's race: *The municipal lawyer who most deserves a holiday*. We are pleased to announce **Adam Brown** as the first recipient of this award.

OMB/Court Matters or Hearings: representing B. and L.A. Hallahan regarding a higher FSI at 37 Glenbrae Ave. (Brown) (✓); representing Provo Developments Ltd. regarding Minto's section 37 concerning 1252-1260 Bay Street and 61-63 Yorkville Ave. (Brown); representing Jacob Goldstein regarding a severance at 291 Parkview Ave. (Brown) (✓); representing Hillside at York Mills Ltd regarding a recreation centre at 18 William Carson Cres. (Brown) (✓); representing Antorisa Investments Ltd and Pizza Pizza Ltd. regarding variances at 2499 Sheppard Ave. E. (Brown) (✓); representing M. Mangat regarding 194 and 201 Willowdale Ave. (Brown) (✓); representing M. Ighani regarding 242 McKee St. (Brown) (✓); representing T. Sherman regarding 6 Hoyle Ave. (Brown) (✓); representing 1261075 Ontario Ltd. regarding a medi-

(Continued on page 8)

Top ten municipal law firms (from page 7)

cal office at 906 Sheppard Ave. W. (Brown) (✓); representing B. & A. Morrison regarding an addition at 156 Heath St. E. (Brown) (✓); representing J. & S. Francis regarding 158 Dawlish Ave. (Brown) (✗); representing J. Goldstein regarding an in-fill project at 15 Cameron Ave. (Brown) (✓); representing Canary Group Inc. regarding new uses at 200 Finch Ave. W. (Brown) (✓); representing Maroa Developments regarding 1156-1158 Kennedy Rd. (Brown) (✓); representing K. Barnicke regarding a new house at 150 Forest Hill Rd. (Brown) (✓); representing F. Goldhar regarding an addition at 184 Coldstream Ave. (Brown) (✓); representing Transcorp regarding 316-318 Burnhamthorpe Rd. (Brown) (✓); representing S. Posluns regarding additional units at 59 Kendal Ave. (Brown) (✓); representing Berkley Developments regarding townhouse units at 3890 Bloor St. W. (Brown) (✓); representing S. Iacobelli regarding a new residence at 46 Old Forest Hill Rd. (Brown) (✓); representing B. Joyce regarding 15 units for 130 and 134 Edgewood Ave. (Brown) (✓); representing J. Freedman regarding townhouse development at 180 Hallam St. and 250 Westmoreland Ave. (Brown) (✓); representing E. Upenicks regarding a severance at 2 Park Lane (Brown) (✓).

Noted Development Projects: representing Provo Developments regarding residential tower at 79 Scollard St. and 1290 and 1280 Bay St. (Brown).

6. Goodmans

[Rank last year: 8]

(Roslyn Houser, Robert Howe, Allan Leibel, Catherine Lyons, Mark Noskiewicz, Julia Ryan, Michael Stewart, Christine Viinberg)

Reasons for Ranking: Another busy year at Goodmans with successes. Noted highlights include the never-ending battle over the 1947-1997 Bloor Street West site.

OMB/Court Matters or Hearings: representing Mattamy (Neilson) Ltd. and Mattamy (Staines) Ltd. regarding OP policies for Morningside Heights Planning Area (Ryan); representing Great Gulf (St. Clair) Ltd. regarding a motion to rescind the Board's decision concerning the commencement date of hearing for

Russell Hill condominiums (Houser) (✓); representing The Manufacturers Life Insurance Company regarding a variance at 2499 Sheppard Ave. E. (Stewart) (✗); representing Context regarding 1947-1997 Bloor St. W. (Noskiewicz) (✓); representing Medallion Properties regarding residential approvals at 1555 Jane St. (Leibel, Stewart) (✓); representing Dangreen Properties regarding Sheppard corridor amendments (Leibel) (✓); representing Mattamy (Neilson) Ltd. and Mattamy (Staines) Ltd. regarding the rezoning of lands to permit residential and business uses in the Parkland area (Rouge Valley) (Ryan); representing Wyndham Court, Cadillac Fairview, Brookfield Properties and Canapen regarding development charge credit claims (Noskiewicz); representing Avro Quay and Woodcliffe Corp. regarding development charge credit claims (Lyons).

Noted Development Projects: representing Trizec Hahn regarding an office complex at 20 York St. (Mailer).

7. Borden, Ladner, Gervais

[Rank last year: not ranked]

(Rick Coburn, Sean Gosnell, Gabrielle Kramer, Pitman Patterson, Paul Scargall, Frank Sperduti, Stephen Waqué)

Reasons for Ranking: Volume and a few wins got Borden, Ladner, Gervais into the race this year. A wide selection of clients and team members helped to ensure their respectable ranking.

OMB/Court Matters or Hearings: representing A. E. Gadzala, V. and E. Gadzala Holdings Ltd. and 412264 Ontario Ltd. regarding 2109, 2113, 2143 and 2147 Lakeshore Blvd. W. (Vooro); representing City of Toronto regarding expropriation settlement for 221-45 and 185 Eastern Ave. (Scargall, Spaduti, Waque); representing 1359339 Ontario Inc. regarding 4430-4438 Sheppard Ave. E. (Coburn) (✓); representing All Souls Anglican Church regarding Sheppard corridor amendments (Coburn); representing H. Becker regarding a new house at 256 Snowdon Ave. (Douglas); representing Toronto District School Board regarding 5421 Lawrence Ave. (Patterson); representing SERRA regarding a cemetery at the N/E

(Continued on page 9)

Top ten municipal law firms (from page 8)

corner of Evans Ave. and Horner Ave. (Kramer) (✓); representing 271 Front Inc. regarding a minor variance from by-law 439 (Coburn).

8. WeirFoulds

[Rank last year: 7]

(**Kerri Boniface, John Buhlman, Jane Burton, Jeff Cowan, Chris Diana, Bruce Engell, Sean Foran, Chris Johnston, Barnet Kussner, Ian Lord, Mike McQuaid, Sue Metcalfe, Kim Mullin, Ken Prehogan, Greg Richards, George Rust-D'Eye, Lynda Tanaka, Chris Tzekas**)

Reasons for Ranking: Good volume and plenty of wins allowed WeirFoulds to make the top ten again this year. The nature of the firm's cases played more in the ranking than anything else.

OMB/Court Matters or Hearings: representing Ajax Precision regarding the costs of the hearing for 37047 Penn Dr. (Kussner) (✓); representing Glenarda Properties regarding mixed live/work development at 20 Bond Ave. (Tzekas) (✓); representing T. Wacyk and G. Spencer regarding residential additions at 115 Lakeshore Dr. (Kussner) (✓); representing Spadina-St. Clair Neighbourhood Committee Inc. regarding an apartment at 330 Spadina Rd. (Kussner); representing Windsor Construction Co. Ltd. regarding a parking variance at 342 Bloor St. W. (Kussner) (✓); representing Shell Canada regarding 3101 Victoria Park Ave. (Lord) (✓); representing Our Lady's Missionaries regarding 2 Leander Crt. (Dougherty) (✓); representing Premium Properties regarding 1533 Victoria Park Ave. (Engell).

**Walker
Nott
Dragicevic**

Associates Limited

Planning ❖ Urban Design ❖ Environmental Assessment

172 St. George Street Toronto, Ontario M5R 2M7
Tel: (416) 968-3511 Fax: (416) 960-0172
E-mail: admin@wndplan.com

9. Blaney, McMurtry

[Rank last year: 15]

(**Murray Chusid**)

Reasons for Ranking: A good number of cases and wins for Murray Chusid. While involved in some interesting matters, most cases were concentrated in North York.

OMB/Court Matters or Hearings: representing Sonata Developments Inc. regarding Finch Ave. towers at 15, 17 and 19 Finch Ave. W. and 7, 9 and 11 Lorraine Dr. (Chusid) (✓); representing Baghai Development Ltd. regarding 9 Jackes Ave. (Chusid) (✗); representing Monarch Construction Ltd. regarding residential development at 17 and 25 Hillcrest Ave. and 18, 20, 22 Elmwood Ave. (Chusid) (✓); representing Bay-Gordon Financial Corp. and Monterey Park Inc. regarding an apartment conversion at 1002 Lawrence Ave. E. (Chusid) (✓); representing M. Florio regarding house addition at 19 Clarendon Ave. (Chusid) (✓); representing Berkim Holdings Ltd., 438 Sheppard Ave. Ltd. and 1448433 Ontario Ltd. regarding Sheppard corridor amendments (Chusid) (✓).

10. Miller Thomson

[Rank last year: 12]

(**Ivan Fleischmann, Peter Lauwers, Andrew Robinson, Michael Wren**)

Reasons for Ranking: Volume and a variety of cases edged Miller Thomson into the top ten this year.

OMB/Court Matters or Hearings: representing Toronto District Catholic School Board regarding residential/mixed subdivision at 8800 Sheppard Ave. E. (Lauwers); representing The Police Credit Union Ltd. regarding a density provision for OPA 447 concerning Sheppard Ave. and Hwy 401 (Fleischmann, Robinson) (✓); representing the Roman Catholic Episcopal Corp. regarding designation of Rosedale-Summerhill BIA (Farber) (✗); representing the Police Credit Union Ltd. regarding a density provision for OPA 447 at Avondale and Yonge St. (Robinson) (✓); representing Toronto District Catholic School Board regarding GTAA amendments to former city plans

(Continued on page 10)

Top ten municipal law firms (from page 9)

(Dourley); representing Toronto Catholic School Board regarding 5421 Lawrence Ave. (Dourley).

The Next Ten

Based on mentions in NRU the following make up the next ten in Toronto-based development activity: (11) **Kagan, Zucker, Feldbloom, Shastri**; (12) **Michael Vaughan, QC**; (13) **Bratty & Partners**; (14) **Casels Brock & Blackwell**; (15) **Gowlings (formerly Gowling, Strathy and Henderson, and Smith Lyons)**; (16) **Osler, Hoskin & Harcourt**; (17) **Fasken, Martineau and DuMoulin**; (18) **Kerzner, Papazian, MacDermid**; (19) **Loopstra Nixon**; (20) **McDonald & Hayden**.

A Special Note to the Municipal Solicitors at the City of Toronto

Every year we are reminded, but fail to mention, the hard work of the dedicated solicitors at the City of Toronto. If they were considered a private firm, they would surely be the largest and busiest of the lot, as they tend to be involved in some capacity in a majority of the cases outlined in this report, defending the positions of the City of Toronto. We could not go another year without recognizing the city solicitors and asking their private sector colleagues, just how prolific they would be without them?

To ensure *Novae Res Urbis* covers your interesting cases, please drop us an email or fax. The count for the fifth annual top ten has already begun. •

AMO and Province sign historic agreement

With the passage last week of a new *Municipal Act*, the **Association of Municipalities of Ontario President Ann Mulvale** and **Chris Hodgson Minister of Municipal Affairs and Housing** signed an historic memorandum of understanding on provincial-municipal consultation, December 19.

The new Act, which received Royal Assent December 12, contains a provision that the Province of Ontario endorses the principle of ongoing consultation between the province and municipalities in relation to matters of mutual interest. The memorandum of understanding sets out the principles and procedures for that consultation. The principles address commitment, respective areas of jurisdiction, the nature of issues subject to prior consultation, responsibilities, information sharing and exclusions.

The MOU states that “the Province recognizes municipalities as responsible and accountable governments with respect to matters within their jurisdiction.” As well, on matters subject to the memorandum, “the Province will provide a rationale for the proposed change in legislation or regulations to enable discussion of issues related to the assignment of and/or extended responsibilities to the municipal sector.” Meetings are to be held on a regular basis and can be called by either party.

“This memorandum of understanding is much more than a symbolic agreement. It is a key element in a new, more mature, more productive and cooperative relationship between municipalities and the province,” said Hodgson.

The MOU excludes emergency situations, matters subject to public interest immunity and matters in the Provincial budget, budget papers, and budget bills.

The memorandum takes effect January 1, 2002 and expires December 31, 2004 and contains a three-year renewal clause and a review clause. However, a party could terminate the memorandum at any time, without cause, upon ten days written notice. •



Solid Numbers and Sound Advice

- planning impacts • real estate markets •
- land use • demographics •

CLAYTON
RESEARCH

Urban and Real Estate Economists
Phone 416-699-5645 1-800-689-4425 www.clayton-research.com

• ONTARIO MUNICIPAL BOARD •

Severance conditions appeal allowed on Queensway East

In a decision issued December 13, board member **Jan de P. Seaborn** allowed the appeal by **Réno-Dépôt Inc.** for an application for consent to convey which had been approved with conditions the appellant wished amended for the site at **1608 The Queensway East**. The application was appealed in conjunction with a rezoning application that had already been approved by the board, and a site plan application that was still undergoing negotiation with adjacent property owners. The **Committee of Adjustment** had imposed a condition requiring that the site plan control approval for both lots would be approved and registered on title, before granting the consent to convey. The appellant agreed with the

other imposed conditions. **Peter Weston (Weston Consulting Group)** gave evidence in support of the appeal and showed that to accommodate development of the site, the owners wished to convey certain parts to **Canadian Tire Real Estate Ltd.** since it would be operating a retail store and gas bar. Despite the severance, the site would function as one property. The City did not oppose the appeal of the condition. The board allowed the amendment with the removal of the condition, and found that the condition was not a necessary prerequisite. Solicitor **Barry Horosko (Bratty & Partners)** represented Réno-Dépôt, **Building Box Inc.** and Canadian Tire Real Estate. **Brian Haley** was the solicitor for the **City of Toronto**. (See *OMB Case No. PL010489*.)

Addition permitted with conditions in old Kingsway

In a decision issued December 12, board member **Donald Granger** dismissed, for the most part, the appeal by **Frances Gualtieri** against a decision of the **Committee of Adjustment** that granted an application for minor variance by **Douglas Bradshaw** and **Lisette Bourdages** for **9 Bannan Avenue**. The proposal was to permit a second-storey addition over a portion of the existing single-detached dwelling. The variances required were for a reduced east side yard setback, a reduction in the rear yard from 8.69 m. to 1.64 m. and an increase in the

(Continued on page 12)

Three finalists announced for ROM expansion

Last week, the **Royal Ontario Museum** announced the short list of three architecture firms that will be considered for the final selection as the project architect for Renaissance ROM, the Museum's planned expansion. The list was selected by the museum's Architect Selection Committee and ratified by the ROM Board of Trustees.

The finalists are:

- **Architetto Andrea Bruno**, Turin, Italy;
- **Bing Thom Architects**, Vancouver, Canada; and
- **Daniel Libeskind**, Berlin, Germany.

The three firms will do further detailed design work on their proposals, create a 3-D model, and return to the ROM to give a public presentation of their design, February 11, 12 and 13, 2002. The final architect will be announced February 15. The expansion is to be completed in three stages of construction between 2004 and 2006. It is anticipated that the museum will award contracts for exhibit developer and construction management in January 2002. •



THE SERNAS GROUP

EFFECTIVE EXPERT WITNESS
TESTIMONY AND
SETTLEMENT NEGOTIATIONS

OMB professionals - part of your winning team

Reg Webster, P.Eng - Municipal
Gord Patterson, P.Eng - Municipal

Mike Ross, P.Eng, PTOE - Transportation
Michael Tedesco, P.Eng - Transportation

Consulting Engineers and Planners

www.sernas.com

Mississauga
416-213-7121

Toronto
416-360-7222

Whitby
905-432-7878

OMB (from page 11)

dwelling depth from the required frontyard setback. Evidence in support of the variances was given by planner **Barry Morrison (Barry J. Morrison & Associates Ltd.)** and architectural evidence by **Peter Marzynski**. The property owners abutting the rear of the property gave evidence in opposition. The board found that the requested variances met the four tests of the *Planning Act*, but subject to conditions. Those opposed expressed concerns particularly about the reduction of the rear lot. Marzynski stated that the proposed second storey would be set back approximately a further 1.6 m., for a total distance of about 3.24 m. The board concluded that if there are no windows, doors or decks on the rear south wall of the proposed second storey, then there would be no overlook impact. Additionally, if no overview were permitted from the proposed second floor westerly deck there would be no overlook impact. The board allowed the variances, but with no windows, or other openings permitted above the first floor, and a minimum 2 m. high privacy screen provided along the southerly edge of the second floor deck. Solicitor **Mary Flynn-Guglietti (Goodman and Carr)** represented **Douglas Bradshaw** and **Lisette Bourdages**. (See *OMB Case No. PL010906*.)

**Infill development permitted at
Bathurst and York Downs**

In a decision issued December 6, 2001 board member **Norman Crawford** dismissed the appeals by

Wilfred Horwich against a decision by the **City of Toronto** granting the applications for consent to convey and minor variance by **Falsetti Construction Ltd.** for **102 and 104 York Downs Drive**. The final proposal was to create five lots from the existing two, and to construct five, two-storey single family dwellings. **Peter Cheatley** of **Cheatley Planning Associates** gave evidence in support of the applications. The variances required included a reduction in the lot frontages, the lot areas, and side yard setbacks, and an increase in lot coverage, and to allow below-grade garages. The site is in a low-density residential area, adjacent to higher density development on Bathurst Street. The proposal is thought to serve as an appropriate transition between the higher density residential and commercial development on Bathurst and the low-density development to the west. The appellant was concerned that the proposed 1.2 m. separation between dwellings was inappropriate, and that the proposal was not in keeping with the character of the neighbourhood. The board found that there was no evidence to indicate that the proposed development would not maintain the existing character, nor would it destabilize the neighbourhood. The variances were authorized with the condition that the slope of the garage entrances did not exceed 4 per cent. Solicitor **Adam Brown (Brown, Dryer, Karol)** represented Falsetti Construction Ltd. (See *OMB Case No. PL010660*.)•

GTA Municipal News

COVERING DEVELOPMENT ISSUES
FROM BURLINGTON
TO CLARINGTON
TO GEORGINA

Call NRU Publishing
AT 416.260.1304
to subscribe



Mark These Dates

Tuesday January 8

Joint Budget Advisory and Policy & Finance Committee (2002 budget overview), Toronto City Hall, 9:30 a.m.

Thursday January 10

Brad Clark at Toronto Board of Trade, 1 First Canadian Place, Toronto, 7:45 a.m. to 9 a.m. Call 416-862-4500.

Thursday and Friday, January 10-11

Budget Advisory Committee, Toronto City Hall, 9:30 a.m.

Monday January 14

Planning and Transportation Committee (budget review), Toronto City Hall, 9:30 a.m.

Tuesday January 15

Works Committee (budget review), Toronto City Hall, 9:30 a.m.

Wednesday January 16

Community Services Committee (budget review), Toronto City Hall, 9:30 a.m.

Politics and planning in the regional city, forum sponsored by the **Faculty of Environmental Studies**, Room 306 Lumbers Building, York University, 12:30 p.m. to 2 p.m. Call 416-736-5285.

Thursday January 17

Beyond Oak Ridges Moraine, forum sponsored by the **Canadian Urban Institute**, Metro Hall, 55 John St., 7:45 a.m. to 10 a.m. Call 416-365-0816, ext. 234.

Administration Committee (budget review), Toronto City Hall, 9:30 a.m.

Monday January 21

Toronto Transit Commission, Toronto City Hall, Committee Room 2, 1 p.m. •

NOVAE RES URBIS

IAN A.R. GRAHAM, PUBLISHER
(iang@nrupublishing.com)

LYNN MORROW, EDITOR
(lynnm@nrupublishing.com)

KAREN WIRSIG, NEWS REPORTER
(karenw@nrupublishing.com)

MAYA HARRIS, PLANNING REPORTER
(mayah@nrupublishing.com)

DIONNE McDONALD, LAYOUT COORDINATOR
(info@nrupublishing.com)

SALES/SUBSCRIPTIONS
(circulation@nrupublishing.com)

Annual subscription rate is \$299.
Complimentary trial subscriptions are available.
Advertising rates available upon request.

NOVAE RES URBIS is not to be redistributed
without the written consent of the publisher.

NOVAE RES URBIS is published 50 times a year
by fax or e-mail by NRU Publishing Inc
12 Mercer Street, Suite 400
Toronto, Ontario, M5V 1H3

Seasons Greetings!

We at Novae Res Urbis are taking our annual festive break. That means there will be no edition on December 28. But we'll be back with bells on in January. The first edition of the new year will arrive, as usual, on Friday January 4.

See you in the new year.